

Memorandum

Office of the Independent Counsel

To: All OIC Attorneys

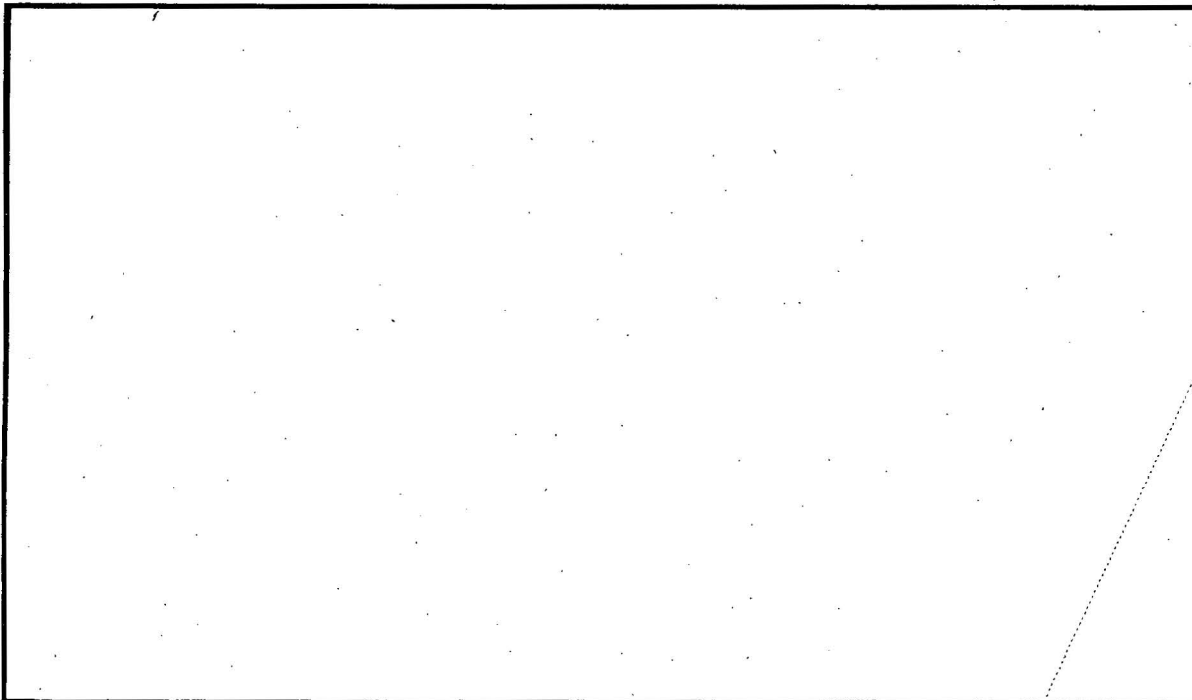
Date: 4/10/98

From: HRC Team

Subject: Hillary Rodham Clinton: Summary of Evidence
and Suggested Reading

We have been asked to provide material at the earliest opportunity to assist you in assessing the evidence relating to Hillary Clinton. This first memorandum is intended as a brief introduction to our theory of the case. It includes, in section II, an annotated reading list of the relevant portions of earlier memorandum produced by OIC that contain pieces of the evidentiary puzzle. You will receive a more detailed memorandum in the next week or two.

I. Theory of the Case



In 1985 and 1986, Hillary Clinton and Hubbell provided legal services relating to real

estate known as Castle Grande. The transactions involving Seth Ward, Jim McDougal, Madison Guaranty Savings and Loan ("MGSL") and Castle Grande were crimes. Hillary Clinton and Hubbell, whether knowingly or not, provided legal services that facilitated those crimes and exposed themselves, and the RLF to potential criminal and civil liability. In particular: attorneys from the Rose Law Firm ("RLF") did the legal work on the real estate transaction using language provided by Hubbell; Hillary Clinton worked on two fraudulent "cross-loans" and an option agreement that were used to deceive bank examiners as to the true nature of the Castle Grande transactions and the involvement of MGSL in those transactions; Hubbell's secretary typed the agreements and Ward received the documents directly from Hubbell. Madison officials used the option agreement to deceive the bank examiners and their deception materially effected their assessment of MGSL.

[REDACTED] Hillary Clinton destroyed her person records of her work for MGSL including the file relating to her work on the option agreement less than two years after the work was completed -- and while a civil law suit relating to that very option agreement, Seth Ward and MGSL was pending. At the same time there was an ongoing criminal investigation of MGSL.

