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SENATE

{ REPORT
104-280 }

INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS

FINAL REPORT

OF THE

SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS

TOGETHER WITH

ADDITIONAL AND MINORITY VIEWS



JUNE 17, 1996.—Ordered to be printed

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left about an hour later, he locked and alarmed the Counsel's suite.⁴³⁶

Ms. Williams contradicted the testimony of both Ms. Thomasson and Mr. Nussbaum. She testified that when she entered Mr. Foster's office, Ms. Thomasson was already sitting at Mr. Foster's desk. Ms. Williams sat on the couch and commiserated with Ms. Thomasson. Mr. Nussbaum entered the office later, obviously upset.⁴³⁷ After a brief time in the office, Mr. Nussbaum left, and Ms. Williams followed shortly thereafter.⁴³⁸ According to Ms. Williams, Ms. Thomasson remained in the office after both Mr. Nussbaum and Ms. Williams left.⁴³⁹

Ms. Thomasson, Mr. Nussbaum, and Ms. Williams thus differed as to the critical sequence of entries into and exits from Mr. Foster's office on the evening of July 20. Ms. Thomasson testified that she entered and exited Mr. Foster's office together with Mr. Nussbaum and suggested that at no time was she alone in the office.¹⁵ Mr. Nussbaum testified that he entered Mr. Foster's office after Ms. Thomasson and Ms. Williams; the three left the office together; and, after stopping by his office to make some phone calls, Mr. Nussbaum locked and alarmed the suite. Ms. Williams testified that she entered after Ms. Thomasson and before Mr. Nussbaum, and that she exited shortly after Mr. Nussbaum, leaving Ms. Thomasson alone again in the office.

I. Secret Service Officer Harry O'Neill observes Margaret Williams remove documents from Mr. Foster's office

Henry P. O'Neill joined the Secret Service Uniformed Division in 1977 and has been assigned to the White House since May of that year. On the evening of July 20, 1993, he arrived at work at 6:30 p.m., several hours before his scheduled shift at 10:30 p.m., in anticipation of some voluntary overtime hours. He made his regular rounds with the cleaning staff.⁴⁴⁰ He accompanied the cleaning staff to the White House Counsel's suite and disarmed the alarm at 10:42 p.m.⁴⁴¹ As he reached the door of the suite, Officer O'Neill made a radio call to the uniformed division control center. The center acknowledged the call, and Officer O'Neill unlocked the door and entered.⁴⁴² "I flip the light switch on in the reception area. Then I walk to the right into Mr. Foster's—at that time, the deputy counsel's office, and behind the doorway there's an alarm switch, and you just flip the switch into access or open."⁴⁴³ He then let the cleaning crew in.

Officer O'Neill proceeded into Mr. Nussbaum's office and checked the burn bag.⁴⁴⁴ He did not check Mr. Foster's office for a burn bag because as he walked back into the reception area, "I recognized Mr. Nussbaum as I turned to the right. He walked into his office, and just about the same time I noticed other figures walk in behind him and I heard women's voices. And so I directed the cleaning ladies to exit the suite, and I left the suite also."⁴⁴⁵ ¹⁶ Officer O'Neill could not identify exactly who, or how many people were accompanying Mr. Nussbaum into the suite. He was certain, however,

¹⁵The only possible exception may be the brief moment when, according to Ms. Thomasson, Ms. Williams left and Mr. Nussbaum entered the office for the second time.

¹⁶The standard procedure for the cleaning staff was to exit whenever a White House staff member enters his or her office. S. Erg. 7/26/95 p. 13.

that he heard women's voices and that Mr. Nussbaum was not alone as he entered the suite. The Secret Service officer then left the Counsel's suite and walked to the legislative affairs office. He was on his way back to alarm the Chief Counsel's suite when he ran into Howard Pastor, the Assistant to the President for Legislative Affairs, who informed him of Mr. Foster's death. As Officer O'Neill approached the Counsel's suite he saw Ms. Lieberman, Ms. Williams' assistant, leaving the suite.⁴⁴⁶ She asked Officer O'Neill to lock up the office. He replied that he would take care of it.⁴⁴⁷ Officer O'Neill then rode the elevator with Ms. Lieberman down to the ground floor to inform his supervisor of Mr. Foster's death. While he was on the phone, he overheard Ms. Lieberman asking Officer James Shea to ensure that the Counsel's suite was locked.⁴⁴⁸ Officer O'Neill told Shea that he knew of the request and would secure the office.⁴⁴⁹

