

C. Martens Complained to Thomason About His Rejection by the Travel Office, Which Ultimately Was Communicated to the President, First Lady, and Other Senior White House Staff.

Early in the Administration, several steps taken by Martens laid the groundwork for the events resulting in the Travel Office dismissals. The steps included: 1) Martens speaking with Dale regarding the Travel Office and learning that Dale did not think Martens's services were necessary;²⁵⁷ 2) Martens drafting and sending a memorandum to Thomason regarding the Travel Office in which Martens alleged that AOA/Ultra did not "chargeback[]" costs to the press corps;²⁵⁸ and 3) Martens telling Thomason that Dale accepted "kickbacks" in running the Travel Office.²⁵⁹ As a result, Thomason discussed these issues with President Clinton, Mrs. Clinton, and David Watkins.²⁶⁰

1. Martens Approached Dale About Handling the White House Travel Business.

In late January 1993, Martens discussed with Thomason his interest in the handling of travel for the White House press corps.²⁶¹ Thomason telephoned Dee Dee Myers after the new administration had "only been at the White House for weeks, perhaps only days," and told her that "his acquaintance, friends, partner, whatever he was, Darnell Martens," would contact her

²⁵⁷ Dale GJ 7/9/96 at 79; Martens GJ 7/16/96 at 47.

²⁵⁸ Martens GJ 7/16/96 at 56; Memorandum from Martens to Thomason 3/3/93, OIC Bates No. AL-DC-00007620 (with fax cover sheet and summary attachment).

²⁵⁹ See, infra, Subsection (D)(4).

²⁶⁰ Thomason GJ 7/17/96 at 43, 72-78, 88-89, 125-31.

²⁶¹ Martens GJ 7/16/96 at 36.

about putting in a bid on the Travel Office.²⁶² Martens called Myers and asked how a company could bid on White House press charters, and Myers forwarded Martens to Billy Dale.²⁶³

Martens asked Dale how he might "go about bidding on or getting some of the White House charter business for the press corps."²⁶⁴ Dale asked Martens if he or his company owned any airplanes, and Martens responded, "No."²⁶⁵ Dale said he explained to Martens that he "had the same contacts that [Martens] had with the different airline companies and that [Dale] did not understand how [Dale] using a middle man to do the work that [Dale] had been doing for all these many years was going to save the White House press corps any money."²⁶⁶ Dale said that Martens admitted he was hoping to get some sort of fee, but never mentioned Harry Thomason or made any attempt to "connect himself with the President."²⁶⁷

Martens said he told Dale he could arrange for charter aircraft at a lower cost than the Travel Office was paying.²⁶⁸ According to Dale, Martens said that he "did such a big volume of

²⁶² Myers GJ 7/23/96 at 15-16, 19 (Myers's notes show that this call occurred sometime from January 20 -- 30); Thomason GJ 7/17/96 at 24, 30.

²⁶³ Martens GJ 7/16/96 at 36-37; Myers GJ 7/23/96 at 20. Martens claimed he called Dee Dee Myers to cultivate business for Air Advantage and that he "had not determined whether or not or how TRM could be involved." Martens GJ 7/16/96 at 41. Penny Sample, however, said that because the press corps was a very difficult clientele, she had little interest in the White House press charter business. Sample GJ 6/13/96 at 44.

²⁶⁴ Dale GJ 7/9/96 at 79.

²⁶⁵ Id.

²⁶⁶ Id.

²⁶⁷ Id. at 80-82.

²⁶⁸ Martens GJ 7/16/96 at 46.

charters that he might be able to get a discount."²⁶⁹ Dale responded "that many times [he] didn't have two weeks' notice to put out for bids to wait for these airlines to come back."²⁷⁰ Dale said he also explained the many factors he applied when selecting a charter company and plane, telling Martens that while "the low bid meant a lot . . . that was not always the determining factor."²⁷¹

Dale said Martens was "very persistent" so that, by his own admission, Dale got "aggravated with him" when he "couldn't get rid of him on the phone."²⁷² Martens said not only did Dale get "angry" and "short," but that Dale told him that "No, absolutely not" was there any "combination of price and service that [Dale] want[ed] to hear about" for TRM, and that Dale had been working at the Travel Office for 31 years and did not need help from Martens to do his job now.²⁷³ When Martens suggested that they should still meet, Dale told Martens he might be willing to meet with him "to sit down and discuss business" if Martens was ever in Washington, but he did not "think that it would be beneficial for [Martens] to make a special trip to Washington just to meet with [him]."²⁷⁴

²⁶⁹ Dale GJ 7/9/96 at 79.

²⁷⁰ Id.

²⁷¹ Id. at 81.

²⁷² Id. at 79. Penny Sample testified she had called Dale for the same reason four to five years before Martens, and was similarly rebuffed by Dale, whom she termed "abrupt." Sample GJ 6/13/96 at 25-27.

²⁷³ Martens GJ 7/16/96 at 47-48.

²⁷⁴ Dale GJ 7/9/96 at 80.

