



Max M. Kampelman Papers

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REMARKS BY
AMBASSADOR MAX M. KAMPELMAN
BAR ILAN UNIVERSITY HONORARY DEGREE CEREMONY

Washington, D.C.

December 14, 1987

It is with profound appreciation that I receive your Honorary Degree this evening. Bar Ilan University is a special and distinguished institution of learning. Its roots are in Israel and in the United States, functioning by authority of the regents of the state of New York. Within its classrooms, Jewish scholarship and values are merged with democratic ideals common to both Israel and the United States. The process is a rich atmosphere of a deep and broadly encompassing religious ethic.

In accepting your honor, I wish to share with you thoughts appropriate to the occasion that are with me at this moment. They refer to the immense contribution made by the Jewish ethic to the development and strength of political democracy. The spiritual framework of Judaism is the individual human being, for it is the human being who was made, according to Jewish teaching, in the image of God.

It was the ancient tribes of Israel who uniquely proclaimed, contrary to the traditional beliefs of their

neighbors, that there was only one God. In doing so, they established the basis for human brotherhood, for human rights, for democracy, for our systems of jurisprudence. If there is only one God, then we are all of us His children; and thus brothers and sisters to one another. That is the essence of the eternal Jewish prayer, the "Shma Yisroel."

Thus, the prophet Micah's succinct expression: "Have we not all one Father? Hath not God created us?" The Talmudic sage, Ben Azzai, said that the most important verse in the whole Bible was the one from the Book of Genesis stating that Man was created in the divine image. The Rabbis pointed out that among the first questions in the Talmud is, "When may morning prayers be recited?" After midnight? Before dawn? After dawn? The answer the Rabbis gave us is: One recites the morning prayers when there is enough light for a man to recognize his brother.

A further Rabbinic story refers to the Haggadah tale, recited during Passover in Jewish homes all over the world, of the Egyptian armies drowning in the Sea of Reeds. When that drowning took place, the angels in heaven began to sing the praises of the Lord. And the Lord rebuked them by saying: "My children are drowning and you would sing?"

And yet we must refer further to the teachings of the ancient Hebrew sages if we are to understand fully the implications of the Jewish ethic for the problems we face in seeking to realize the aspirations of that ethic. They told us that even though there is in each one of us that in the heart and soul which is good and noble and Godlike, there is also in each one of us that which is evil -- "yaitzer hatov" and "yaitzer hara." The Protestant theologian Reinhold Niebuhr called it "Children of Light and Children of Darkness." Freud and modern psychology built on this truth. This dichotomy is not only a part of the human being, it is also understandably a part of the societies which the human being creates.

Democracy is the political expression of the "yaitzer hatov" within us. It is based on our religious notion of human brotherhood. Here is the root of our political democracy, of our system of jurisprudence.

But there is also a "yaitzer hara" in the societies that men are capable of creating. Totalitarianism is an expression of that destructive drive. This explains the Nazi phenomenon. To all of us familiar with the brutalities of the Soviet system, it explains that behavior as well.

This makes it all the more necessary for those of us who have been called upon to carry forward the values of our traditions to appreciate that if we are to earn the right to continue to be called "The People of the Book", we must never tire of our special responsibility to recognize the "yaitzer hara" where it exists and to strengthen within each of us and our societies the "yaitzer hatov" within us.

Each generation faces its own unique challenges. But through the ages they appear to have one common characteristic. We seem capable of mobilizing our talents to unravel the mysteries of our physical environment. This seems always to have been so, from the time we discovered how to light a fire to warm and feed ourselves. We have learned to fly through space like birds and move in deep waters like fish. But how to live and love on this small planet as brothers and sisters still eludes us. In every age, that has been the essence of the challenge.

In the onward evolution of the species "homo sapiens" toward the species "human being," we are being asked in each generation to stretch toward the supremacy of that which is God-like in us. The obstacles that we face are opportunities provided us to fulfill that evolutionary destiny.

The immense challenge today is to find the basis for lasting peace among the peoples of the world so that we might live in dignity. In this nuclear age, the significance of that goal is overwhelming.

The problems that divide us are real and numerous. We trust our negotiating efforts will produce results. By the nature of things, however, we understand that even with agreement we will still be nearer to the beginning than to the end of our pursuit.

We will come closer to our goal to the extent that we understand that our religious values are at the center of it all. Our quest for peace is to protect and preserve the human being and the civilization he is continuing to build, so that the evolutionary process of which we are an integral part can continue to strengthen that which our religious teachers call the God-like within us.

All of us and our societies fall short of our aspirations. We grow by stretching to reach them. As we do so, however, let us be reassured by the conviction that the future lies with freedom because there can be no lasting stability in societies that would deny it. Only freedom can release the constructive energies of men and women to work toward reaching new heights.

A human being has the capacity to aspire, to achieve, to dream, and to do. Let us remember that we seek these values for all the children of God. That is the realization of the "Shma Yisroel." That is the task of the "Chosen People," the essence perhaps of why the Jews have survived through the ages rather than relegated to be a footnote in history.

Thank you again for your honor, and may you all have the blessings of God.

DR. MAX KAMPELMAN

MONDAY - DECEMBER 14, 1987

DR. MAX M. KAMPELMAN

In George Bernard Shaw's introduction to his play "Joan of Arc" he has a lengthy discussion on the nature of miracles. They are for him simply natural events which occur most rarely. What makes them miracles is that they come exactly when needed - they are perfectly timed to the delight of those blessed by them.

It so happens, Dr. Kampelman, that I am one of those who still believes that God plays a role in human history. Consequently, I ask, "Who can possibly deny that there is something providential about Bar-Ilan University's selecting a date to honor you and it subsequently develops that that date is within a week of your having achieved the greatest blessing for mankind in your already indescribably illustrious career!" Only a few days ago that agreement was signed which may save humanity from nuclear destruction and you were in command of the effort that brought it about! Anything else that I might say about your past performance fades into insignificance by comparison with this one major feat for which you will be blessed unto eternity!