Hubbell received and solicited business from the Federal Deposit Insurance Corporation ("FDIC") and the Resolution Trust Corporation ("RTC") to represent the FDIC and the RTC in a lawsuit as conservator of MGSL in an accounting malpractice case, Madison Guaranty v. Frost. During the Frost litigation he read various reports that described Castle Grande and Ward as having engaged in crimes. Hubbell concealed all work that Hillary Clinton, Hubbell and the RLF had done for MGSL and Seth Ward. When, in 1989, Jim McDougal was indicted for

transactions related to Castle Grande, Hillary Clinton and Hubbell followed his trial closely.

In 1992, during the Clinton campaign for President, media inquiries caused Hillary Clinton, Hubbell and Vince Foster to collect additional RLF records relating to Hillary Clinton's work for MGSL, including her billing records and all of the firms MGSL files which were then in a remote storage archive. They reviewed them thoroughly, familiarizing themselves with them and refreshing their recollections. During his review of the billing records, Hubbell particularly focussed on Hillary Clinton's multiple conferences with Ward on the IDC/Castle Grande matter.

The political exposure added a slightly different tinge to the nature [REDACTED] concern. [REDACTED] they now had political concerns: Hillary Clinton and Bill Clinton were business partners of the owner of a failed S&L; it was alleged McDougal had hired Hillary Clinton to represent him before state agencies that reported to her husband as way of indirectly wielding influence over the decisions being made. [REDACTED] Hillary Clinton's role in the representation of MGSL, the campaign and Hillary Clinton personally provided the public with inaccurate information regarding: how MGSL came to retain the RLF and the extent and nature of Hillary Clinton's work before state agencies -- inaccurate stories that Hillary Clinton and Hubbell were "stuck with" as official investigations began.

Following the campaign, Hubbell and Vince Foster removed all remaining RLF records relating to the RLF's and Hillary Clinton's work for MGSL from the law firm. In various parcels those records were sent to Washington, D.C. Two copies of the most significant of these records, Hillary Clinton's billing records for the work she did for MGSL, are known to exist -- one set was discovered in a briefcase in Vince Foster's attic in July 1997; the other set was discovered in

the Book Room adjacent to Hillary Clinton's office in August 1995 and publicly released in January 1996. If, as we contend, the evidence supports the conclusion that Hillary Clinton reviewed the billing records in detail in February - March 1992, and that she retained a copy of the records for reference and use during 1992-1995, [REDACTED]

What, then, are the crimes under consideration? Between January 1994 and February 1996 both Hillary Clinton and Hubbell made numerous sworn statements to the RTC, the FDIC, the Senate and the House of Representatives, and to OIC. Each of these reflected and embodied materially inaccurate stories relating to: how RLF came to be retained by MGSL; Hillary Clinton's role in the IDC/Castle Grande venture; Hillary Clinton's role in representing MGSL before state agencies; Hubbell's representations to the RTC and FDIC regarding Hillary Clinton's role in the IDC/Castle Grande venture; and the removal of records from RLF. The question, generally, is not whether the statements are inaccurate, but whether they are willfully so.

Below is an annotated reading list which summarizes in more detail the evidence that would go to show that at the time the statements were made in the 1994-96 time period Hubbell and Hillary Clinton had recently refreshed their recollection [REDACTED]

[REDACTED] It also directs the reader to portions of existing memorandum where the evidence is reviewed in even greater depth.

II. Annotated Reading List

1) *Castle Grande* -- The Castle Grande transactions were crimes. Briefly outlined they were as follows: In October and November 1985, MGSL needed to increase its book profits to meet the federal regulatory requirement that it have a net worth of 3%. To meet this requirement MGSL arranged to "book" fraudulent profits on the IDC/Castle Grande transaction. McDougal arranged for Madison Financial, a subsidiary of MGSL, to purchase the IDC property. An Arkansas banking regulation limited, however, the amount of money that MGSL could invest in its subsidiary, Madison Financial, to provide it the capital to make the purchase. Accordingly, Jim McDougal enlisted Seth Ward (Webb Hubbell's father-in-law) as a straw man purchaser for half the property and MGSL loaned Ward the money for the purchase on a non-recourse basis. As a reward for his role as a straw man, Ward was promised a commission on the resale of the property.