Martens called Thomason and told him about the call with Dale.²⁷⁵ Thomason said he "went through the ceiling," displaying "a burst of anger" when Martens told him about the conversation.²⁷⁶ Thomason said he reacted this way because "Dale was rather rude for a government employee," and Thomason believes "[t]hat government employees are taking people's money and so they should be courteous with everyone who calls."²⁷⁷ Thomason insisted that his concern had nothing to do with getting business for TRM, but because he thought all Travel Office business should be competitively bid.²⁷⁸

2. Martens Drafted A Memorandum Concerning Dale, Airline of the Americas/UltrAir, and Allegations of Criminality and, Thereafter He Talks With Thomason.

On March 3, 1993, Martens drafted a "confidential" memorandum to Thomason entitled "White House Press Charters" with a cover sheet stating:

Attached is a summary of where we are [] in the White House Press Charter story. The attached summary is for YOUR EYES ONLY at this time since I cannot yet prove everything contained in the report. I do believe it to all be true but proof is always something else again.²⁷⁹

Martens said in the memorandum that he was "trying to dig up information" on Airline of the Americas's involvement with the Republican party,²⁸⁰ speculating that "AOA knows something is

²⁷⁵ Martens GJ 7/16/96 at 48-49.

²⁷⁶ Thomason GJ 7/17/96 at 41. In contrast to Thomason's admission of anger, Martens remembered that Thomason merely said, "'[t]hat's surprising,' or something to that effect -- not a big reaction." Martens GJ 7/16/96 at 49.

²⁷⁷ Thomason GJ 7/17/96 at 38-39.

²⁷⁸ See Thomason GJ 7/17/96 at 71-72; Post-Ross GJ 7/1/96 at 10.

²⁷⁹ Memo from Martens to Thomason 3/3/93, OIC Bates No. AL-DC-00007620 at 7621 (with fax cover sheet and summary attachment); see also Martens GJ 7/16/96 at 56.

²⁸⁰ Martens GJ 7/16/96 at 58-59.

up. They now hang up on Air Advantage whenever they call. Does it sound to you like they are hiding something? Relative to these folks, I feel like Mike Wallace on 60 Minutes."²⁸¹ The memorandum's attached summary recounted Martens's conversation with Dale, stating:

Airline of the Americas is a Republican-operated charter airline. The company ran into controversy during the presidential campaign when it provided press transportation without "charge backs" to the press in order to insure good press coverage of Bush campaign appearances.

....

This activity by AOA does . . . indicate a decidedly anti-Clinton philosophy which seems, on the surface, to be inconsistent with the current Administration.²⁸²

Martens suggested two alternative "solution[s]" to the issues raised:

1) At a minimum . . . the Administration should direct the White House Transportation Department to contact TRM/Air Advantage who would systematically search the market for the best price/service combination for the flight request made on behalf of the press.

....

2) At best . . . the Administration should disband the antiquated Transportation Department system in favor of the functions being outsourced to TRM/Air Advantage.²⁸³

Martens admitted that he had no evidence supporting his claim of improper "charge backs," and said he obtained the information from Penny Sample²⁸⁴ and David Buxbaum.²⁸⁵

²⁸¹ Memo from Martens to Thomason 3/3/93, OIC Bates No. AL-DC-00007620 at 7621 (with fax cover sheet and summary attachment). Charles Caudle testified that neither he nor the company had any dealings with Air Advantage, and that he did not know of Penny Sample prior to the firings. Caudle GJ 6/18/96 at 42.

²⁸² GJ 95-2 Exh. 190.

²⁸³ Memo from Martens to Thomason 3/3/93, OIC Bates No. AL-DC-00007620 at 7624 (with fax cover sheet and summary attachment). Sample was offended that Martens associated TRM with Air Advantage, and that he submitted the proposal without her knowledge. Sample GJ 6/13/96 at 42-43.

²⁸⁴ Martens GJ 7/16/96 at 57, 63-64.

Martens testified that the document was merely a rough draft -- "me talking to myself" "a memo to my file"²⁸⁶ -- of the final version²⁸⁷ and that:

As soon as I became aware of the existence of the Travel Office, I determined there was nothing there that I could do, because I learned what they really [d]o. They don't just charter airplanes. What they do is they run a full-service travel agency. So I no longer had interest in it, and I changed the final version of the memo.²⁸⁸

Martens said he prepared the memorandum for his personal files only, and sent it to Thomason "by accident only because" Thomason had asked for "information about Air of Americas."²⁸⁹ Martens said, "I never released the file outside of my company."²⁹⁰

Thomason said he did not recall reading the memorandum in March 1993,²⁹¹ and Martens claimed not to recall discussing it with Thomason.²⁹²

Sample recalled a conversation with Martens sometime in April about the Travel Office's operation by Dale and his relationship to UltraAir/AOA. Martens asked her about White House

²⁸⁵ Id. at 63-64. Buxbaum heard during the campaign that a charter service working for the Bush campaign was supplying free travel to the press, and believed Martens must have misunderstood the rumor, which was never substantiated. See Buxbaum FBI Int. 12/4/96 at 2.

²⁸⁶ Martens GJ 7/16/96 at 65-66.

²⁸⁷ No such version was ever produced to, or recovered by, this or any other investigation.