When Officer O'Neill returned to secure the White House counsel's suite, he found Patsy Thomasson sitting behind Vince Foster's desk.¹⁷ He "stopped in the doorway immediately walking into the office because as I looked to the left there was a woman sitting at the desk."⁴⁵⁰ Officer O'Neill went back to the first floor. He returned to the Counsel's suite for a third time and again saw Ms. Lieberman coming out of the counsel's suite. She asked him again to lock Mr. Foster's office. According to Officer O'Neill:

And then a few seconds after I saw her [Lieberman] come out, Mr. Nussbaum walked out behind her and walked through the hallway towards the stairs, past the elevator, and within a few more seconds I saw Maggie Williams walk out of the suite and turn to the right in the direction that I was standing.⁴⁵¹

As Ms. Williams walked past Officer O'Neill to her office Ms. Lieberman told him "that's Maggie Williams; she's the First Lady's chief of staff."⁴⁵²

Officer O'Neill observed Ms. Williams carrying file folders out of the Counsel's suite when he saw her on the night of Mr. Foster's death:

She was carrying what I would describe in her arms and hands, as folders. She had them down in front of her as she walked down to her—in the direction of where I was standing.

She walked past me, and she continued on down the hallway. It's only about 20 feet at the most. And she started to enter her office, and she had to brace the folders in her arm on a cabinet, and then she entered the office and came out within a few seconds and locked the door.⁴⁵³

The folders were of "some weight, 3 to 5 inches."⁴⁵⁴ Officer O'Neill was certain that he saw Ms. Williams carrying folders out of the Counsel's suite that evening.⁴⁵⁵ After leaving the folders in her office, Ms. Williams joined Ms. Lieberman outside of the counsel's suite.⁴⁵⁶ Officer O'Neill then locked and alarmed the suite and joined the two women on the elevator.⁴⁵⁷

¹⁷ Officer O'Neill initially did not know who Ms. Thomasson was, but later identified her. O'Neill, 7/26/95 Hrg. p. 19.

Ms. Lieberman, Ms. Williams and Mr. Nussbaum each denied removing any documents, or seeing anyone removing documents, from Mr. Foster's office on the night of his death.¹⁸

Mr. Nussbaum testified that after he left Mr. Foster's office together with both Ms. Thomasson and Ms. Williams, he proceeded to his office to make some telephone calls and then locked and alarmed the Counsel's suite when he left. This testimony was contradicted by the White House alarm logs maintained by the Secret Service for July 20, 1993, which showed that Officer O'Neill alarmed the counsel's suite at 11:41 p.m.^{458 19}

Curiously, after Ms. Williams left the White House, she called Mrs. Clinton in Little Rock at 12:56 a.m. on the morning of July 21, and they spoke for 11 minutes. Ms. Williams claimed that she did not tell Mrs. Clinton about her search of Mr. Foster's office.⁴⁵⁹ Although Ms. Williams testified that she did not recall talking to Susan Thomases on the evening of Mr. Foster's death,⁴⁶⁰ telephone records obtained by the Special Committee indicated that, upon ending her conversation with Mrs. Clinton, Ms. Williams called Ms. Thomases at 1:10 a.m., and they spoke for 14 minutes.⁴⁶¹ Of her conversation with Ms. Williams, Ms. Thomases testified: "I don't recollect speaking with her that night. That's not to say that she didn't call me back and I didn't speak to her, but I have no independent recollection of having spoken with her that night."⁴⁶²

III. JULY 21, 1993.

A. Mr. Foster's office is finally sealed

When Associate Attorney General Webster Hubbell woke up on July 21, 1993, he immediately called William Burton, Deputy Assistant to the President, and asked him to lock Mr. Foster's office.⁴⁶³ In the middle of the night, "one of the things that kept me awake is saying we ought to make sure Vince's office is locked."⁴⁶⁴ Mr. Hubbell wanted to make sure that the office was secured and that its contents were documented and handled in a "professional" manner.⁴⁶⁵ When Mr. Hubbell reached Mr. Burton at the White House, some time between 7:00 a.m. and 8:00 a.m., Mr. Burton assured Mr. Hubbell that White House Chief of Staff Mack McLarty had taken steps to seal the office on the previous night.⁴⁶⁶ Mr. Burton did not recall discussing sealing the office with Mr. Hubbell,⁴⁶⁷ although his undated, handwritten notes listed "1) Secure office"