Bar-Ilan University - the only university in Israel that is as committed to the preservation of the Jewish religious heritage as it is committed to the preservation of the state and its people - honors you because of your historic contribution to the advancement of world peace and it is fitting that such an honor should come precisely from such a university. One must never forget which tradition it is that gave humanity the vision of a world legal order in which there would be no more wars. But we at Bar-Ilan also want you to know that we are not

unmindful of that which you did for Israel in all the years that the state was being born and in the years that it struggled for its survival as it does even today.

My first exposure to your brilliance as the champion of a great cause was an essay of yours published by the Anti-Defamation League. In it you were the advocate par excellence of the just character of the Zionist dream and its fulfillment. You combined your mastery of international law and relations with the passion of a prophet to make a plea to which there could be no response but concurrence.

But that was only one deed among hundreds which were for the benefit of our people and all mankind. You were not content to be a very successful lawyer pursuing the noble calling to which you gave of your exceptional talents. You felt compelled to make those talents available to virtually every area of human enterprise. The list of your associations and publications attests to your versatility and the enormous range of your interests.

When you were young you taught in a great university but cloistered halls could not satisfy a man with your thirst both for knowledge and action and the result was your being catapulted to world fame but a few days ago.

For these reasons and many more too numerous to mention it gives me great pleasure - in the name of the Senate and Board of Trustees of Bar-Ilan University - to confer upon you the degree of Doctor of Laws, Honoris Causa, with all the privileges thereunto appertaining.

In token thereof I cause you to be hooded in traditional academic fashion and I hand you your diploma.

THE COUNSELOR
DEPARTMENT OF STATE
WASHINGTON

December 2, 1987

Professor Michael Albeck
President
Bar-Ilan University
52100 Ramat-Gan.
Israel

Dear Professor Albeck:

Your letter of November 4 has just arrived. I am deeply grateful for it and for the honor which you and the University have decided to confer upon me. I look forward, with keen interest and anticipation, to our meeting and to the December 14 dinner which has been scheduled for the award.

My very best personal wishes to you.

Sincerely,



Max M. Kampelman

BAR-ILAN UNIVERSITY

52100 Ramat-Gan, Israel



אוניברסיטת בר-אילן

רמת גן 52100

OFFICE OF THE PRESIDENT

לשכת הנשיא

טלפון (03)718599
מברקים UNIBARILAN

4th November, 1987.

Mr. Max Kampelman,
U.S. Department of State,
2201 C Street, N.W., Room 7208,
S/DEL,
WASHINGTON D.C. 20520.
U.S.A.

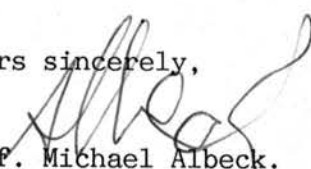
Dear Mr. Kampelman,

It gives me great pleasure to inform you that the Board of Trustees and the University Senate have decided to confer upon you the degree of Doctor of Philosophy, in recognition of your manifold activities on behalf of and service to the Jewish people.

We do hope you will allow us the privilege of bestowing this honour upon you, at the Festive Dinner which is to take place in Washington D.C. next month.

With best wishes.

Yours sincerely,


Prof. Michael Albeck.
President.

MA/ek

EPSTEIN BECKER BORSODY & GREEN, P.C.

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(904) 681-0596

SIX LANDMARK SQUARE
STAMFORD, CONNECTICUT 06901-2704
(203) 348-3737

September 20, 1987

[†]P.C. NEW YORK, WASHINGTON, D.C.
CONNECTICUT AND VIRGINIA ONLY

Dear Colleague:

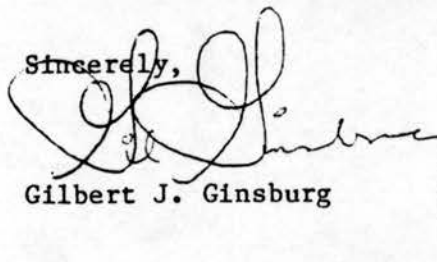
Ambassador Max M. Kampelman, Chief Arms Control Negotiator and Counselor of the Department of State, is truly an outstanding member of the Washington community, who has been on the front pages of the media for his role in the diplomatic process.

Bar-Ilan University, a unique Israeli institution chartered by the New York State Board of Regents, is known throughout the academic world for its excellence in teaching and research in the fields of science and the humanities.

We now have the opportunity to honor both the individual and the institution, through the conferring by Bar-Ilan University of an Honorary Doctorate upon Ambassador Kampelman. Bar-Ilan will confer the degree at an Academic convocation on December 14th in Washington, D.C. On this occasion, honorary degrees will also be conferred upon the distinguished scientist and former President of Israel, Dr. Ephraim Katzir, and upon Dr. Emmanuel Piore, eminent scientist and former Vice President of Research for the International Business Machine Corporation.

I am truly honored to be a part of this auspicious event, and hope that you will join me on the Committee of Sponsors. Please participate by signing this letter, and sending it to the above address to that we may correctly list your name as a sponsor for this worthwhile and exciting affair.

Sincerely,



Gilbert J. Ginsburg

Signature

THE COUNSELOR
DEPARTMENT OF STATE
WASHINGTON

November 4, 1987

Mr. Leo Kramer
2100 M Street, N.W.
Washington, D.C. 20037

Dear Leo:

We have had some conversations here with the Legal Adviser to the Department of State in connection with the December 14 honorary degree award. It is my understanding that you invited Assistant Secretary of State Richard Murphy to be a sponsor of the meeting and he, quite understandably, referred the issue to the Legal Adviser for guidance. The fact that the event is primarily a fund-raising event does create legal complications and I understand that this has been discussed with you or with others associated with Bar-Ilan University.