²⁸⁸ Martens GJ 7/16/96 at 69-70.

²⁸⁹ Id. at 64, 70.

²⁹⁰ Id. at 67.

²⁹¹ Thomason GJ 7/17/96 at 48. Thomason testified that the first time he saw a version of document was around May 10, 1993 when he asked Martens to fax it to the White House. Id. at 49.

²⁹² Martens GJ 7/16/96 at 56.

press corps travel and backgrounds of the Travel Office staff,²⁹³ and she obtained information for Martens on UltraAir from the United States Department of Transportation.²⁹⁴ Sample also spoke with either Bob Conser or Ross Fischer of Miami Air about Billy Dale, and said they "allude[d] to the fact that there was probably some solicitation . . . of kickback[s]."²⁹⁵ Both Conser and Fischer denied ever having made this charge.²⁹⁶ Without asking Conser or Fischer for the basis of this claim, Sample admitted she then did something that was "very irresponsible": She told Martens that "Miami Air felt that there were kickbacks going on, and they chose not to do business with the White House travel."²⁹⁷ Martens testified that he never used the word "kickback" in speaking with Thomason, but that he did tell Thomason "that Miami Air had indicated to Air Advantage that one of the reasons that [Miami Air was] not able to participate with the White House or provide flights to the White House is that [Miami Air was] unwilling to make arrangements regarding the payments."²⁹⁸

²⁹³ Sample GJ 6/13/96 at 25.

²⁹⁴ Id. at 28-29.

²⁹⁵ Id. at 30-32.

²⁹⁶ Conser FBI Int. 7/12/96 at 1. Fischer claimed that "[he] never told Sample about being solicited for bribes from the White House Travel Office because it never happened." Fischer FBI Int. 6/10/96 at 3. Conser explained that the reason Miami Air stopped trying to get Travel Office flights was twofold, "[t]here was always a short turn around time, whereas Miami Air preferred to book their business six months in advance," and "[t]he White House Press Corps required first class amenities, including special meals." Conser FBI Int. 7/12/96 at 1.

²⁹⁷ Sample GJ 6/13/96 at 32-34.

²⁹⁸ Martens GJ 7/16/96 at 89-90. When pressed about whether he used the word "kickback," Martens responded, "I don't know what the implication of 'other arrangements' is," but "[i]t was something not good." Id. at 89-90. Martens indicated, however, that in his opinion it would have been irresponsible for Thomason to characterize this phrase as a kickback. Id. at 92.

The allegation of kickbacks was entirely without merit, as the White House's own Travel Office review, conducted by Peat Marwick, found no evidence of kickbacks.²⁹⁹ However, before the allegation was shown to be false, it was quickly disseminated to senior officials in the White House, placing the Travel Office under close scrutiny.

3. Watkins Moved Cornelius Into the Travel Office Where She Discovered Indications of Financial Irregularities.

When Watkins heard from several sources, including Thomason, that there were potential problems in the Travel Office, he already knew that Cornelius wanted to work in the Travel Office rather than working directly for him.³⁰⁰ Consequently, he moved her into the Travel Office to be his "eyes and ears."³⁰¹ Cornelius, warned by Watkins that the Travel Office might be filled with "crooks,"³⁰² began examining and copying records, and eventually found checks being written for large amounts of cash, for which there was no record reflecting an expenditure.³⁰³ Cornelius's suspicion -- which she later admitted was only speculative -- was that the employees

²⁹⁹ Herman GJ 6/20/96 at 54-55.

³⁰⁰ See Cornelius GJ 7/25/96 at 172 (stating that it was "common knowledge" by January 1993 that she wanted to work in the Travel Office); Watkins GJ 2/28/95 at 44 (Watkins noting that when he hired Cornelius both of them anticipated that she would only stay in that position for six months).

³⁰¹ Cornelius GJ 7/25/96 at 65; Watkins FBI Int. 8/10/93 at 3.

³⁰² Cornelius GJ 7/25/96 at 63. Watkins admitted that because of what he had heard from Thomason, he may have used the word "crooks" during his conversation with Cornelius. See Watkins Int. 11/22/96 at 10-11, 14, 48. Thomason said he did not recall telling Watkins the Travel Office employees were "crooks." Thomason GJ 7/17/96 at 138-39. Watkins did not tell Cornelius who his source was, although Cornelius recalled that Watkins was reading the information to her from a notebook. Cornelius GJ 7/25/96 at 63-64.

³⁰³ Id. at 63, 68-70, 71-73.

were funding lavish lifestyles beyond those typical of government employees with the cash, while Thomason and others speculated that the cash represented the "kickbacks."³⁰⁴

Watkins assigned Cornelius to the Travel Office on or about April 8, 1993.³⁰⁵ Dale said Watkins called Dale to his office and told him that Catherine Cornelius had "expressed an interest" in working in the Travel Office.³⁰⁶ Watkins told Dale that Cornelius was unhappy answering the phones and being a receptionist for Watkins's office and that Cornelius had hopes of getting into the travel business after leaving the White House.³⁰⁷ Dale said that although he was then aware of the rumors relating to Cornelius's interests in taking over the office altogether, he "was very agreeable to" having her join them.³⁰⁸ Dale figured Cornelius would work for six weeks and find out the Travel Office was not very glamorous, and then decide to move on, something Dale said he had experienced before with other new administrations.³⁰⁹

When Cornelius arrived, she says the Travel Office employees did not seem to welcome her, and they agreed they were suspicious of her.³¹⁰ Cornelius admitted, "I didn't have a whole

³⁰⁴ Id. at 101-02, 175-76.