After the land was purchased it was resold (or "flipped") at inflated prices based upon fraudulent real estate appraisals so that MGSL could "book" a profit on the sales. One such property flip involved a small sewer utility on the IDC property known as Castle Sewer and Water. Seth Ward was the nominee purchaser of the property for \$400,000. On February 28, 1986 the utility was flipped to a group of purchasers including Jim Guy Tucker (who also received loans for the purchase from MGSL) for an inflated price of \$1.2 million. Overall, the entire property sold for an inflated price of approximately \$4 million.

The date of the utility land flip, which is also the date of several other flip transactions, is significant in two respects: First, MGSL was on notice that the Federal Home Loan Bank Board (FHLBB) was going to begin an examination of MGSL on March 3rd, the next Monday with an

"as of" date of February 28th. So any transactions booked on that day would be part of the examination. Second, on the 28th, Hillary Clinton billed the IDC file 0.8 hours for an entry marked only as "Seth Ward." [This is one of 14 separate entries relating to Hillary Clinton contacts with Seth Ward between December 1985 and June 1986].

As the FHLBB examination progressed, Seth Ward became concerned that he would not be paid his commissions. He insisted to McDougal that he get the money due to him -- roughly \$300,000. On March 31, 1986 Ward and McDougal arranged for payment as follows: MGSL made a loan of roughly \$300,000 to Seth Ward which was funded by two checks from MGSL. At the same time Madison Finance executed a loan document in the same amount acknowledging that it owed Seth Ward \$400,000. This second "cross-loan" was not funded. Thus, Ward's obligation to repay MGSL the loan made to him was "off-set" by the unfunded obligation of Madison Finance to pay Ward.

On April 7, 1986, the original cross loan notes were replaced with two other cross-loan notes, which were also fraudulent in nature. On that day Hillary Clinton billed 0.2 hours to the IDC matter for a telephone conference with Don Denton, a loan officer with MGSL. [It bears noting that of the 115 pages in the billing records recovered at the White House, Vince Foster's fingerprint were found on only 4 pages; one on the billing memorandum that contains this entry.] Denton has testified that the purpose of the call was that Hillary Clinton was involved in the execution of the cross-loans and that he advised Hillary Clinton that the loans would raise legal questions.

These off-setting cross loans raised questions with the FHLBB bank examiners, who, in late April 1986, questioned MGSL on the relationship between the two loans. At that time the

bank examiners were told that the loans were unrelated to each other and that the Madison Finance loan was its obligation on commissions while the MGSL loan to Ward was a loan in anticipation of the execution of an option agreement under which MGSL would take an option to purchase a small parcel of land held in Ward's name, known as "Holman Acres." Not surprisingly, the examiners asked MGSL to show them the option agreement. On May 1, 1986, Hillary Clinton billed 2.0 hours for the preparation of an option agreement. That agreement was subsequently shown to the bank examiners, who accepted it as truthful and thereby limited their inquiry.

Suggested reading -- The facts relating to the Castle Grande transaction are detailed in Section IV of Bittman & O'Brien, "Clinton Finance," at 255-335, June 1997.

2) Other RLF Work for MGSL and before State Agencies -- Three other aspects of Hillary Clinton's work for MGSL also have come under scrutiny, particularly during the 1992 campaign -- how RLF came to be retained by MGSL; the work Hillary Clinton did before state agencies on behalf of MGSL; and how Hillary Clinton terminated the relationship with MGSL.

Two wildly diverging stories exist as to how MGSL came to retain RLF. Jim McDougal's version, now famous, is that Bill Clinton jogged by his office one afternoon and said Hillary Clinton needed some additional business. In response McDougal says he agreed to put RLF on a retainer and that Hillary Clinton came by later that same day to make the arrangements.

Hillary Clinton has a completely different recollection, first described in detail during the 1992 campaign. According to her, John Latham, a young officer at MGSL and Rick Massey, a young associate at RLF, agreed that RLF should do some work for MGSL. However, McDougal had an outstanding legal bill for more than \$5,000 that had not been paid for 3 years. Hillary

Clinton says that her role was to intercede with McDougal for payment of the unpaid bill and to arrange for an advance against fees from MGSL. She served as only as the billing partner and did little or no work.