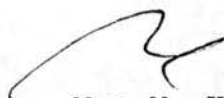
In light of the fact that I am Counselor of the Department of State, it is important that my participation in no way give the appearance of using public office for anyone's private gain, including the gain of a non-profit educational entity. For that reason, there is a strict government policy prohibiting active involvement in fund raising by private groups which is at all related to that public office.

The office of the Legal Adviser has, therefore, recommended that I can accept the honorary doctorate in my private capacity and that my role be limited during the course of the evening. I have been advised that my presence not be the centerpiece or primary drawing card. I would assume that the presence of other honorees, as well as alumni and traditional supporters, help meet that need. The invitations issued for the event should not show my specific official titles and department affiliation. Furthermore, I am advised that I should offer, if appropriate, only brief remarks or personal thanks and not deliver a keynote address or speak at any length on foreign policy matters. Nor will I have any input as to how the funds raised during the evening will be spent.

I thought I'd better share this with you as quickly as possible.

All my best.

Sincerely,



Max M. Kampelman



United States Department of State

Washington, D.C. 20520

November 4, 1987

MEMORANDUM

TO: C - Paul Ashby

FROM: L/M - William E. Gressman *WEG*

SUBJECTS: (a) Offer of an honorary degree to Amb. Kampelman;
& (b) offer to him of an award by a private group

(a) Offer of an honorary degree

This is to follow through on the initial advice I provided to you by telephone last week regarding an offer of an honorary degree to Ambassador & Counselor Max M. Kampelman. Because the event at which the degree would be conferred involves fundraising, Amb. Kampelman may accept the degree but should strictly limit his role to his private capacity.

After checking with the Washington Friends of Bar Ilan as well as the New York office of the Friends, I understand the relevant facts to be as follows. The honorary degree, a doctorate, would be bestowed by Bar Ilan University (an Israeli institution located near Tel Aviv which is also chartered in New York State) at a December 14 academic convocation in Washington, D.C. Two other persons, not U.S.G. employees, will also be honored at the event, though not with degrees. The December 14 event is being hosted by the Washington Friends of Bar Ilan. The purpose of the event, in addition to honoring Amb. Kampelman and the others, is to raise funds for Bar Ilan University (the Friends, with offices in New York City, Washington, D.C., Chicago, Miami and Los Angeles, is the U.S. based fundraising support group for the Israeli institution). The charge per person for attending the December 14 event, including dinner at a Hyatt hotel, will apparently be \$250. The Friends hope that at least 500 people will attend, thus grossing over \$100,000. After covering expenses, the Friends would like to endow a chair or otherwise contribute to the Bar Ilan University endowment with the money raised. For the past twenty years similar fundraising events have been held by the Friends of Bar Ilan. The Friends said that Vice President Bush received an honorary degree two or three years ago in an event in the New York City vicinity.

In order to avoid any action which might give rise to even the appearance of using public office for private gain (including the gain of a non-profit or educational entity) or

giving preferential treatment to any person, the Department has a strict policy generally prohibiting active involvement by its employees in any fundraising by private groups which is at all related to their public office.

I have carefully considered this matter and consulted with the Office of Government Ethics at the Office of Personnel Management. Given the elements detailed in this memorandum, my advice is that Amb. Kampelman can accept the honorary doctorate from Bar Ilan at the December 14 event, but should limit his role in the event to his private capacity. The honorary degree appears based on Amb. Kampelman's long and distinguished record of public service both in the private sector and the government. The Bar Ilan academic convocations/fundraisers hosted by the Friends are longstanding periodic events. Although the December 14 event is a fundraiser, it appears that it can be structured (the Friends said that plans were still being formulated) so that Amb. Kampelman's presence is not the centerpiece or primary drawing card. Presumably, the Friends of Bar Ilan will call on a number of alumni and other supporters who have given over the years to Bar Ilan regardless of who the distinguished honorees are at any particular event. It would be best for the invitations simply to indicate "The Honorable Max M. Kampelman" rather than to show his specific official titles and department affiliation. At the event itself, Amb. Kampelman should offer only brief remarks of personal thanks and not deliver a keynote address or speak at any length on foreign policy matters. Furthermore, Amb. Kampelman should not have any input into how the funds raised will be spent for the benefit of Bar Ilan, nor should he permit a chair, scholarship fund or other program/item funded to be named after him.

(b) Offer of an award

The second matter concerns the offer to Amb. Kampelman of an award by a private group, the Jewish Institute for National Security Studies (JINSA); for the reasons stated below, I believe that the Ambassador can accept the award.

I have talked to Ms. Bryen of JINSA who indicates that her group (which Mr. Kampelman helped found some years ago well prior to his current State Department service), is a Section 501(c)(3) tax-exempt non-profit organization (charitable, educational or religious entity). The award that the group would like to confer on Amb. Kampelman is the Henry M. Jackson distinguished service award. It would be based on the overall contribution of Amb. Kampelman (both in private practice and more recently in public service) to advancing U.S.

security and defense interests in general and as regards Israel in particular. This honor does not appear to present any conflict with Amb. Kampelman's official duties. The award to Amb. Kampelman will consist of a plaque or scroll to be presented at the group's annual meeting/dinner (they have indicated that it will not be a fundraiser). Earlier plans to include a porcelain eagle or a scholarship in Amb. Kampelman's name have been dropped by the group after my discussions with Ms. Bryen in order to avoid any appearance of using public office for private gain. Moreover, this is a longstanding award. Prior recipients, in addition to the late Senator Jackson for whom the award is named, include Jeane Kirkpatrick (after leaving the Department), Representative Jack F. Kemp and Senator Rudy Boschwitz. In these circumstances, my advice is that Amb. Kampelman can accept the award.

Drafted: L/M: WEGressman *WEG*
#4303K:73022:11/4/87

cc: L/M - Mr. Thessin

Kramer Associates Inc.