³⁰⁵ Id. at 55-56. Cerda testified that, according to her notes, which she drafted after the firings had occurred, Cornelius moved to the Travel Office around April 12 or April 15. Cerda GJ 7/1/96 at 83.

³⁰⁶ Dale GJ 7/9/96 at 89 (Dale places the timing of this conversation at the last week of March 1993); see also Watkins GJ 2/28/95 at 44-45 (discussing his conversation with Dale).

³⁰⁷ Dale GJ 7/9/96 at 89.

³⁰⁸ Id. at 90-91.

³⁰⁹ Id. at 91-92, 70-71.

³¹⁰ Cornelius GJ 7/25/96 at 61; Wright GJ 7/9/96 at 25; Cerda GJ 7/1/96 at 96-98; Dreylinger GJ 6/6/96 at 5-8; McSweeney GJ 7/9/96 at 16; Maughan GJ 7/9/96 at 10; Brasseux GJ 7/9/96 at 11.

lot to do" and "I wasn't very good at" the computer tasks they did give her.³¹¹ Cornelius also "let everybody know that she was a cousin of the President."³¹² "She had remarked to some of the other guys that she spoke to the President at least once or twice a day."³¹³

Watkins admitted he told Cornelius to "keep her eyes and ears open," meaning that she should pay attention to conversations in the [Travel Office].³¹⁴ Watkins said he gave these instructions "[b]ecause we were going through departmental studies and doing as any manager would do, sort of an assessment of operations in the areas that I was responsible for," and he wanted her to write a factual report.³¹⁵ Cornelius was anxious to assume her role³¹⁶ in the Travel

³¹¹ Cornelius GJ 7/25/96 at 60. Dale said Cornelius spent most of her time out of the office, and told him she was working on a special project for Harry Thomason and the First Lady. Dale GJ 7/9/96 at 104-05.

³¹² Maughan GJ 7/9/96 at 10.

³¹³ McSweeney GJ 7/9/96 at 18.

³¹⁴ Watkins FBI Int. 8/10/93 at 3; see also Stern's notes of Watkins's White House Travel Office Management Review Interview 6/3/93, OIC Bates No. 210-DC-00000598 at 600; Watkins GJ 2/28/95 at 46-47; Cerda GJ 7/1/96 at 83 ("Watkins asked her, when she went over, to sort of observe, keep her eyes and ears open").

³¹⁵ Watkins GJ 2/28/95 at 47. Watkins told the GAO a similar story:

Mr. Watkins asked Ms. Cornelius in early April to report to him by May 15 about how the Travel Office operated, how the office could be reorganized, how it should function, and whether staff could be reduced. The report was based on her observations. Mr. Watkins initially did not send Ms. Cornelius to the Travel Office to do the report or to investigate the allegations. She was sent there to facilitate White House staff travel. Ms. Cornelius was a business major in college and had worked in travel during the campaign. Mr. Watkins did not ask Mr. Dale for such a report because he "knew how Dale operated" the office.

Watkins GAO Int. 12/9/93 at 6.

³¹⁶ See Cerda GJ 7/1/96 at 96-98; Cornelius GJ 7/25/96 at 66; Gearan GJ 7/11/96 at 25; see also Gearan's notes undated, OIC Bates No. 542-DC-00030492.

Office because she wanted to prove to Watkins she could accomplish the task he set out for her.³¹⁷

The Travel Office employees soon became suspicious that Cornelius was spying on them.³¹⁸ Shortly after Cornelius moved over to the Travel Office, she began reviewing and copying Travel Office records in the evenings after the other employees were gone.³¹⁹ Watkins told the FBI that he "did not instruct Cornelius to look through records or make copies of any documents."³²⁰ Cornelius's testimony, however, indicated that he was certainly aware of it, because one night while she was reviewing Travel Office bank statements in Watkins's office he asked if she had found anything yet.³²¹ Cornelius ultimately found a number of checks for several thousand dollars made out to cash.³²² When Cornelius looked through the relevant trip file, however, she found no corresponding receipts, so she began copying numerous records she believed showed cash expenditures lacking proper accounting.³²³

³¹⁷ Cornelius GJ 7/25/96 at 65-66. Cornelius testified that in response to Watkins's request she talked to Craig Livingstone, then head of White House security, and asked him if he knew of any criminal activity by the Travel Office employees. Cornelius recalled that Livingstone said he would check on it, but they never spoke again about it again. Id. at 67.