While affirmative proof of Jim McDougal's version will be difficult, if not impossible, after his death, disproof of Hillary Clinton's version is available to us. Massey has, with admittedly varying degrees of certitude, denied being the source of the MGSL business. More importantly, as detailed below, in 1992 Vince Foster recovered the old file from RLF storage and actually found a copy of the so-called "unpaid" bill which had, in fact, been paid in October 1984, well before MGSL retained RLF in April 1985. This bill, marked "paid" was found along with a set of Hillary Clinton's billing records, in Foster's attic in July 1997. Of note, the set of billing records in the attic was identical to that found in the White House in January 1996, except for the paid bill.

Also during the campaign, Hillary Clinton minimized the role she played in seeking state regulatory assistance for MGSL. She characterized her role as making a single "ministerial" phone call to the head of the Arkansas Securities Department ("ASD"), Beverly Bassett Schaffer, in relation to MGSL's plan to raise capital through the sale of stock. [This was another plan to raise capital to meet the net worth requirement. However, the stock sale never was completed, and the Castle Grande transaction acted, in effect, as a replacement method of increasing MGSL's net worth.]. The billing records reveal, however, that Hillary Clinton also worked on matters relating to the Arkansas Alcohol Beverage Commission, the Election Commission and the Public Utilities Commission.

Of note, as well, is information derived from the cooperation of Jim Guy Tucker, which

documents the far larger volume of work done, with regularity, for MGSL by the Mitchell, Williams, Selig & Tucker firm. Some inference can be drawn from the fact that MGSL chose not to use its "regular" firm for these State-related contacts that MGSL hoped to gain some advantage thereby.

In June of 1986, the FHLBB called MGSL management to a meeting in Dallas. Given the tone of the letter they sent, it was evident that McDougal would soon be out as CEO of MGSL and that MGSL was in serious trouble. In particular, MGSL was ordered to immediately cease all work with IDC, Castle Sewer and Water and other McDougal-operated companies.

A copy of the letter went to Beverly Bassett Schaffer, of the ASD, who forwarded a copy to Governor Clinton on July 2, 1986. On Friday, July 11th, the Dallas meeting occurred and McDougal was ousted. The following Monday, July 14th three things occurred: Betsey Wright, Governor Clinton's chief of staff wrote him a note saying that she was worried about his Whitewater stock -- Clinton wrote back, incorrectly, that he did not have any stock in Whitewater anymore. On the same day, Hillary Clinton wrote McDougal and returned the unexpended advance against fees. And also on the same day Seth Ward gave MGSL a backdated revision of his original agreement to receive commissions from Madison Financial.

Suggested reading -- The facts relating to RLF's retention by MGSL, Hillary Clinton's work before the Arkansas Securities Department ("ASD") and the return of the retainer are detailed in Sections II, III and V of Bittman & O'Brien, "Clinton Finance," at 11-32, 110-18, 126-70, and 436-64, June 1997. Hillary Clinton's work before other state agencies on behalf of MGSL, and Jim Guy Tucker's cooperation are not detailed in any memorandum. The significance of the second set of billing records in Vince Foster's attic is discussed in

Rosenzweig, "Clinton Campaign: February - March 1992," at 42-48, January 1998.

3) 1987-1992 --

A) RLF Conflicts -- Before it was taken over by the FDIC in February 1989, MGSL hired a law firm, known as Borod & Huggins, to examine transactions that had occurred at the bank. As a result of that examination, MGSL hired B&H to represent it in a law suit against MGSL's accountants, Frost & Co., alleging that Frost's accounting work had contributed to losses at the bank. One of Frost's defense to the case was, of course, that McDougal's actions were the fraudulent ones and that he was running shady real estate deals that caused the losses.

When the FDIC took over MGSL as conservator of the bank, it inherited the law suit. After examining the matter the FDIC disqualified B&H from representing it because B&H had a conflict of interest. At that juncture, the FDIC approached Hubbell and asked if RLF would serve as counsel in the pending Frost litigation. At the time the FDIC hired RLF, Hubbell did not disclose the nature of his firm's work for MGSL -- though that work might have rendered RLF civilly liable to the FDIC as conservator of MGSL's assets. Instead (at most) he said that RLF had done a small amount of collection work for MGSL and that he was not close to and had done no legal work for his father in law, Seth Ward.

Several aspects of RLF's representation of MGSL are significant:

First, the misrepresentation allowed RLF to earn fees on the Frost case in excess of \$400,000 and, ultimately to earn fees from the FDIC and RTC of more than \$2 million.