2100 M STREET N.W. WASHINGTON, DC 20037
Tel: 202 296-0230
Telex: 64182

December 18, 1987

(P)

Bar Ilan

Ambassador Max Kampelman
Head of the U.S. Delegation to the
Negotiations on Nuclear & Space Arms
Department of State
Room 7208 S/D
Washington, D.C. 20520

Dear Max

Thank you for participating in this Bar Ilan event this past Monday night.

// You were most impressive and I have been receiving letters and calls from friends who were delighted with your thoughtful philosophical response. May I have a copy of your speech?

Thank you for your help and understanding and for taking time out of your schedule, already heavy and difficult, to do this for Bar Ilan. The University and American Friends of Bar Ilan deeply appreciate your participation at this dinner.

Kindest regards.

Sincerely,



Leo Kramer
President

LK/ser

(P)

11/2

MMK:

Re: Bar Ilan Dinner and JINSA Award

Bill Gressman of the Legal Office checked with the Government Ethics Office at OPM concerning your acceptance of the award at the Bar Ilan dinner. Your acceptance of the award is not the issue but rather the fundraising venue. According to Bill, as long as your acceptance of the award is incidental to the dinner i.e. it is an annual function and you are not the drawing attraction or keynote speaker, there is no objection to the venue.

There is no objection to your acceptance of the JINSA award as long as the venue is not a fundraising exercise with you as the main attraction.

L is concerned with the statute which prohibits the use of public office for private gain. They are aware that these awards are for service and achievement which preceded your assumption of public office. They note, however, your present public position and the potential for gain by private organizations who might use your participation in an event to solicit funds.

Pal

PAUL- 588 MB.



[Handwritten signature]

United States Department of State
The Counselor

October 22, 1987

MMK:

Re: Bar-Illan Dinner

A letter was sent to Amb. Murphy asking him to co-sponsor the event. He sent it to the Legal Advisers' office (Gressman) here at State to ask for an opinion. Turns out this event is a fundraiser and, while there is no problem with your being given an honorary award, there may be a question concerning the event as a fundraiser.

~~xxxxxxxUniversityxxxxxxxxxxxxxxxxxxxxxGovernmentxxxxxxx~~

Let's discuss.

Sharon



United States Department of State

The Counselor

Greene -

Morris Jacob - Fried of Bar Ilan

US fundraising support group for U

Fundraiser

checked w/ Gov't Ethics at OPOB

OK provided can be studied
so he's not keynote or
primary drawing card.

brief period put remarks



use of public office for put game

(even in profit group)

endow a chair - Not MMK

have to show on either (front)
 ~~show~~



United States Department of State

The Counselor

Mr. Byrnes called him

JINSA



Annual Dinner + Award Event

No Luchwing

MMU funded

No issues pending before MMU

Scoop Jackson Award

If no Luchwing + event ^{not} held
just for him

porcelain eagle - 4-7000

No dollar value if domestic

Careful about appearance -

[501(c)(3)

charitable, religious, educational, scientific, literary, or other purposes



(Copy for Paul Ashby)

United States Department of State

Washington, D.C. 20520

F m m k
by c.

November 3, 1987

MEMORANDUM

TO: L/NEA - John R. Arbogast

FROM: L/M - William E. Gressman **WEG**

SUBJECT: Request from private group to Assistant Secretary Murphy to help sponsor an event

This is to confirm the advice I provided to you by telephone last week regarding a request by a private group asking that Assistant Secretary Richard W. Murphy help sponsor a forthcoming event. Because the event involves fundraising, I recommend that the Assistant Secretary decline the request to help sponsor it; if he wants to attend in his personal capacity (apparently at \$250 per person), he may do so.

In the attached letter of September 30, 1987 (which you referred to me for review), Mr. Leo Kramer, Chairman of the Washington Friends of Bar Ilan University, requested that Assistant Secretary Murphy help sponsor a December 14 academic convocation at which Ambassador & Counselor Max M. Kampelman will receive an honorary doctorate (two other persons, not U.S.G. employees, will also be honored, though not with degrees).

After checking with Mr. Kramer's Washington office as well as with Mr. Morris Jacobs of the New York office of the Friends of Bar Ilan University, I understand the relevant facts to be as follows. The purpose of the event on December 14, in addition to honoring Amb. Kampelman and the others, is to raise funds for Bar Ilan University. Bar Ilan is an Israeli institution located on the outskirts of Tel Aviv that is also chartered in New York State in order to facilitate transfer of credits with U.S. universities. Although the Friends of Bar Ilan group indicates that plans are still being formulated, the charge per person for attending the December 14 event, including dinner at a Hyatt hotel, will apparently be \$250. They hope that at least 500 people will attend, thus grossing some \$100,000. After covering expenses, the Friends hope to endow a chair or otherwise contribute to the Bar Ilan University endowment with the money raised. The Friends of Bar Ilan have held similar fundraising events for the past twenty years or so (Vice President Bush reportedly received an honorary degree two or three years ago in an event in the New York City vicinity). Indeed, Mr. Jacobs indicated that the Friends of Bar Ilan is the U.S. based fundraising support group for the Israeli institution.

The Department has a strict policy generally prohibiting active involvement by its employees in any fundraising by private groups which is at all related to their public office. There are only a few exceptions, none of which applies in this case. The basic reason for this policy is to avoid any action which might give rise to even the appearance of using public office for private gain (including the gain of a non-profit or educational entity) or giving preferential treatment to any person. See Sections 10.735-201(a)(1) & (a)(2) (attached) of the Department's standards of conduct, 3 FAM 620 Appendix A. */ Further, since the funds in this instance will go to benefit a foreign university (though it is also chartered in N.Y.), it appears that assisting in sponsorship of the fundraiser could also run afoul of the prohibition on federal employees engaging in foreign agent activities subject to registration under the Foreign Agents Registration Act. See 18 U.S.C. 219 (attached).