¹⁸ Ms. Williams' attorney submitted an affidavit stating that he "arranged to have Ms. Williams polygraphed" by a private polygrapher. Anderson, 7/31/95 Dep. Exh. 1. The affidavit represented that this private "examination confirmed that Ms. Williams was truthful in her assertion that she did not remove any documents from Mr. Foster's office on the night of his death." Anderson, 7/31/95 Dep. Exh. 1. After receiving the favorable results from her private polygrapher, Ms. Williams then offered to submit to a polygraph examination on the same subject by the Office of the Independent Counsel. According to Ms. Williams' attorney, the independent Counsel's polygrapher advised him at the conclusion of the test that "Ms. Williams was truthful in her assertion that she did not remove any documents from Mr. Foster's office on the night of his death." Anderson, 7/31/95 Dep. Exh. 1.

¹⁹ Mr. Nussbaum explained that, although he locked and alarmed the suite, he did not remember calling the Secret Service to report that he had done so. Thus, "you can lock the office and turn on the alarm without making that call. And if you do it without making that call, they may get, the Secret Service log may get the wrong name." Nussbaum, 8/10/95 Hrg. p. 125. This explanation is unpersuasive. It fails to explain why Officer O'Neill was identified on Secret Service logs as the person who set the alarm in the Counsel's suite—a position consistent with Officer O'Neill's testimony.

Committee recommends that steps be taken to prevent such future abuses.

CONCLUSIONS OF THE SPECIAL COMMITTEE ON THE DISCOVERY OF
THE ROSE LAW FIRM BILLING RECORDS

On January 5, 1996, the Special Committee received computer printouts of the Rose Law Firm's billings to Madison Guaranty. These records were discovered under mysterious circumstances in the Book Room of the White House Residence.

The billing records constitute the best, and therefore most important, evidence concerning Mrs. Clinton's representation of Mr. McDougal's S&L in the mid-1980s—a relationship that was being investigated by at least three separate federal agencies. The records had been subject to several different federal subpoenas, besides that of the Special Committee, for nearly two years. When federal investigators served their subpoenas, some more than two years ago, the billing records were nowhere to be found. Despite extensive searches conducted by the Rose Law Firm, neither the originals nor copies were discovered.¹¹⁵ They were not in the firm's computers, its client files, or its storage facility.¹¹⁶

1. The Rose billing records provide the best evidence of the legal services performed by Mrs. Clinton for Madison Guaranty

The billing records provide the best evidence of the legal services performed by Mrs. Clinton for Madison Guaranty and, as a result of the failed memories of many Rose Law Firm attorneys, are the only source of detailed information about the services that the Rose Law Firm provided to Madison Guaranty. The computerized billing records are thus an invaluable asset in reconstructing Mrs. Clinton's actual involvement in the matter. In total, Mrs. Clinton billed Madison Guaranty for 89 tasks, including 33 conferences with Madison Guaranty officials, on 53 separate days.¹¹⁷

Among the significant facts established by the billing records are the following, the significance of which are discussed more fully in the Special Committee's conclusions regarding the Arkansas Phase of its investigation:

- Mrs. Clinton, and others on her behalf, repeatedly made statements that Richard Massey brought in Madison Guaranty as a client and, even though she was the billing partner on the matter, she was merely a "backstop" because the firm did not permit associates to bill clients directly.¹¹⁸ Mr. Massey, however, directly contradicted Mrs. Clinton's account in sworn testimony before the Special Committee. The president of the S&L, John Latham, and a partner at the Rose law firm, David Knight, also contradicted Mrs. Clinton's account.

The billing records substantially resolve this dispute in favor of the testimony of Messrs. Massey, Latham and Knight.

- During the 1992 campaign, allegations surfaced that Beverly Bassett Schaffer, who Governor Clinton appointed as Arkansas Securities Commissioner, gave preferential treatment to Madison Guaranty because of her relationship with the Governor and Mrs. Clinton. The Clinton campaign denied that Mrs. Clinton attempted to influence Commissioner Bassett.