Second, during discovery, Beverly Schaffer reminded Hubbell that RLF had done work for MGSL and that the ASD had relied upon the work. She questioned how RLF could now represent the FDIC with such a conflict of interest.

Third, the 1986 FHLBB examination reports and the B&H report expressly suggested that McDougal and Ward might have engaged in criminal conduct with respect to the Castle Grande transactions. As part of his preparation for the Frost case, Hubbell admitted he reviewed the 1986 examination and he billed for reviewing the B&H report. Also his fingerprints are all over the report. Moreover, RLF attorneys actually billed the RTC for attending Jim McDougal's criminal trial.

Fourth, the history of Hubbell's statements to the FDIC and RTC reflect a continuing effort on his part to cover up the RLF's representation of MGSL and his own earlier misrepresentations to the FDIC. When the FDIC and RTC first began investigating the possibility that Hubbell had concealed his conflicts in January - February 1994, he lied to investigators. Thereafter the RTC and FDIC Offices of Inspectors General conducted more comprehensive investigations which culminated in Congressional testimony in August 1995. During those investigations Hubbell again concealed the true nature of his, and Hillary Clinton's work for MGSL and Ward. The lead lawyer from the Inspector General's office, Pat Black, will testify that she was affirmatively misled by Hubbell's and Hillary Clinton's misstatements and induced thereby to testify inaccurately before Congress.

One final note: In 1986-88 RLF was involved in another serious conflicts issue, that resulted in significant loss to the firm. In November-December 1986, Foster sought to represent the FSLIC as outside counsel in the receivership of the FirstSouth Savings and Loan. As part of that solicitation, Foster certified that RLF had no conflicts of interest. To the contrary, however, an RLF partner, Joe Giroir was a borrower and had served as counsel to FirstSouth on several loans and RLF was disqualified from the representation.

Beyond that, however, the new outside counsel for FSLIC determined that Giroir's representation was the basis for a legal malpractice claim against RLF. In early 1987 Foster and Hubbell were summoned to Washington, D.C. where they were excoriated for having bid the work with such a major conflict of interest and advised that RLF would be sued. According to Hubbell, Hillary Clinton was furious at this, participated in some of the phone calls with FSLIC and Hubbell, Foster and Hillary Clinton met "almost daily" in order to determine what to do. Eventually, RLF was sued for more than \$8 million and the case settled for more \$3 million. Of that \$3 million, \$500,000 came from the firm directly, not its insurance carrier. Joe Giroir was ousted from the firm as well.

In short, the FirstSouth matter was a traumatic experience for RLF that almost caused the dissolution of the firm. Thus Hillary Clinton and Hubbell (as well as all the partners at RLF) were keenly aware of the critical nature of conflicts of interest and of the potential for civil malpractice liability. [REDACTED]

statements made by Hillary Clinton is her claim in a November 1994 interview with the FDIC-OIG. She said that she was "unaware what those issues [relating to Joe Giroir] may have been" and that she "had no involvement with the FSLIC in any negotiations involving FirstSouth and Mr. Giroir."

Suggested reading -- The RLF's conflict of interest in representing the RTC in Madison v. Frost and the FirstSouth incident are detailed in Dreiband & Myers, "Summary of Rose Conflicts," April 1998.

B) *Ward v. Madison and U.S. v. McDougal* -- Two other events occurred during the 1987-92 time period that bear on Hillary Clinton and Hubbell's continuing attention to issues

relating to Jim McDougal, Seth Ward, Castle Grande and MGSL.

First, in 1987 the FHLBB began a further examination of Ward's interaction with McDougal. An investigative subpoena was issued to him for his records relating to the "commissions" he was supposed to receive on the Castle Grande transaction. Employing a "the best defense is a good offense" theory, Ward brought suit against MGSL for payment of the commissions which he alleged had never been paid to him. Thus, the cross-loans and the option agreement were critical issues in the trial. Evidence exists that Hubbell was completely familiar with the progress of his father-in-law's case -- he attended portions of the two day trial; received pleadings; served and filed writs of garnishment; drafted an indemnification agreement between Ward and Ward's attorney; notified Ward's attorney of the dismissal of MGSL's appeal; and, in 1993, advised Ward on the settlement of the case. The case came on for trial in August 1988, and judgement was entered for Ward. Ultimately, however, Ward settled the case with Hubbell's advice, by agreeing to repay the FDIC (as MGSL's successor) some of the loan money he had received.