³¹⁸ Cerda GJ 7/1/96 at 97-98; see, e.g., Wright GJ 7/9/96 at 25 (stating "[S]he was just there to gain as much information as she could about us and our office. To spy, if you will"). Nevertheless, in Cornelius's view, what caused her to feel "uncomfortable" was the Travel Office employees and not her covert mission. Cerda GJ 7/1/96 at 98.

³¹⁹ Cornelius GJ 7/25/96 at 69, 72-73; Cerda GJ 7/1/96 at 91-93. Cerda testified that Cornelius was uncomfortable with this task and felt that, in any event, Watkins never described to Dale what Cornelius's role was in the Travel Office. Cerda GJ 7/1/96 at 97.

³²⁰ Watkins FBI Int. 8/10/93 at 3.

³²¹ Cornelius GJ 7/25/96 at 69-70.

³²² Id.

³²³ Id. at 72-73.

Dale's assistant, Gary Wright, surmised that Cornelius was up to something in late April when the copy machine jammed, and the technician who fixed it found a copy of an almost two-year-old check to Pan Am.³²⁴ When Wright confronted Cornelius, she denied making the copy and suggested that perhaps the office needed to change its locks.³²⁵ Wright then put all records relating to payments and money into a locked cabinet, preventing Cornelius from returning the documents that she had already taken home to review.³²⁶ She kept the documents that she had already taken at the apartment she shared with Clarissa Cerda.³²⁷

4. Harry Thomason Pressed His Travel Office Concerns With the President, the First Lady, and David Watkins.

Harry Thomason took advantage of his access to senior officials in the White House and Mrs. Clinton to bring allegations of misconduct in the Travel Office to their attention. He spoke directly about the Travel Office to President Clinton, Mrs. Clinton, and David Watkins. As a result, the Travel Office and its operations became a matter of interest and significance to senior members of the new Administration and were subject to heightened scrutiny.

³²⁴ Dale GJ 7/9/96 at 94-96; Wright GJ 7/9/96 at 25-28; Cornelius GJ 7/25/96 at 73.

³²⁵ Dale GJ 7/9/96 at 94-97.

³²⁶ Id. at 98-99; Cornelius GJ 7/25/96 at 75-76.

³²⁷ Cornelius GJ 7/25/96 at 76. Cerda testified that when the copier jammed, Cornelius was concerned "because she felt she had been doing what David asked her. And she was keeping her eyes and ears open. Allegations had been -- had surfaced, and . . . she wanted to be able to fulfill her mission with David. And this might hinder it." Cerda GJ 7/1/96 at 96.

a. Thomason Spoke to President Clinton and David Watkins About the Martens-Dale Phone Call and Suspicions of Criminality.

Armed with Martens's charge of potential illegal activity in the Travel Office,³²⁸ Thomason told President Clinton sometime in the early Spring that there was a problem in one of the executive departments, but that instead of bothering the President with further details, he would notify the appropriate officials.³²⁹ Thomason then informed Watkins that he had heard about possible illegality in the Travel Office³³⁰ and complained to Watkins "about the non-competitive bidding [for press charters] . . . and the fact that [Dale] was rude."³³¹ Thomason said that even though he had taken no action after initially learning of the Dale-Martens phone call, he could not let it go.³³² Thomason explained that he used to be a high school civics teacher, and the unfairness of not having bids for the Travel Office was something "periodically [he] would think about . . . and get mad over again."³³³ Watkins told Thomason he was already looking into how the Travel Office worked.³³⁴

Watkins also recalled his conversation with Thomason, saying that sometime in April 1993, Thomason complained about the Dale-Martens call, told Watkins "that the Travel Office

³²⁸ Thomason GJ 7/17/96 at 49.

³²⁹ Id. at 43.

³³⁰ See Thomason GJ 7/17/96 at 77-78, 88-89.

³³¹ Thomason GJ 7/17/96 at 76.

³³² Id. at 72.

³³³ Id. Thomason admitted that "some days later" he and Martens figured out that the Travel Office "did all the things TRM did too" so that "it was apparent there was no place for TRM." Id. at 42-43.

³³⁴ Id. at 77.

was using only one charter operator -- UltraAir," and described "rumors that the Travel Office was receiving kickbacks from airlines" ³³⁵ In an interview with the FBI in August 1993 -- the interview closest in time to the events in question -- Watkins's description of his conversation with Thomason was recorded as follows:

During the conversation between WATKINS and THOMASON in early April, THOMASON stated DARNELL MARTENS, a partner in TRM, had unsuccessfully attempted to solicit business with the [Travel Office] through DALE. THOMASON further stated he had heard from others in the air charter business DALE was not interested in accepting new business. In addition, THOMASON told WATKINS many people in the industry knew individuals in the [Travel Office] had been "on the take" for years. WATKINS took no notes of the conversation. He told THOMASON all of the White House offices were under review and CORNELIUS was working in the [Travel Office] and he would discuss the situation with her. THOMASON stated the individuals working in the [Travel Office] should be fired. He further stated that by terminating the individuals from employment, the result would be favorable news stories showing wrongdoing had be[en] discovered and handled. ³³⁶

Thus, the erroneous allegation that Billy Dale and/or others in the Travel Office were receiving or soliciting "kickbacks," ³³⁷ which originated with Sample and Martens, passed through Thomason and then in some form to Watkins.