The billing records show that Mrs. Clinton called Ms. Schaffer the day before the Rose Law Firm submitted Madison's proposal for its preferred stock offering to the Arkansas Securities Department.¹¹⁹ The records reflect that Mrs. Clinton billed as much as one hour to the call.¹²⁰ Ms. Schaffer notified Mrs. Clinton of the approval of the proposal two weeks later in a letter addressed, "Dear Hillary."¹²¹

In testimony before the Special Committee, former Commissioner Schaffer directly contradicted Mrs. Clinton and stated that the proposal was discussed during the telephone call. Mr. Massey similarly disputed Mrs. Clinton's account for the telephone call to Ms. Schaffer.¹²²

- Mrs. Clinton has minimized her role in the Rose Law Firm's representation of Madison before the Arkansas Securities Department in connection with Madison's proposed stock offering. The billing records and Mr. Massey's testimony directly contradict Mrs. Clinton's claim that her role on the matter was merely to serve as a "backstop."

The billing records show that Mrs. Clinton billed Madison for a total of approximately 60 hours of work. Mrs. Clinton billed 6.2 hours on the preferred stock deal for conferences alone that she had with Mr. McDougal, with Mr. Latham and Davis Fitzhugh, two other Madison S&L officers involved in the stock offering.¹²³

Mrs. Clinton had at least six conferences with Mr. Massey, the young Rose Law Firm attorney responsible for performing the associate type tasks on the matter.¹²⁴ Mrs. Clinton also reviewed the amendments to the application submitted to the Arkansas Securities Department.¹²⁵ Mr. Massey testified that he did his work under the supervision of Mrs. Clinton.¹²⁶ According to Mr. Massey: "Mrs. Clinton was the billing attorney and had a relationship with me such that she needed to know what I was doing so she could be prepared to update the client at any time."¹²⁷ When asked whether Mrs. Clinton's work on the stock proposal deal was "minimal," Mr. Massey responded, "In my own mind it's a significant amount of time."¹²⁸

- The billing records indicate that Mrs. Clinton's involvement in Castle Grande was much more extensive than she has thus far owned up to. Before the billing records were discovered, little was known about the nature of the Rose Law Firm's representation of Madison Guaranty in connection with the Castle Grande land transaction. Perhaps because Mrs. Clinton had ordered the destruction of Madison-related records in 1988, the Rose Law Firm no longer possessed any file related to the Castle Grande deal.

Federal investigators described the Castle Grande transactions as a series of land flips and transactions that cost the American taxpayers \$4 million.¹²⁹ In 1995, when the RTC asked about her knowledge of Castle Grande, Mrs. Clinton stated "I do not believe I knew anything about any of these real estate parcels and projects."¹³⁰

The billing records identify Mrs. Clinton as the billing partner on the matter—even though Mrs. Clinton claimed that she has no idea how the Rose Law Firm became involved in the matter.¹³¹ These records indicate that Mrs. Clinton billed more time on the Castle Grande matter—29.5 hours, or 54 percent of total billings on the

matter—than any other lawyer at the Rose Law Firm. Indeed, nearly half of Mrs. Clinton's total billings to Madison were for work on Castle Grande. In the months following the initial transaction, Mrs. Clinton had at least 12 conferences with Mr. Ward and numerous meetings with Madison officials in connection with the subsequent sales that she billed to the IDC/Castle Grande matter.

More important, the billing records were perhaps most illuminating with respect to the nature of Mrs. Clinton's work on Castle Grande. For his role as the "straw man" and other related services to the project, Mr. Ward was owed a commission. On March 31, 1986, Madison Guaranty loaned Mr. Ward \$400,000.¹³² One week later, on April 7, 1986, Madison Financial executed two promissory notes, for \$300,000 and \$70,943, purporting to reflect loans from Mr. Ward to Madison Financial Corporation, Madison Guaranty's subsidiary service corporation.¹³³ At about this time, bank examiners were scrutinizing Madison Guaranty's books. Mr. James Clark, the chief examiner, asked whether the three notes were related.¹³⁴ He was assured by a Madison Guaranty official, probably Don Denton, that the notes were not related.¹³⁵ In fact, according to Madison official John Latham, the three notes were related, and the \$400,000 March 31 loan from Madison Guaranty was intended to pay Mr. Ward's commissions.¹³⁶