We do not have direct evidence that Hillary Clinton knew any details about the Ward case although she acknowledges that she may have known something about it. It was, however, reported in the local press and was known to Hubbell. While the suit was pending, prior to trial, and just two years after she had completed the work, Hillary Clinton ordered her personal MGSL files destroyed, including files directly relevant to Ward case, including a file marked "Ward Option."

When MGSL got the B&H report, suggesting possible criminal conduct at the bank, it sent a copy to the U.S. Attorney in Little Rock. In 1989, the U.S. Attorney charged Jim

McDougal, John Latham and Susan McDougal's two brothers with crimes relating to two of the land flips at Castle Grande. Ultimately Latham pled guilty, though McDougal and the Henley brothers were acquitted. RLF attorneys attended the trial. Sam Heuer, McDougal's attorney, has testified that he had lunch with Hubbell and Hillary Clinton separately after the verdict and that both were very familiar with the case. In fact, both were so impressed with his work that they offered him a position at RLF. It seems a fair inference that with McDougal's acquittal, and Ward's litigation victory, Hubbell and Hillary Clinton must have thought that the "problem" of Castle Grande was behind them.

Suggested reading -- The facts relating to Ward v. Madison and U.S. v. McDougal are covered in some detail, though not comprehensively, in Drieband & Myers, "Summary of Rose Conflicts," April 1998. The facts relating to Hillary Clinton's destruction of her own records are detailed in Section V of Bittman & O'Brien, "Clinton Finance," at 469-84, June 1997.

4) *1992 Campaign* -- [REDACTED] Hillary Clinton and Hubbell's role in MGSL's representation really began in earnest in February 1992. At that time national press began to make inquiries into Hillary Clinton's relationship with MGSL as part of their coverage of Clinton's presidential campaign. On February 11th, the first reporter appeared at the ASD to review the records of MGSL's securities application. An ASD employee notified the Clinton campaign and the very next day, February 12th, at 8:42 AM, a copy of the payment history for RLF's representation of MGSL was run-off the RLF computer. Over the next two weeks, all of the files on MGSL were called up from the RLF archive and delivered to Hubbell or Vince Foster.

The evidence is striking that during this time frame Hubbell, Foster and Hillary Clinton

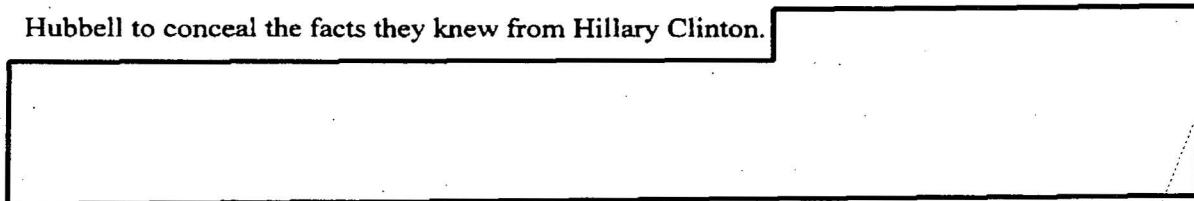
reviewed, in detail, Hillary Clinton's representation of MGSL. Among the most relevant pieces of evidence of this are the following:

- The billing records created on February 12th have red ink handwriting on them in Vince Foster's hand, addressing questions and observations to Hillary Clinton.
- The billing records have Hillary Clinton's fingerprint on them, and she has acknowledged reviewing them in February or March, 1992.
- Hubbell has testified before the Senate that he reviewed the billing records in detail and that he focussed on Hillary Clinton's conferences with Seth Ward.
- Vince Foster and Hubbell retrieved all of the archived RLF records and reviewed them in detail, as evidenced by a detailed MGSL chronology created by Foster in March 1992. Significantly, this chronology reflects the fact that Foster knew that the "unpaid bill" had, in fact, been paid in October 1984. A copy of the chronology was secreted away by Foster in a briefcase in his attic and discovered there in July 1997.
- Hubbell had discussions with a Clinton staffer, Loretta Lynch, the details of which strongly suggest that he reviewed the billing records in detail with Hillary Clinton. Specifically, the billing records contain a single obscure mention of work the Hillary Clinton did for Susan McDougal, without describing what that work was. Hubbell told Lynch that the work was for an interior decorating project of Mrs. McDougal's -- information he could only have learned from Hillary Clinton.
- Hubbell and Foster interviewed Rick Massey who described his work on MGSL to them and signed a statement reflecting his recollection of that work. Significantly, the Massey statement did not contain an assertion that Massey brought in the MGSL business via

Latham -- an omission significant in light of the then-swirling public questions on the issue and Massey's subsequently conflicted testimony. This statement was never released by the Clinton campaign and the only known copy in existence was found in Foster's briefcase in the attic.