Thus, I recommend that Assistant Secretary Murphy decline the request of the Washington Friends of Bar Ilan to help sponsor the December 14 event. Mr. Murphy may of course attend the event in his private capacity if he so desires; as noted above, the cost would apparently be \$250 per person.

Finally, I am preparing a separate memorandum to C regarding Amb. Kampelman's receipt of the honorary degree -- basically, it is permissible provided that his role is personal, private and limited to acceptance of the honor and that no direction as to the use of funds raised is given.

Attachments: As stated.

Drafted: L/M: WEGressman *WEG*
#4303K: 73022: 11/3/87

cc: L/M - Mr. Thessin
C - Mr. Ashby

*/ See also Section 10.735-211(e) (attached) of the conduct standards which sets forth the general requirement of Director General clearance for active participation in foreign policy groups and events even where no fundraising is entailed. The test under that section is one of the public interest and the appearances of any active role must be weighed delicately -- this is particularly important for the senior Department bureau official in the sensitive NEA arena. See subparagraph (3) of Section 10.735-211(e). Even if participation is authorized in a specific instance, care must be taken that there is no implication of official sponsorship nor any lending of the U.S.G. prestige to enhance that of the private group.

Leo Kramer
Chairman
Washington Friends
of Bar Ilan University

September 30, 1987

Ambassador Richard W. Murphy
Asst. Secretary for Near Eastern &
Southern Asian Affairs
Room 6248
Department of State
Washington, D.C. 20520

Dear Richard,

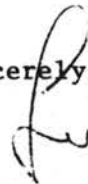
Ambassador Max Kampelman, the leader in the U.S. Armament negotiations with the Soviets and now Counsel to the State Department, is truly an outstanding member of the Washington community, and has been on the front pages of the media for his role in the diplomatic process.

Bar-Ilan University, a unique Israeli institution chartered by the New York State Board of Regents, is known throughout the academic world for its excellence in teaching and research in the fields of science and the humanities.

We now have the opportunity to put the two together. Bar-Ilan University is privileged to confer an Honorary Doctorate upon Ambassador Max Kampelman. Bar-Ilan will confer the degree at an Academic convocation on December 14th in Washington, D.C. On this occasion, the distinguished scientist and former President of Israel, Dr. Ephraim Katzir and Dr. Emmanuel Piore, eminent scientist and former Vice President of Research for IBM will also be honorees.

I am truly honored to be a part of this prestigious event, and hope that you will join me. Please participate by signing this letter, and sending it to the above address so that we may correctly list your name as a sponsor for this worthwhile and exciting affair.

Sincerely,



Leo Kramer

P.S. Please indicate below how you wish to be listed.



UNIFORM STATE/AID/ICA REGULATIONS

Sec.

- 10.735-404 Time and place of submission, and forms.
- 10.735-405 Information required.
- 10.735-406 Submission of position description.
- 10.735-407 Supplementary statements.
- 10.735-408 Review of statements and determination as to conflicts of interest.
- 10.735-409 Confidentiality of employees' statements.
- 10.735-410 Effect of employees' statements on other requirements.
- 10.735-411 Disqualification procedures.

AUTHORITY: EO 11222 of May 8, 1965, as amended; 5 CFR 735.104.

Subpart A—General Provisions

§ 10.735-101 Purpose.

The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts the regulations in this part prescribe standards of conduct and responsibilities for employees and special Government employees and require statements reporting employment and financial interests.

NOTE.—These regulations are codified in State 3 FAM 620, AID Handbook 24, and ICA MOA V-A 550.

§ 10.735-102 Definitions.

(a) "Agency" means the Department of State (State), the Agency for International Development (AID), and the International Communication Agency (ICA).

(b) "Employee" means an officer or employee at home or abroad, of an agency named in paragraph (a) of this section, but does not include a special Government employee or a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service.

(c) "Executive order" means Executive Order 11222 of May 8, 1965, as amended.

(d) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) "Special Government employee" means an officer or employee of an agency who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

(f) "Member of an employee's family" means a spouse, minor child, or other member of an employee's immediate household. For the purpose of these regulations "member of an employee's immediate or in-law household" means those blood relations who are residents of the employee's household.

(g) "Counselor" means the agency's Counselor on Ethical Conduct and Conflicts of Interest.

§ 10.735-103 Interpretation and advisory service.

(a) Counseling services on employee responsibilities and conduct are available in each agency. These services are to be coordinated by a Counselor appointed by the agency head. The Counselors are for State: the Legal Adviser; for AID: The Deputy General Counsel; and for ICA: the General Counsel. The Counselor serves as the agency's designee to the Civil Service Commission on matters covered by the regulations in this part and is responsible for coordination of the agency's counseling services under paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by these sections are available to deputy counselors designated under paragraph (b) of this section.

(b) Each agency head may designate deputy counselors for the agency's employees and special Government employees. Deputy Counselors designated under this section must be qualified and in a position to give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by the regulations in this part. A Washington employee or special Government employee should address any inquiries concerning the regulations in this part to the Counselor. At missions abroad the chief of each agency's establishment designates an officer, preferably the legal officer where one is available, to provide counseling services under the guidance of the Counselor; a single officer may serve all agencies. An employee or special Government employee serving abroad should submit inquiries to the officer designated.

(c) Each agency shall periodically notify its employees and special Government employees of the availability of counseling services and how and when these services are available. A new employee or special Government employee shall be notified at the time of entrance on duty.

§ 10.735-104 Applicability to detailed employees.

All the regulations of Subparts A, B, and D of this part are applicable to an

employee of another U.S. Government agency who may be serving on detail or assignment, formally or informally, on a reimbursable or nonreimbursable basis through a Participating Agency Service Agreement or otherwise, with an agency named in § 10.735-102(a). However, disciplinary action shall be taken against such an employee only by the employing agency.

