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147794

THE SECRETARY OF AGRICULTURE
WASHINGTON
20250-0100

Reading

June 1, 1990

MEMORANDUM TO: **GOVERNOR JOHN SUNUNU**

FROM: **SECRETARY CLAYTON YEUTTER** CY

John, attached is a letter Libby Whitley sent to me as a follow up to your telephone conversation with me and my telephone conversation with her a few days ago re the Legal Service Corporation. Don't take time to read it, but you may want to peruse it.

Her letter does indicate that the Farm Bureau has some legitimate concerns in this area. But there is a right way and a wrong way to deal with such concerns, and they seem to have followed the latter in this particular case.

I've talked with Warren Redman, and he has agreed to meet with the Farm Bureau folks a few days from now. I've also recommended that they meet with John Erlenborn and they have agreed to ask for such a session.

Hopefully, they'll all do a better job of communicating in the future. Thanks, John, for alerting me to all of this.

CY:lfl

Attachment

AMERICAN FARM BUREAU FEDERATION
225 TOUHY AVENUE • PARK RIDGE • ILLINOIS • 60068 • (312) 399-5700
600 MARYLAND AVENUE S.W. • SUITE 800 • WASHINGTON, D.C. • 20024 • (202) 484-3600

May 25, 1990

The Honorable Clayton Yeutter
Secretary
Department of Agriculture
Washington, D.C. 20250

Dear Mr. Secretary:

Thank you for your call regarding Farm Bureau's involvement in both the Legal Services Reform Coalition efforts to secure major changes in the present legal services system, and in the LSC Board activities of former Congressman John Erlenborn.

You suggested I prepare a summary of these two issues.

Reform of the present Legal Services Corporation is one of Farm Bureau's top five priorities in 1990.

In June 1989 Farm Bureau and a number of other agricultural and conservative organizations formed the Legal Services Reform Coalition with the twin goals of securing a pro-reform Legal Services Corporation Board and passage of comprehensive LSC program reforms. This represented a significant change in Farm Bureau policy; previously, we supported abolition of the Legal Services Corporation. Now, however, we feel that provision of legal services to meet the day-to-day needs of poor people, including migrant workers, is an appropriate federal role.

In October 1989, at Farm Bureau's request, Representatives Bill McCollum and Charlie Stenholm offered an LSC reform amendment which narrowly failed to pass, 199-206. We are guardedly optimistic that it may pass this year.

Farm Bureau is seeking reform because of LSC-funded migrant attorneys' harassment of growers. We have documented systematic abuse of process: client solicitation and coercion, witness coaching, representation of ineligible clients, false statements, impersonation of federal officials, lobbying, union organizing, prosecution of claims against growers for technical, de minimus violations of the law which result in small damage awards for the client but astronomical legal fees for the grower, and extremely costly administrative rulemaking challenges to various foreign worker (H-2A, Seasonal Agricultural Worker/SAW and Replenishment Agricultural Worker/RAW) programs.

These suits are brought against growers and grower organizations on behalf of migrant and seasonal farmworkers. The industries most often targeted are field vegetables, apples and peaches, sugar cane, tobacco, nurseries, and mushrooms. The states most affected are New York, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, Virginia, North Carolina, Florida, Texas, California, Washington and Oregon. We are aware of major class actions pending in other states.

While we don't have exact figures, it's fair to say that LSC-generated litigation targeting individual growers, state Farm Bureaus and other agricultural organizations has cost farmers millions since 1983. In fact, the New England apple industry alone has spent $3.5 million in that context during that time.

We believe that the reforms embodied by the McCollum-Stenholm proposal will help solve the growers' problems, while assuring legal representation for migrant workers and speeding resolution of their legitimate claims. Opponents of the amendment may not share that view.

Interestingly, the law firm of Seyfarth, Shaw, Fairweather and Geraldson, John Erlenborn's firm, represents a variety of agricultural clients in LSC-generated litigation. These SSFG clients (including a state Farm Bureau) are also participants, financially and in other ways, in the Legal Services Reform Coalition.

Farm Bureau and the SSFG clients were aware of former Congressman John Erlenborn's record on Legal Services issues prior to his accession to the LSC Board last November. Because of his familiarity with the issues involved, it was the good faith belief of all concerned that, while serving on the Board, he would not take take positions antagonistic to the interests of the Coalition and its agricultural members.

Unfortunately, since November, despite the assumptions of all involved, John Erlenborn has worked publicly and privately against Farm Bureau's and SSFG clients' LSC reform interests.

Farm Bureau, and the SSFG clients, alerted the firm about these activities, and the apparent conflict of interest. This was intended to be a private, privileged matter between the clients, the Farm Bureau and the law firm.