- Hillary Clinton prepared a detailed 2-page statement for the campaign regarding her relationship with MGSL. The statement is sufficiently detailed (e.g. the exact dollar figure of her billings to MGSL and the exact date of her retention by McDougal) that the information could only have come from the billing records.
- Hubbell and Foster worked with Hillary Clinton in preparing this statement. Evidence of their joint effort includes: the discovery of a version of Hillary Clinton's statement in the archived files of Vince Foster's computer at RLF; and a short fax from Diane Blair to Webb dated March 23rd which has Diane Blair's handwritten note: "Webb -- Vince + Hillary are drafting her answers on law practice. Ignore marginal notes. D."

We may therefore reasonably infer from this evidence that any misstatements in Hillary Clinton's campaign statement or omissions were either the result of considered discussion between Hillary Clinton, Foster and Hubbell or resulted from a deliberate decision by Foster and Hubbell to conceal the facts they knew from Hillary Clinton.



Following the election, Foster and Hubbell made a concerted effort to remove all of the MGSL files from RLF. None of the files removed from the archives were returned to storage.

Several comprehensive searches by RLF have proved unavailing;



[REDACTED]

Some of the files were stored by Hubbell in his basement in Washington D.C. and eventually turned over to Clinton attorney David Kendall, who returned them to RLF who produced them to OIC. Some, such as the billing records themselves, disappeared altogether, only to reappear at the White House and in Foster's attic years later, after the statute of limitations had lapsed. Still other files, such as Hillary Clinton's original time sheets, have never been found.

Suggested reading -- The facts relating to the Clinton campaign are detailed in Rosenzweig, "Clinton Campaign: February-March 1992," January 1998 and Rosenzweig, "Hillary Clinton, Webb Hubbell and Vince Foster: What Did They Know?" January 1998.

5) Foster Documents -- Where the documents from RLF went is an open question. Some evidence suggests they went to Vince Foster's White House office where they remained until his suicide on July 20, 1993. Several pieces of evidence support the inference that personal documents which Hillary Clinton did not want disclosed were located in Foster's office at the time of his death and then removed.

First, Gail Kennedy, Bill Kennedy's wife, has testified that at the Foster house that evening she overheard a conversation between Hubbell, Bill Kennedy and possibly David Watkins or Marsha Scott in which they expressed concern that something harmful or embarrassing to the Clintons might be found in Foster's office.

Second, on the afternoon of July 21st Bernard Nussbaum, then White House Counsel, initially agreed to allow two career DOJ employees to review the documents in Foster's office for evidence that might shed light on the cause of his death. That evening and then next morning

Nussbaum, Hillary Clinton, Susan Thomases and Maggie Williams (Hillary Clinton's chief of staff) exchanged 10 separate phone calls -- the contents of none of which they can now remember. That morning, according to the DOJ employees, Nussbaum changed his mind and refused to allow the DOJ prosecutors to review the documents; instead he reviewed them himself and segregated several as "personal" to the Clintons.

On the evening of July 22nd, Thomas Castleton, an intern in the White House, assisted Williams in carrying the box of personal documents up the 3rd floor of the Residence of the White House. Williams told Castleton that the documents were going to be given to the Clinton's attorney, after they had been reviewed by Hillary Clinton and the President. Castleton placed the box in a closet in Hillary Clinton's office, Room 323. That closet is approximately 30 feet from the table in the Book Room, Room 319A, where the billing records were found 2 years later.