³³⁵ Watkins GAO Int. 12/9/93 at 4-5; see also Watkins GJ 2/28/95 at 36-38 (testifying that Thomason complained of "kickbacks," "[I]t was his [Thomason's] understanding that it had been going on for years; that some of the guys in the Travel Office were getting paid off by other charter companies").

³³⁶ Watkins FBI Int. 8/10/93 at 3 (capitalization in original).

³³⁷ Thomason said he did not recall the words "kickback" or "bribe" being used until after the firings. Thomason GJ 7/17/96 at 93-94; see also Thomason GJ 7/17/96 at 91 ("I remember words like brouhaha being used . . . but I don't specifically remember kickback being used. But that is possible"); Thomason GJ 7/17/96 at 90 ("kickback" was "[s]ort of a product of all the buzz just going on in all these meetings"). Thomason made similar denials in his deposition before the staff of the House Committee on Government Reform and Oversight. See Thomason House Depo. 5/17/96 at 136, 146-47, 183, 188, 204. Thomason said he would have added "alleged" if he said "kickback." Thomason GJ 7/17/96 at 102. Watkins was not certain whether Thomason said "kickback," but said illegality was stressed with words like "crooks." See Watkins Int. 11/22/96 at 10-14. Catherine Cornelius, Bruce Lindsey, and Jennifer O'Connor

b. Thomason Spoke About the Travel Office Issue With the First Lady.

Thomason addressed his concern about illegal activity in the Travel Office not only to Watkins and the President, but also to the First Lady. Thomason testified that he had a total of three conversations with Mrs. Clinton about the Travel Office before the firings,³³⁸ though he could not recall the precise dates.³³⁹ Thomason described the first conversation as follows:

credited Thomason as their source for the kickback allegation. Cornelius GJ 7/25/96 at 89; Lindsey GJ 8/1/96 at 11, 14-15, 31-32; O'Connor GJ 6/20/96 at 15. George Stephanopoulos and Dee Dee Myers could not recall whether Thomason mentioned kickbacks. Stephanopoulos GJ 7/2/96 at 20; Myers GJ 7/23/96 at 24-25, 94-95. Notes from Bill Kennedy's June 1993 White House Travel Office Management Review interview recorded that Kennedy said Thomason told him someone in the Travel Office approached UltraAir about a kickback. Holton's notes of Interview 6/8/93, OIC Bates No. 542-DC-00014724 at 14725. Patsy Thomasson did not recall Thomason saying "kickback." Thomasson GJ 7/24/96 at 165-66. Vince Foster's notes showed he and Thomason discussed the kickback allegation. Foster's notes 5/12/93, OIC Bates No. 210-DC-00000919. Thomason denied the conversation with Foster even occurred. Thomason GJ 7/17/96 at 107. In any event, there is no dispute the word was used many times by those in the White House examining the Travel Office, and that as a result of Thomason's intervention, the allegation was communicated to the FBI. See, *infra*, at Subsection (D)(2)(3).

³³⁸ Thomason GJ 7/17/96 at 125-31. Thomason's best guess was they occurred sometime between May 10 and May 19. *Id.* at 127, 152.

³³⁹ Thomason explained he did not recount any of his conversations with Mrs. Clinton to Podesta and Stern for the White House Travel Office Management Review during their interview of him on May 27 because:

[T]hey were two less than one minute conversations [that] I really didn't consider it significant. It was just sort of hall talk, so to speak. Walking down the hall and just having a conversation. And I don't remember that they ever asked me anything now, to the best of my knowledge.

Id. at 148.

When Podesta was questioned in front of the grand jury, he was asked:

Q: Did Mr. Thomason at any time during the interview on May 27, 1993 mention to you that he had spoken with Mrs. Clinton about the White House Travel Office?

A: No.

M[rs]. Clinton and I were going -- we were walking down the hall together and I mentioned something about there was something going on in the Travel Office. And it was about that brief. And she said, "Oh, really. Well just tell them to stay on it." Or something to that effect.³⁴⁰

When questioned whether he provided any further details to Mrs. Clinton, Thomason said he told Mrs. Clinton that "[t]here may be some cause for alarm."³⁴¹ The entire conversation with Mrs. Clinton took less than thirty seconds³⁴² and when questioned further about the details of precisely what Mrs. Clinton said during this brief conversation, Thomason stated:

Q: Did you specifically ask him that question?

A: No.

Q: Did you think to ask him that question?

A: No.

Podesta GJ 7/18/96 at 16. Stern "[could not] recall" whether he had asked Harry Thomason about Thomason's conversations with the First Lady but later conceded that "[he and Podesta] probably did not ask." Stern GJ 7/10/96 at 88.

³⁴⁰ Thomason GJ 7/17/96 at 126. Thomason further testified that he presumed that Mrs. Clinton was referring to David Watkins or the White House management staff when she said, "tell them to stay on it." Id.