The Rose Law Firm billing records revealed that on April 7, 1986, the day the Madison Financial notes were executed, Mrs. Clinton billed 12 minutes to the IDC/Castle Grande matter for "Telephone conference with Don Denton."¹³⁷ A message slip produced by Mr. Denton reflects that Mrs. Clinton called him from the Rose Law Firm on April 7, 1986.¹³⁸ On a June 11, 1996 interview with FDIC investigators, Mr. Denton stated that Mrs. Clinton called seeking copies of the notes between Mr. Ward, Madison Financial, and Madison Guaranty.¹³⁹ Mr. Denton told investigators that during the conversation he cautioned Mrs. Clinton that a problem might exist with respect to the April 7 notes to Mr. Ward because "they constituted in effect a parent entity fulfilling the obligation of a subsidiary,"¹⁴⁰ a violation of the so-called direct investment rule. Mrs. Clinton, however, "summarily dismissed" that concern in a way that he took to mean that "he would take care of savings and loan matters, and she would take care of legal matters."¹⁴¹

And she did. The billing records showed that on May 1, 1986, Mrs. Clinton billed Madison Guaranty for two hours of time for the following work: "Conference with Seth Ward; telephone conference with Seth Ward regarding option; telephone conference with Mike Shaufler; prepare option."¹⁴² Indeed, a May 1 option agreement between Mr. Ward and Madison Financial bore a word processing code ("0190g") that, according to the Rose Law Firm's counsel, indicates the document was created at the Rose Law Firm by or for Mrs. Clinton.¹⁴³

Mr. Clark, the bank examiner told investigators that, after reviewing the records and in light of Mr. Denton's testimony, he believed that the May 1 option prepared by Mrs. Clinton "was created 'in order to conceal the connection—whatever it was—between' the March 31 and April 7 notes."¹⁴⁴

On June 13, 1996, the Special Committee requested that the First Lady attempt to refresh her recollection regarding the matters discussed by Mr. Denton and to inform the Committee of what she recalls about them.¹⁴⁵ On June 17, 1996 the Special Committee received an affidavit from Mrs. Clinton accompanied by a letter from Mr. Kendall. In the affidavit, Mrs. Clinton gave no answer to the question posed by the Special Committee; instead, she simply referred to Mr. Kendall's letter "addressing certain allegations recently made by Mr. Don Denton."¹⁴⁶ In his letter, Mr. Kendall maintained that Mr. Denton's recollection is "wholly unreliable"² but gave no indication as to the recollection of the First Lady.¹⁴⁷ The First Lady therefore has neither confirmed nor denied Mr. Denton's testimony.

The significance of the billing records as they relate to Castle Grande is perhaps best illustrated by the activities of Mrs. Clinton's legal defense team immediately after the discovery of the records. A message slip from John Tisdale, the Clintons' Arkansas lawyer to Alston Jennings, Seth Ward's former attorney on Castle Grande, indicate that, on June 5, 1996, the day after Ms. Huber discovered the records in her White House office, Mr. Kendall called Mr. Tisdale and Mr. Jennings to arrange a meeting.¹⁴⁸ One week after the records were discovered, on January 11, 1996, Mr. Kendall flew to Little Rock and met first with Mr. Jennings and then with Mr. Ward.¹⁴⁹ The meeting with Mr. Ward lasted 30-40 minutes.¹⁵⁰ Curiously, Mr. Kendall had also contacted Mr. Jennings in August 1995. Subsequent to that contact, Mrs. Clinton summoned Mr. Jennings to the White House for a personal meeting on August 10, 1995, around the time that the billing records were placed in the Book Room of the White House residence.

2. The disappearance and mysterious reappearance of the Rose Law Firm billing records was part of a larger pattern of removal, concealment and, at times, destruction of records concerning Mrs. Clinton's representation of Madison

The mysterious discovery of the Rose billing records must be viewed in the context of the destruction and mishandling of other Rose Law Firm files concerning Madison between 1988 and 1992. In 1988, Mrs. Clinton ordered the Rose Law Firm to destroy records relating to her representation of Mr. McDougal's Madison S&L.¹⁵¹ As described above, this was not a routine destruction of records because there was pending litigation relating to Castle Grande and federal regulators were investigating the operation and

²Mr. Kendall based this assertion on the fact that Mr. Denton testified at two trials, *Ward v. Madison Guaranty*, and *United States v. McDougal et al.*, yet did not mention his April 7, 1986 telephone conversation with Mrs. Clinton. Mr. Kendall, however, offered no indication whether Mr. Denton was asked questions about his conversations with Mrs. Clinton or, for that matter, whether such conversations and Mrs. Clinton's work for Madison were within the scope of the trials. (Letter from David Kendall to Senator Alfonse D'Amato, 6/17/96 p. 2)