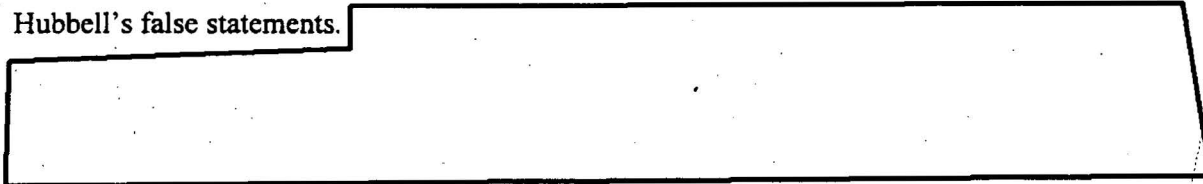
Suggested reading -- The facts relating to the handling of the documents in Vince Foster's office are detailed in Colloton & Kavanaugh, "Foster Documents Memorandum," at 36-40, and 83-185, August 1996.

6) RTC Contacts -- During late 1993 and early 1994 nine criminal referrals relating to MGSL were sent to DOJ in Washington and the USAO in Little Rock. Those referrals named the Clinton's as witnesses and the Clinton gubernatorial campaign committee as a subject of the referral. White House officials were told of the referrals within two days of their receipt in Washington.

Furor over the referrals led, in November 1993 to the recusal of the US Attorney and assignment of the case to a career DOJ prosecutor, Donald MacKay. He was replaced by the

regulatory independent counsel, Robert Fiske, on January 12, 1994. [Coincidentally, January 11th is the date of Hubbell's interview at DOJ with the FDIC in which he falsely told the FDIC that RLF did only a "little collection work" for MGSL, nothing more. Based primarily on that statement, the FDIC issued a report clearing RLF of conflicts in late February.]

In February 1994, concerned with the ongoing investigations, President Clinton asked Harold Ickes about the potential for civil liability of Hillary Clinton and RLF. Ickes had Neil Eggelston do a memorandum on the subject which was forwarded to Hillary Clinton on March 1, 1994. That memo contained a portion of the just-completed FDIC report including a summary of Hubbell's false statements.



Suggested reading -- The facts relating to contacts between the White House and the Treasury in late 1993/early 1994 are detailed in Bates & Azar, "White House-Treasury Contacts Investigation," at 194-99, September 1996.

7) **Billing Records** -- The billing records were found on a table in the Book Room, Room 319A, just outside of Hillary Clinton's office by Carolyn Huber, her personal executive assistant, in August 1995. Ms. Huber boxed them up and put them away and did not "re-discover" them and recognize their significance until January 1996.

There is a circumstantial case that the records were left on the table by Hillary Clinton. She is the only individual in the White House who had a significant interest in them and she is one of only 3 people known to have had them in her possession since their creation in February 1992 (the other two were Vince Foster, who was dead, and Hubbell, who was in jail). Moreover,

FOIA(b)7 - (D)

in the late July/early August time-period, she had reason to review the records. Relevant events at that time include: an OIC interview on July 22, 1995; release of RTC and FDIC-OIG reports on RLF and MGSL on July 28 and August 3, 1995; and public testimony by the FDIC, RTC and Hubbell before Congress on August 10, 1995. Immediately thereafter the Clintons left on their August vacation in Wyoming.

In addition there is slight direct evidence that Hillary Clinton possessed the billing records. Three individuals (two construction workers [redacted] have all testified that they observed Hillary Clinton carrying a cardboard box in the Residence on or about July 8-9, 1995. [redacted] has also testified that the box contained documents that looked like "technical documents" or "blueprint schematics" of the same size and shape as the billing records. He could not, however, conclusively identify the billing records as the documents he saw.

Finally, we have comprehensively interviewed almost every other individual who had access to Room 319A in August 1995. None appear to have any motive to have placed the billing records there and none recalls having seen the billing records in the room.

Suggested reading -- The facts relating to the discovery of the billing records in the White House are detailed in Colloton & Azar, "Rose Law Firm billing records," September 1996.

8) *Webb Hubbell* -- One final note bears mentioning: Significant, though not comprehensive, evidence exists that Hubbell got several "jobs" from Clinton supporters for which he did little or no work. Moreover, during taped conversations in prison Hubbell appears to acknowledge that he has withheld information from the OIC. [redacted]

FOIA(b)6
FOIA(b)7 - (C)

We urge all concerned to listen to the tapes when Hubbell's wife tells him that Marsha Scott has warned her that if Hubbell files a counter-suit against the Rose Law Firm, he will "lose support" at the White House, and hear Hubbell grudgingly acknowledge that he'll have to "roll over" and "take it again" rather than fight.

Evidentiary Summary