³⁴¹ Id. Thomason recounted the conversation somewhat differently in his deposition before the House Committee staff, as follows:

I did have a conversation with the First Lady, just a brief conversation in a hallway, to the best of my recollection. . . . Well, we were talking about other things, walking along the hallway; and I just said, You know, it looks to me like the Travel Office situation would bear some looking into, or something to that effect. And I just -- wherever I was going, I got there at that moment, and then she just made some rather noncommittal statement, and I don't remember what, and continued to her office.

Thomason House Depo. 5/17/96 at 185.

³⁴² Thomason GJ 7/17/96 at 127.

She said something to the effect of, "Good, check on it." Or, "Have them check on it. Have them get to the bottom of it." Or something to that effect. It was like one sentence, because we had arrived at wherever our destination was then, and she went into a meeting and I went somewhere else.³⁴³

Later that week, both conversed again:

[W]e were again walking down the hallway, and I said, "Looks like there is possibly some wrongdoing and they are working on it. And I am sure they will post you." Or something to that effect.³⁴⁴

Thomason presumed he told Mrs. Clinton that David Watkins was the person who was working on the Travel Office matter.³⁴⁵ According to Thomason, Mrs. Clinton responded as follows:

She said, "Well if there is something going on don't -- tell them, or they should not let it get out of hand, they should solve the problem and fix the problem." Or something to that effect. That is paraphrasing, because that is the best I can remember.³⁴⁶

³⁴³ Id. at 127-28.

³⁴⁴ Id. at 128.

³⁴⁵ Id.

³⁴⁶ Thomason GJ 7/17/96 at 128-29. Later in his testimony, Thomason indicated that Mrs. Clinton said, "Well if there is anything bad going on you should get to the bottom of it." Id. at 133. Even later in his testimony, Thomason recalled additional details of the conversation, and testified that Mrs. Clinton said, "If something did happen to these people how would we do the next trip?" Id. at 135. Thomason stated he believed there was an expectation that if evidence of wrongdoing in the Travel Office was established, then the employees would be fired. Thomason further testified he informed Mrs. Clinton that people were available who could handle the Travel Office operations. Id. at 136-38. At the conclusion of Thomason's testimony, in response to additional questions regarding this conversation, Thomason testified that Mrs. Clinton stated, "'If there is a problem then -- and there is mismanagement,' or something to that effect, '-- then it should be fixed and they should deal with it rather quickly.'" Id. at 154.

When Thomason was deposed by the House Committee staff, he described this conversation as follows:

[T]he second conversation where it was more detailed, she said they ought to be gotten out, but what would you do about trips? I said there are people that can do the job. That is the best of my recollection.

The third brief interaction occurred when Thomason was in Mrs. Clinton's office discussing a personal matter, and Vince Foster, then Deputy White House Counsel, "came in and said something, that he needed to see her, and she made a statement about, 'What's going on in the Travel Office?' and he said, 'you guys talk, I'll talk to you later.'"³⁴⁷ Thomason thought Foster might have told Mrs. Clinton, "'We're on top of it.'"³⁴⁸ Thomason contended there was no further discussion of the Travel Office between he and Mrs. Clinton in that or any other conversation.³⁴⁹

Mrs. Clinton also recalled this conversation with Thomason:

Q: Do you recall whether Harry Thomason was ever present in a conversation you had about the Travel Office at which Mr. Foster might also have been present?

....

A: I think that Mr. Thomas[]on was in my office on the first occasion when Mr. Foster came in to visit with me about something. But I don't recall Mr. Thomas[]on being part of the conversation, because that was a very brief aside, the conversation that took place.³⁵⁰

Thomason House Depo. 5/17/96 at 219.

³⁴⁷ Thomason GJ 7/17/96 at 107, 129.

³⁴⁸ Id. at 129.

³⁴⁹ Thomason GJ 7/17/96 at 129-30. Thomason had dinner with Mrs. Clinton and Diane and Jim Blair, friends of the Clintons from Arkansas, the evening of May 13, but said they did not discuss the Travel Office. Id. at 116-17.

³⁵⁰ H. Clinton Depo. 7/22/95 at 11. During the interview process for the White House Travel Office Management Review, Mrs. Clinton told John Podesta that although "she thought she might have talked to" Thomason about the Travel Office, "she couldn't place that conversation specifically on a specific date." Podesta GJ 7/18/96 at 71. Mrs. Clinton also told Podesta and Stern that she was not sure if it was Harry Thomason or a staff person who had originally told her about potential problems in the Travel Office. Id. at 70; Stern GJ 7/10/96 at 157.

5. Thomason Represented the Substance of His Conversations With Mrs. Clinton to Senior White House Staff.

Watkins said that around May 12, Thomason "said he had talked to Mrs. Clinton at some time" about the Travel Office situation.³⁵¹ According to Watkins's contemporaneous notes, Thomason returned to Watkins's office and told Watkins that "he bumped into Hillary [and] she's ready to fire them all that Day."³⁵² Watkins claimed that he recalled Thomason's statement to him even "today."³⁵³ Watkins repeated a variation of this statement to the FBI.³⁵⁴ Thomason denied making this statement,³⁵⁵ but did remember telling Watkins "the First Lady said, 'If there is something wrong going on it should be dealt with,'" that she wanted them to get to the bottom of the Travel Office problem.³⁵⁶

During the OIC's investigation of Mr. Foster's death, Watkins testified, "I recall the gist that Mr. Thomason told me he had talked to Mrs. Clinton and that she was very interested. It was on her antennae."³⁵⁷ Watkins responded, "Yes, I think so," when asked whether he also recalled "Mr. Thomason having told [him] that Mrs. Clinton had said to [Thomason] that the

³⁵¹ Watkins GJ 2/28/95 at 51.