What is clear, however, is that Mr. Denton recalled the conversation only after being shown Mrs. Clinton's billing records reflecting the 12 minute telephone call on April 7. When he was shown this record, on June 3, 1996, he did not recall the conversation. However, after the interview, he reviewed his files and discovered the April 7 message slip from Mrs. Clinton. His memory thus refreshed, he provided additional testimony to the FDIC-IG, all under a legal obligation of truthfulness, 18 U.S.C. § 1001. (Denton, FDIC-IG Report of Interview, June 11, 1996.) Mr. Denton has no reason to mislead investigators, much less to go out of his way to give inaccurate testimony.

solvency of Madison in anticipation of taking over the troubled S&L.

The mishandling of Madison documents continued after the 1992 presidential campaign, when the firm's files on Madison, which were by now the property of the RTC as conservator of Madison, and files of other Rose clients for whom Mrs. Clinton had performed legal services, were secretly removed from the firm by another then-Rose Law Firm partner, Webster Hubbell. Mr. Hubbell removed these files, at times taking the firm's only copies,¹⁵² without obtaining the consent of the firm or the client.¹⁵³

3. *Vincent Foster is the last person known to have the billing records in his possession*

During the 1992 presidential campaign, on February 12, 1992, an unknown person printed out a set of the Rose Law Firm's computerized records of billings to Madison Guaranty.¹⁵⁴ Mr. Hubbell asserted that either he or former Deputy White House Counsel Vincent Foster, also a Rose partner, directed the Rose accounting department to print the billing records for Madison.¹⁵⁵ In addition to obtaining the computerized billing records, Mr. Hubbell also retrieved other files and documents relating to Mrs. Clinton's work for Madison.

According to Mr. Hubbell, Mr. Foster was the last person he saw handling the billing records.¹⁵⁶ Mr. Hubbell did not know who removed the records from the Rose Law Firm,¹⁵⁷ or how they came to be left in the White House Residence.¹⁵⁸ He claimed not to have spoken with anyone about the billing records since the 1992 presidential campaign.¹⁵⁹

4. *The billing records mysteriously reappear in the Book Room of the White House Residence in August 1995*

During the first two weeks of August 1995, Carolyn Huber, Special Assistant to the President and Special Director of Correspondence for the White House, saw the Rose Law Firm billing records for the first time.¹⁶⁰ The billing records were in the Book Room, a small room on the third floor of the First Family's private quarters in the White House Residence.¹⁶¹

In early August 1995, Ms. Huber was gathering newspaper and magazine clippings in the Book Room when she noticed the records in clear view on the edge of a table.¹⁶² The records were folded in half, and Ms. Huber recognized the records, from her experience at the Rose Law Firm, to be billing records.¹⁶³

For several months, Ms. Huber gave little thought to the records, which were moved in a box to her office. On the morning of January 4, 1996, Ms. Huber discovered the records when the table was removed that had concealed the box with the billing records for five months.¹⁶⁴

Immediately, Ms. Huber realized the billing records were related to Madison Guaranty.¹⁶⁵ She was horrified because she understood their significance; she had seen several subpoenas calling for the production of Madison Guaranty records, including these very records.¹⁶⁶

5. *Only a limited number of people had access to Book Room of the White House Residence*

The Special Committee's inquiry discovered that only a limited number of people had access to the Book Room, and no one admitted to placing the billing records in the Book Room of the White House Residence. Only a limited number of people had access. Moreover, it is highly unlikely that those with access would be leaving or disturbing documents in that private area of the White House.

The Special Committee rejects as fanciful the suggestion that construction workers or residence staff were somehow responsible for leaving the records in the Book Room. Similarly, the denials by overnight guests are highly credible because none of them would have been likely to be carrying records into the Book Room or to disturb materials in the Book Room.

Accordingly, the Special Committee concludes that most persons with access to the Book Room during the relevant period truthfully denied leaving the Rose billing records in the Book Room. They had neither the opportunity to possess the billing records nor the motive to conceal them from investigators for nearly two years.