§ 10.735-105 Disciplinary action.

A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action, including separation for cause, which may be in addition to any penalty prescribed by law.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 10.735-201 General.

(a) *Proscribed actions.* An employee shall avoid any action, whether or not specifically prohibited by the regulations in this part, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) *Applicability to members of families of employees.* A U.S. citizen employee shall take care that certain responsibilities placed on the employee are also observed by members of the employee's family. These are the restrictions in regard to: Acceptance of gifts (§§ 10.735-202 and 10.735-203); economic and financial activities abroad (§ 10.735-206); teaching, lecturing, and writing (§ 10.735-204(c)); participation in activities of private organizations (§ 10.735-211(c)); and political activities abroad (§ 10.735-211(g)).

§ 10.735-202 Gifts, entertainment, and favors.

(a) *Acceptance prohibited.* Except as provided in paragraphs (b), (c), and (d) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with the employee's agency;
- (2) Conducts operations or activities that are regulated by the employee's agency;

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in name or through the agency of any other person; exceptions may be made with respect to chiefs of mission only in writing by the Deputy Under Secretary for Management and for all other State employees by the appropriate chief of mission; for AID employees by the assistant administrator of the regional bureau or head of the nonregional organization, as appropriate; and for ICA employees by the Director of Personnel Services, or their designees (see 22 U.S.C. 805).

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in the employee's country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares or stocks of commercial concerns headquartered in the country of assignment or conducting a substantial portion of their business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail when approved in writing by the appropriate official named in subparagraph (1) of this paragraph. If retention is authorized, such stocks, shares, or bonds may not be sold while the employee is assigned or detailed to the country or countries, unless the agency approved the sale in writing.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits to the employee which result primarily from import privileges derived from the employee's official status as an employee of the U.S. Government. Employees of State and ICA are referred to Foreign Affairs Manual Circular 378; for AID see Handbook 23, Attachment 1B.

(c) *Acceptance of employment by members of family abroad.* Family members of Foreign Service personnel may accept gainful employment in a foreign country unless such employment (1) would violate any law of such country or of the U.S.; or (2) could damage the interests of the U.S., as certified in writing to the family member by the Chief of the U.S. Diplomatic Mission in such country. A copy of such certification will be sent to the Family Liaison Office (M/FLO), Department of State. Family members accepting employment abroad should bear in mind that they may not enjoy immunity from judicial process and would be subject to the payment to taxes derived from their nondiplomatic employment.

(d) *Business activities of non-U.S. citizen employees.* A non-U.S. citizen employee abroad may engage in outside business activities with the prior approval of the head of the overseas

establishment on the basis of the standards expressed in § 10.735-204(a).

§ 10.735-207 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to the employee.

§ 10.735-208 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 10.735-204(c) directly or indirectly use, or allow the use of, official information obtained through or in connection with Government employment which has not been made available to the general public.

§ 10.735-209 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgement by a court or one imposed by law such as Federal, State, or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as the employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 10.735-210 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 10.735-211 Activities relating to private organizations and politics.

(a) *Definition.* For the purpose of this section, the term "private organization" denotes any group of persons or associations organized for any purpose whatever, except an organization established by the Government of the United States, or officially participated in by State, AID, or ICA.

(b) *Participation in activities of employee organizations.* An employee may join or refrain from joining employee organizations or associations without interference, coercion, restraint, or fear of discrimination or reprisal.

(c) *Participation in activities of private organizations.* In participating in the program and activities of any private organization, an employee shall make clear that the employee's agency has no official connection with such organization and does not necessarily sponsor or sanction the viewpoints which it may express.

(d) *Legal restrictions on membership in certain organizations.* An employee shall not have membership in any organization that advocates the overthrow of our constitutional form of Government in the United States, knowing that such organization so advocates (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) *Private organizations concerned with foreign policy or other matters of concern to agencies.* (1) *Limitation on participation.* When a private organization is concerned primarily with foreign policy or international relations or other matters of concern to an employee's agency, an employee shall limit connection therewith as follows: Unless specifically permitted to do so, the employee may not serve as advisor, officer, director, teacher, sponsor, committee chairman, or in any other official capacity or permit the employee's name to be used on a letterhead, in a publication, in an announcement or news story, or at a public meeting, regardless of whether the employee's official title or connection is mentioned. The provisions of this section are not intended to prohibit the normal and active participation of an employee in professional organizations such as the American Political Science Association, the American Economic Association, the American Foreign Service Association, and similar organizations, since such participation is in the interest of both the employee and the Government. Employees are expected, however, to exercise discretion in such activities and are held personally accountable for any improper use of their relationship with State, AID, and ICA.

(2) *Request for special permission.* Special permission to assume or continue a connection prohibited by subparagraph (1) of this paragraph may be granted in cases where the public interest will not be adversely affected. To request such permission, or to determine whether the provisions are applicable to a particular case, the employee shall address a memorandum setting forth all of the circumstances to the appropriate officer. The appropriate officer is for State, the Director General and Director of Personnel; for AID, the Senior Personnel Officer

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under whose jurisdiction the employee serves; and for ICA, the Director of Personnel Services.

(3) *Application to senior officers.* Because of the prominence resulting from their official positions, chiefs of mission and other senior officers should recognize the particular bearing of the provisions of subparagraph (1) of this paragraph upon their activities. They should restrict association with any organizations involving foreign nations and the United States to simple membership and should not accept even honorary office in such organizations except with the specific prior approval as provided in subparagraph (2) of this paragraph.

(f) *Private organizations not concerned with foreign policy.* When the purpose and program of the organization do not fall primarily within the field of foreign policy or international relations, the employee's activity is limited only to the following extent:

(1) The employee's official title or connection may be used to identify the employee, as in a civic association election, but may not be used on a letterhead, in a publication, or otherwise so as to employ the prestige of the U.S. Government to enhance that of the organization or to imply official sponsorship.