³⁵² GJ 95-2 Exh. 164 (emphasis and capitalization in original).

³⁵³ Watkins Int. 11/22/96 at 15.

³⁵⁴ Watkins FBI Int. 8/10/93 at 3.

³⁵⁵ See Thomason GJ 7/17/96 at 133-34. According to undated notes provided in August 1996 by the White House that reflected Thomason's discussions with his own counsel regarding his conversation with Mrs. Clinton, Thomason informed Watkins that the Travel Office employees should be replaced and that Mrs. Clinton "shared this view." See OIC Bates No. 542-DC-00037067.

³⁵⁶ Thomason GJ 7/17/96 at 133, 142.

³⁵⁷ Watkins GJ 2/28/95 at 51.

people in the Travel Office should be fired," or at least that her desire to have the Travel Office people terminated "was the implication" Watkins got from Thomason's statement.³⁵⁸ In subsequent testimony and writings Watkins sometimes attributed the "pressure" he felt to act in large part to Thomason and his frequent citation to the First Lady.³⁵⁹

Catherine Cornelius said, "[I]t became clear that Harry was having dialogues with Mrs. Clinton" because "he was telling us -- me, whoever, that he was talking with Mrs. Clinton about these issues."³⁶⁰ According to Cornelius, Thomason "said basically, I've told the First Lady about what's going on here. You know, and she's unhappy. This is not something that she wants going on in this White House, or criminal activity, or things like that. . . . I think he was just saying, she's unhappy with this and she doesn't want anyone to get hurt. It was more sort of, she's concerned."³⁶¹ Cornelius said that Thomason told her on at least one occasion, "I'm going to call Hillary, I'll put a call into her, I'm having dinner with her tonight. So I'll, you know, let her know what's going on. Or, I'm going to keep her abreast of this situation."³⁶² Cornelius told Cerda "that Harry had briefed the First Lady on some of the -- some of the on goings of the White House Travel Office," and that Cornelius "saw it as a positive thing that Harry had told the First

³⁵⁸ Id. at 51, 57. Thomason said it is "impossible" that he "told David Watkins that, because that is not what M[r]s. Clinton told me." Thomason GJ 7/17/96 at 134.

³⁵⁹ See, infra, at Subsection (D)(4)(discussing Watkins's explanations of "pressure").

³⁶⁰ Cornelius GJ 7/25/96 at 96.

³⁶¹ Id. at 96-97.

³⁶² Id. at 120-21.

Lady."³⁶³ Steve Davison of World Wide Travel also remembered Thomason citing Mrs. Clinton's views on the Travel Office.³⁶⁴

D. The Events of April -- May 1993.

In late April 1993, Thomason returned to Washington. His return coincided with Cornelius's discovery of fiscal mishandling of the Travel Office cash accounts. As a result, beginning in mid-May, senior White House officials devoted substantial attention to the Travel Office. From May 12 through May 19, 1993, more than a dozen meetings occurred; the White House through Associate White House Counsel William Kennedy called in the Federal Bureau of Investigation ("FBI") to conduct a criminal investigation; and the accounting firm of Peat Marwick was hired to audit the Travel Office's books. In the end, on May 19, 1993, the seven White House Travel Office employees were summarily dismissed.

1. In Late April or Early May, Thomason Returned to Washington and Once Again Raised the Issue of Illegality in the Travel Office With Watkins.

On April 29, 1993, Thomason flew to Washington with Markie Post-Ross, a television actress and friend of Thomason's, to attend the White House Correspondents' Association Dinner.³⁶⁵ Ms. Post-Ross said that during their trip Thomason told her he was concerned that his

³⁶³ Cerda GJ 7/1/96 at 161, 168.

³⁶⁴ Todd Stern's White House Travel Office Management Review interview notes for Davison refer to Thomason's statements regarding the First Lady's views on the Travel Office under the heading, "Info SD heard from CC or from [World Wide's] Fan [Dozier] or Betta [Carney] based on CC's comments," the notes state in pertinent part, "Approx. 2-3 days before PM [Peat Marwick] brought in HT [Harry Thomason] JE [Jeff Eller] GS [George Stephanopoulos] HRC [Hillary Rodham Clinton] furious [and] ready to throw them out that day (2-3 days before PM)." Stern's notes of Davison Int. undated, OIC Bates No. 542-DC-00018432-33 (underscore in original). See Stern GJ 7/10/96 at 126, 134, 185 (identifying the initials in his notes).

³⁶⁵ Thomason GJ 7/17/96 at 66; see also GJ 95-2 Exh. 208 (Thomason's date book). Also at this point, Thomason was consulting with the White House on staging presidential