6. *Very few people had motive to be handling or reading the Rose billing records in August 1995*

Few lay people would have understood the significance or content of the Rose billing records in August 1995. In fact, based on the evidence received by the Special Committee, only three people had previously shown an interest in and handled the billing records—Mrs. Clinton, Mr. Foster and Mr. Hubbell. Of these, Mr. Foster passed away on July 20, 1993, and Mr. Hubbell reported to federal prison on August 7, 1995.¹⁶⁷

Moreover, as discussed earlier in these Conclusions, the principal relevance of the billing records was to disclose the nature and extent of the legal work performed by Rose Law Firm partners for Madison Guaranty. As noted above, these records were particularly significant in evaluating work done by Mrs. Clinton. Again, this is an important factor in evaluating who would have had an interest in reviewing the records in August 1995. Finally, the Committee is impressed by the fact that these records appeared on the table of the Book Room within days after the RTC-IG issued its report critical of the Rose Law Firm and its conflict of interest over Madison. As evidenced by the memorandum of March 1, 1994 from Mr. Ickes to Mrs. Clinton, this particular issue was of concern to Mrs. Clinton in connection with her possible exposure to personal liability.

7. *Only a limited number of people were definitely within the chain of custody of the billing records*

Although the absence of fingerprints does not rule out that a person handled documents, the presence of fingerprints positively establishes that someone was in the chain of custody. Of individuals positively within the chain of custody on these documents, only Mrs. Clinton and Mr. Foster are likely to have been interested in reading the billing records. Indeed, in an affidavit submitted to the Special Committee on June 17, 1996, Mrs. Clinton stated: "I recall discussing some of this legal work in 1992 with Mr. Vincent Foster

and Mr. Webster Hubbell, as I sought to answer press questions about the Madison Guaranty representation during the Presidential Campaign. Prior to the recent release of FBI fingerprint information, I had stated that I might have been shown billing records in 1992."¹⁶⁸

8. *Mrs. Clinton is more likely than any other known individual to have placed the billing records in the Book Room in August 1995*

The Special Committee is mindful that the question of possession of the long lost and much sought Rose billing records has grave legal implications. Not surprisingly, no one has admitted to putting the documents in the Book Room. On the current state of the record, the Special Committee cannot state with certainty who put the records in the Book Room.

Nevertheless, the pattern of past behavior in handling documents, the limited number of persons with access to the Book Room, the question of motive, and the chain of custody evidence, taken together, suggest that very few people were likely to have placed the Rose billing records in the Book Room in August 1995. With these factors in mind, the Special Committee concludes that Mrs. Clinton is more likely than any other known individual to have placed the records in the Book Room. Certainly, Mrs. Clinton fits the above criteria most closely.³

BACKGROUND

I. WHITEWATER DEVELOPMENT CORPORATION AND MADISON GUARANTY S&L

In August 1978, the Clintons and the McDougals purchased 230 acres of land in Marion County, Arkansas for \$202,000 with the intention of dividing the land into lots and selling them for a profit.¹⁶⁹ At the time, Mr. Clinton was the Attorney General of Arkansas, and Mrs. Clinton was a young associate with the Rose Law Firm of Little Rock.¹⁷⁰ In June 1979, the Clintons and the McDougals formed Whitewater Development Corporation and subsequently transferred the land to the company.¹⁷¹

In October 1980, the year after Whitewater was formed, Mr. McDougal and others purchased a controlling interest in the Bank of Kingston, a small commercial bank located in Kingston, Arkan-

³On June 13, 1996, the Special Committee requested that Mrs. Clinton respond in writing, under oath, about "any knowledge she may have concerning the Rose Law Firm billing records bearing Bates Stamp numbers DKSN028928 through DKSN029043, including whether she has reviewed, handled, or discussed (other than with counsel) these records, and her knowledge relating to the disappearance or discovery of the records."

On June 17, 1996, Mrs. Clinton responded: "I do not know how the billing records (DKSN028928 through DKSN029043) came to be identified by Mrs. Huber at the White House on January 4, 1996, although I have read various media accounts." In light of the Special Committee's request for detailed and specific information relating to *any knowledge* she had concerning *their disappearance or discovery*, Mrs. Clinton's answer is incomplete. For example, she does not state whether she has any knowledge as to how the billing records were removed from the Rose Law Firm; who possessed the billing records between February 1992 and August 1995; where they were stored between February 1992 and August 1995; and, most importantly, who placed them in the Book Room of the White House in August 1995. There is no mystery as to how Ms. Huber came to identify the records on January 4, 1996. These other, more important questions, however, remain to be answered.

Mrs. Clinton's incomplete response, therefore, does not alter the Special Committee's conclusion.