(2) When the employee is a representative of an association consisting of State, AID, or ICA employees, or of a group of such employees, the employee's connection with the agency may be freely used so long as there is no implication of official sponsorship beyond that which may have been officially approved.

(g) *Political activities abroad.* A U.S. citizen employee shall not engage in any form of political activity in any foreign country.

(h) *Activities relating to U.S. politics.* The law (5 U.S.C. 7324, formerly the Hatch Act) provides in summary that it is unlawful for any Federal employee of the executive branch to use the employee's official authority or influence for the purpose of interfering with an election or affecting the result thereof, or to take any active part in political management or in political campaigns. These restrictions do not in any way affect the right of a Federal employee (1) to vote as the employee chooses; (2) to express personal political opinions, except as part of a campaign; (3) to make or refrain from making contributions to political organizations, provided contributions are not made in a Federal building or to another Federal officer or employee (see 18 U.S.C. 602, 603, 607, and 608); (4) to participate in local, nonpartisan activities.

§ 10.735-212 Wearing of uniforms.

(a) An employee of the Foreign Service may not wear any uniform except

as may be authorized by law or as a military commander may require civilians to wear in a theater of military operations (22 U.S.C. 803). When an employee is authorized by law or required by a military commander of the United States to wear a uniform, care shall be taken that the uniform is worn only at authorized times and for authorized purposes.

(b) Conventional attire worn by chauffeurs, elevator operators, and other miscellaneous employees are not considered uniforms within the meaning of this section except that, for ICA, MOA VII 917.2b prohibits the purchase from Agency funds of uniforms or any item of personal wearing apparel other than special protective clothing.

§ 10.735-213 Recommendations for employment.

(a) *Making recommendations in official capacity.* In general, an employee shall not, in the employee's official capacity, make any recommendations in connection with the employment of persons unless the position concerned is with the Government of the United States and the recommendations are made in response to an inquiry from a Government official authorized to employ persons or to investigate applicants for employment. A principal officer in answer to a letter of inquiry from outside the U.S. Government concerning a former employee assigned to the post, may state the length of time the person was employed at the post and the fact that the former employee performed duties in a satisfactory manner, if such is the case. Also, an AID Mission Director may provide names of persons or firms from which a cooperating government may select an employee or firm to be used in some phase of the AID program.

(b) *Making personal recommendations.* An employee may make a personal recommendation in connection with the employment of any person, including present or former employees, their spouses and/or members of their families, except for employment in a position of trust or profit under the government of the country to which the employee is accredited or assigned (22 U.S.C. 806(b)): *Provided*, That the employee does not divulge any information concerning the person derived from official sources. When a letter of introduction or recommendation is written by an employee, precautionary measures should be taken to prevent its being construed as official correspondence and used by an unscrupulous individual to impress American or foreign officials. Accordingly, official stationery should not be used for this purpose. The letter may, however, show the recommending employee's status as an employee of the

U.S. Government. Every person letter of recommendation shall contain a statement clearly indicating that the letter constitutes a personal recommendation and is not to be construed as an official recommendation by the Government of the United States.

§ 10.735-214 Transmitting communications and gifts.

(a) *Correspondence.* In corresponding with anyone other than the proper official of the United States with regard to the public affairs of a foreign government, an employee shall use discretion and judgment to ensure that neither the United States nor the employee will be embarrassed or placed in a compromising position (22 U.S.C. 806(a)).

(b) *Communications.* An employee shall not act as an agent for the transmission of communications from private persons or organizations in foreign countries to the President or to Federal, State, or municipal officials in the United States. A chief of mission may, however, accept communications of this nature and forward them to the Department of State for such further action as may be appropriate, whenever the chief of mission determines it to be clearly in the public interest to do so.

(c) *Gifts.* An employee shall not act as an agent for the transmission of gifts from persons or organizations in foreign countries to the President or to Federal, State, or municipal officials of the United States. However, principal officers may, according to regulations prescribed by the President, accept, and forward to the Office of Protocol of the Department of State, gifts made to the United States or to any political subdivision thereof by the Government to which they are accredited or from which they hold exequaturs. Employees shall not, without the approval of the Secretary of State, transmit gifts from persons or organizations in the United States to heads or other officials of foreign states.

§ 10.735-215 General conduct prejudicial to the Government.

(a) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(b) An employee abroad is also obligated to obey the laws of the country in which the employee is present.

(c) An employee shall observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

§ 10.735-216 Miscellaneous statutory provisions.

Each employee shall become acquainted with each statute that re-

Note 4

damage. *U.S. v. Podell*, D.C.N.Y.1977, 436 F.Supp. 1039, affirmed 572 F.2d 31.

5. Guilty plea

Defendant's guilty plea to count of indictment charging substantive violation of this section foreclosed defendant from denying his breach of fiduciary duties to United States when government subsequently sought to impose constructive trust on monies defendant had received in breach of that duty. *U.S. v. Podell*, C.A.2, 1978, 572 F.2d 31.

6. Limitations

Government's action to impress constructive trust on monies received by defendant in breach of his fiduciary duty as United States Congressman was not barred by state six-year statute of limitations for fraud. *U.S. v. Podell*, C.A.2, 1978, 572 F.2d 31.

7. Constructive trust

Where defendant's guilty plea to conspiracy count was entered after government had presented its entire case and defendant had begun to present his own, elements of charges in indictments were amply supported in trial record, and defendant's

affidavit did not dispute receiving stated amounts in breach of his fiduciary duty as United States Congressman, government, in later civil action, was entitled to constructive trust on the monies so received. *U.S. v. Podell*, C.A.2, 1978, 572 F.2d 31.

