

ONE HUNDRED TENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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March 26, 2007

The Honorable Marc Racicot
Former Chairman, Bush Cheney '04
President, American Insurance Association
1130 Connecticut Ave. NW, Suite 1000
Washington, DC 20036

Dear Governor Racicot:

I am writing about e-mail records in the possession of the Bush Cheney '04 campaign. Congressional investigations have revealed that White House officials have used nongovernmental e-mail accounts, including those maintained by the Bush Cheney '04 campaign, to conduct official White House business. The Committee has questions about who has access to these e-mail records and how the campaign protects them from destruction or tampering. The Committee also directs you to preserve all such records because of their potential relevance to congressional investigations.

Two congressional investigations — one by the Oversight Committee and one by the House and Senate Judiciary Committees — have uncovered evidence that White House staff have used nongovernmental e-mail accounts to conduct official government business. Such e-mails written in the conduct of White House business would appear to be governmental records subject to preservation and eventual public disclosure.

The Presidential Records Act of 1978 establishes that the records of a president, his immediate staff, and certain units of the Executive Office of the President belong to the United States, not to the individual president or his staff. The Act further states that the president must “take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are maintained as Presidential records pursuant to the requirements of this section and other provisions of law.”

The Oversight Committee first learned of the use of nongovernmental e-mail accounts by White House officials as part of its investigation of White House contacts with convicted lobbyist Jack Abramoff. That investigation found that many of the e-mail exchanges between

Jack Abramoff and White House officials were conducted via nongovernmental e-mail accounts. In at least one case, the emails indicate that these nonofficial accounts were being used because “to put this stuff in writing in their e-mail system ... might actually limit what they can do to help us.”¹

The Abramoff investigation found that in multiple instances, Susan Ralston, Karl Rove’s Executive Assistant, exchanged e-mails with Jack Abramoff regarding official government business while using accounts maintained by the Republican National Committee and the Bush Cheney ‘04 campaign.² The investigation also found that Barry Jackson, the Deputy Assistant to the President and Deputy to the Senior Advisor, used a “georgewbush.com” e-mail account to communicate with Neil Volz, an Abramoff associate who has been convicted of public corruption charges.³

The e-mail exchanges reviewed by the Committee provide evidence that in some instances, White House officials were using the nongovernmental accounts specifically to avoid creating a record of the communications. In one case, Mr. Abramoff sent Ms. Ralston an e-mail on her RNC account asking her to “pass on to Karl that Interior is about to approve a gaming compact ... for a tribe which is an anathema to all our supporters” and requesting “some quiet message from WH that this is absurd.”⁴ This e-mail was forwarded to Jennifer Farley in the White House Office of Intergovernmental Affairs, who apparently then warned one of Abramoff’s associates about the dangers of leaving a record of their communications. According to an e-mail Mr. Abramoff received from his associate Kevin Ring:

Your e-mail to Susan was forwarded to Ruben Barrales and on to Jen Farley, who read it to me last night. I don’t know what to think about this, but she said it is better not to put this stuff in writing in their e-mail system because it might actually limit what they can do to help us, especially since there could be lawsuits, etc. ... Just letting you know what she said.⁵

¹ E-mail from Kevin Ring to Jack Abramoff (Feb. 7, 2003) (GTG-R002245).

² See, e.g., E-mail from Susan Ralston to Jack Abramoff (Aug. 23, 2001) (GTG-R001233) (discussing a potential Interior Department nominee); E-mail from Jack Abramoff to Susan Ralston (Feb. 6, 2003) (GTG-R002246) (discussing a gaming compact under consideration by the Department of Interior).

³ E-mail from Barry Jackson to Neil Volz (Mar. 12, 2003) (GTG-R004877) (asking about a recommendation for the medal of freedom). According to the WHOIS internet database, the georgewbush.com domain is registered to the Bush-Cheney 2004 campaign. See <http://www.networksolutions.com/whois/results.jsp?domain=georgewbush.com>.

⁴ E-mail from Jack Abramoff to Susan Ralston (Feb. 6, 2003) (GTG-R002246).

⁵ E-mail from Kevin Ring to Jack Abramoff (Feb. 7, 2003) (GTG-R002245).

Mr. Abramoff responded: "Dammit. It was sent to Susan on her rnc pager and was not supposed to go into the WH system."⁶

Evidence of the use of nongovernmental e-mail accounts has also emerged in the investigation of the firing of U.S. Attorneys being conducted by the House and Senate Judiciary Committees. As part of this investigation, the Department of Justice has released thousands of pages of documents regarding the dismissal of eight U.S. Attorneys in 2006. Among the documents released by the Justice Department is an e-mail exchange between J. Scott Jennings, the Special Assistant to the President and Deputy Director of Political Affairs in the White House, and Kyle Sampson, the Chief of Staff of the Justice Department, that discussed how to replace Arkansas U.S. Attorney Bud Cummins with Tim Griffin in a way that "would alleviate pressure/implication that Tim forced Bud out."⁷ In this e-mail exchange, as well as other exchanges, Mr. Jennings used a "gwb43.com" e-mail account maintained by the Republican National Committee.⁸

A recent article in *National Journal* suggests that the use of nongovernmental e-mails by some high-ranking White House officials may be a common practice. According to this account, one former White House official said that Karl Rove uses his RNC account for "about 95 percent" of his e-mail.⁹ The *National Journal* account also raised questions about the preservation of these records. The article reports that the same former official said that the RNC has a policy of purging all e-mails after a short period of time, though it has chosen to preserve Mr. Rove's e-mails.¹⁰

The e-mails of White House officials maintained on Bush Cheney '04 e-mail accounts may be relevant to multiple congressional investigations. For this reason, the Committee directs you to preserve all e-mails sent or received by White House officials using e-mail accounts under your control.

In addition, the Committee requests that you or your designee meet with Committee staff during the week of April 2, 2007, to discuss the following five matters:

⁶ E-mail from Jack Abramoff to Kevin Ring (Feb. 7, 2003) (GTG-R002245).

⁷ E-mail exchange between Scott Jennings and Kyle Sampson (Aug. 24, 2006) (OAG000000028).

⁸ E-mail exchange between Scott Jennings and Kyle Sampson (Aug. 24, 2006) (OAG000000028); *see also* e-mail exchange between Scott Jennings, Kyle Sampson, and Monica Goodling (Aug. 18, 2006) (OAG00000117-118).

⁹ *Whose E-Mail Is It?*, *National Journal* (Mar. 24, 2007).

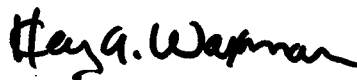
¹⁰ *Whose E-Mail Is It?*, *National Journal* (Mar. 24, 2007).

The Honorable Marc Racicot
March 26, 2007
Page 4

- (1) Who has access to the e-mail accounts maintained by the Bush Cheney '04 campaign;
- (2) What policies, guidance, and procedures govern the use and preservation of the e-mail accounts maintained by the Bush Cheney '04 campaign that have been used by White House officials;
- (3) What agreements, if any, did the Bush Cheney '04 campaign enter into with the White House, the National Archives, or other government agencies regarding the e-mail accounts maintained by the campaign that have been used by White House officials;
- (4) What steps have been taken to preserve the e-mail accounts maintained by the Bush Cheney '04 campaign that have been used by White House officials;
- (5) What assurance can the Bush Cheney '04 campaign provide the Committee that no e-mails involving official White House business have been destroyed or altered.

I will appreciate your cooperation in this matter. If you have any questions about this request, please contact David Rapallo or Anna Laitin of the Committee staff at (202) 225-5420.

Sincerely,



Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member