Public officials and employees serving interests in conflict with those of United States for their own gain hold funds they receive, no matter what the source, in constructive trust for the government. *Id.*

8. Estoppel

Defendant who in criminal case carefully struck out portions of indictment to which he did not desire to plead guilty thereby admitted truth of remainder of allegations for purposes of subsequent action brought by United States against him to impose constructive trust on monies defendant received in breach of fiduciary duty. *U.S. v. Podell*, C.A.2, 1978, 572 F.2d 31.

Criminal conviction, whether by jury verdict or guilty plea, constitutes estoppel in favor of United States in subsequent civil proceeding as to those matters determined by judgment in criminal case. *Id.*

§ 219. Officers and employees acting as agents of foreign principals

(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined under this title or imprisoned for not more than two years, or both.

(b) Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

(c) For the purpose of this section "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Governments¹ thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government.

(As amended Pub.L. 98-473, Title II, § 1116, Oct. 12, 1984, 98 Stat. 2149; Pub.L. 99-646, § 30, Nov. 10, 1986, 100 Stat. 3598.)

¹ So in original. Probably should be "Government".

1984 Amendment. Pub.L. 98-473, § 1116(1), substituted "a public official" for "an officer or employee" after "Whoever, being an" in the first paragraph.

Pub.L. 98-473, § 1116(2), added the definition of "public official".

Legislative History. For legislative history and purpose of Pub.L. 98-473, see 1984 U.S. Code Cong. and Adm. News, p. 3182. See, also, Pub.L. 99-646, 1986 U.S. Code Cong. and Adm. News, p. 6139.

§ 224. Bribery in sporting contests

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1/2. Generally

This section applied to horse racing. *U.S. v. Walsh*, C.A.Md.1976, 544 F.2d 156, certiorari

denied 97 S.Ct. 1105, 429 U.S. 1093, 539.

1. Evidence

Alleged prosecutorial misconduct for port in record, in prosecution for co influence unlawfully by bribery outcor races. *U.S. v. DiNapoli*, C.A.N.Y.197 962, certiorari denied 98 S.Ct. 181, 43 54 L.Ed.2d 130.

Evidence was sufficient to sustain co jockeys of sports bribery and conspira mit sports bribery in connection with horse race and attempting to collect w ets on fixed race. *U.S. v. Walsh*, C. 544 F.2d 156, certiorari denied 97 S.Ct. 1093, 51 L.Ed.2d 539.

In prosecution for influencing the harness races by bribery, and for consp so, evidence which indicated an attempt one or more horses from consi "superfecta" betting was sufficient to s victions. *U.S. v. Gerry*, C.A.N.Y.197 130, certiorari denied 96 S.Ct. 54, 42 46 L.Ed.2d 50.

Evidence sustained finding that w not tainted evidence produced by gov prosecution under this section. *U.S. C.A.La.1969*, 420 F.2d 552, certiorari denied 97 S.Ct. 36, 400 U.S. 819, 27 L.Ed.2d 47

1a. — Admissibility

In prosecution for conspiring to in lawfully by bribery outcome of horse judge properly refused to permit extrin: of prior statement showing bias when not afforded opportunity to explain or ment. *U.S. v. DiNapoli*, C.A.N.Y.197 962, certiorari denied 98 S.Ct. 181, 43 54 L.Ed.2d 130.

Prior grand jury testimony of wit recanted was admissible in prosecution encing the outcome of harness races and for conspiracy to do so. *U.S. C.A.N.Y.1975*, 515 F.2d 130, certiorari denied 97 S.Ct. 54, 423 U.S. 832, 46 L.Ed.2d 50

In prosecution for influencing the harness races by bribery, and for consp so, evidence that on prior occasion license as harness race driver had been for lack of financial responsibility was since defendant's financial responsibility put in issue by contention that defende of greatest handicappers in world. *Id.*

In prosecution for influencing the harness races by bribery, and for consp so, testimony that two of driver codefe fixed races on prior occasions was admi a proper limiting instruction, to show could be fixed by one or two drivers.

In prosecution for influencing the harness races by bribery, and for consp so, admission of testimony which al "fierce mob," a "madman" and a "b was not a denial of due process or of a theory that introduction of testimony v ate attempt by Government to associ ants, in minds of jurors, with the M. references were isolated and occur Government attempted to refresh recalcitrant and recanting witnesses

THE COUNSELOR
DEPARTMENT OF STATE
WASHINGTON

December 7, 1987

Wiley A. Branton, Esq.
1611 Tamarack Street, N.W.
Washington, DC 20012

Dear Wiley:

Thank you very much for your letter of November 30. Let me say that your letter, which I deeply appreciated, did also produce with it some embarrassment. I haven't the slightest idea of how the sponsors and supporters of Bar-Ilan University in this city received your name and the name of many others with whom I have been friendly over the years. It is proving to be an embarrassment. I had no idea that the awarding of the doctorate would be part of a fund raising event and I find now that a great many letters were sent to friends of mine asking for money. I apologize to you. Our friendship should not be tainted with that kind of exploitation.

You know how much I value our friendship.

All my best.

Sincerely,



Max M. Kampelman

WILEY AUSTIN BRANTON

1611 TAMARACK STREET NORTHWEST
WASHINGTON, D. C. 20012
(202) 882-3945

November 30, 1987

Honorable Max M. Kampelman
3154 Highland Place, N.W.
Washington, D.C. 20008

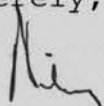
Dear Max:

Lucile and I regret very much that we will not be able to attend the December 14, 1987 program where you are to be honored by Bar-Ilan University. I have a long standing commitment to attend another event on that date and will be the host to several invited guests.

Please know how very much I appreciate the friendship that we have enjoyed for more than two decades and I fully expect that friendship to continue. I congratulate you on your many achievements in general, but particularly for your representation of the United States of America as head of our Delegation to the Negotiations on Nuclear and Space Arms in Geneva. I think that we are closer to peace because of the commitment of persons like yourself.

Best regards.

Sincerely,



Wiley A. Branton

WAB:lwj