Farm Bureau has never attempted to either pressure the firm into any particular course of action, or to coerce John Erlenborn to support our position on reform. Rather, we believed it was our professional responsibility to the Coalition to inform the firm about the significance of LSC reform to the industry. SSFG has never indicated any feeling that our actions have been inappropriate. To the contrary, the leadership has seemed to appreciate the information we have provided the firm confidentially on these matters. And, the firm has taken responsible steps to address this situation consistent with its own professional responsibilities. It apparently has indicated to John Erlenborn that he should recuse himself from all LSC Board-related activities contrary to the agricultural interests.

Farm Bureau believes that it has acted appropriately and discreetly in responding to requests for information from the firm and our mutual clients. As far as we are concerned, this is a closed matter and should be more appropriately handled internally by Seyfarth, Shaw.

We'd be pleased to discuss this further with you. As always, your support is appreciated.

Sincerely,

Libby Whitley

Elizabeth D. Whitley
Assistant Director
National Affairs

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May 17, 1990

Mr. Richard C. Johnson, Managing Partner
Seyfarth, Shaw, Fairweather and Geraldson
815 Connecticut Avenue, N.W.
Washington, D.C. 20006-4004

Dear Mr. Johnson:

It has come to Farm Bureau's attention that John Erlenborn, a partner at Seyfarth, Shaw and a Board member of the Legal Services Corporation, has contacted his fellow LSC Board members over the past few days regarding the upcoming LSC Board meeting on Monday, May 21, 1990.

Specifically, he has urged that Board members vote to elect Timothy Shea, presently Vice President, as Acting President of the LSC upon the currently-scheduled departure on June 30 of President Terrance Wear. Further, he has been outspoken in his opposition to James Wootton, presently Counselor to the President. Please see the attached article from the California Daily Journal.

As you are aware, Farm Bureau and a variety of your clients are deeply involved in securing passage this year of the McCollum-Stenholm Legal Services Reform amendments. Jim Wootton is important to that effort. John Erlenborn is well aware of both these facts; I have discussed them with him on a number of occasions. The first was last November, shortly after his recess appointment to the Board.

Farm Bureau regards his recent opposition to Jim Wootton, and thus his efforts to undermine the reform effort, as hostile to our position, and contrary to the interests of your clients. Last month, I sent to your firm a list of the activities which, if undertaken by John Erlenborn, would represent an outright conflict with your client interests. Attached is that memorandum, in case you have not seen it. See specifically items one and two.

John Erlenborn is presently scheduled to testify on May 23 before the Administrative Law Subcommittee of the House Judiciary Committee regarding reauthorization of the LSC. This appearance was scheduled at his request. We are particularly concerned about any efforts he might make to influence his former colleagues to take a position contrary to that of your clients.

I understood John Erlenborn would refrain from activities which would aggravate the conflict until your firm determined what course of action was appropriate. From my observation, this commitment is not presently being honored. I felt you should be aware of this situation.

Thank you for your attention to this matter.

Sincerely,

Elizabeth D. Whitley

Elizabeth D. Whitley
Assistant Director
National Affairs

cc: Sharon Hughes, NCAE
Marvin Peck, New England Apple Council
Russell Williams, Agricultural Producers, Inc.
George Grant, Snake River Farmers Association
Ray Poe, Washington Farm Bureau Federation
Jim Holt, Holt, Miller and Associates
Don Rosenthal, SSFG
John Erlenborn, SSFG

April 27, 1990

MEMORANDUM

TO: TOM WILSON
DON ROSENTHAL
SEYFARTH, SHAW, FAIRWEATHER AND GERALDSON

FROM: LIBBY WHITLEY
AMERICAN FARM BUREAU FEDERATION

cc: Sharon Hughes, NCAE
Marvin Peck, NEAC
Russ Williams, AP, Inc.

As a result of our conversation earlier today, I have analyzed the SSFG grower client/John Erlenborn Legal Services Board problem. Following is a list of the type of activities which would conflict with grower interests in securing the LSC reform initiative embodied in McCollum-Stenholm amendments. This list is representative, rather than exclusive.

1. As a Director, speaking publically and voting in an advisory capacity against the McCollum-Stenholm amendments in LSC Board meetings, and urging LSC Board colleagues to similarly oppose the reform amendment.

2. As a Director, seeking to preclude or limit LSC staff activities which provide technical support and assistance to the reform effort, and urging LSC Board colleagues to support such limitations.

3. As a former Member of the House of Representatives, and as a Director of the LSC, advocating opposition to the McCollum-Stenholm reform amendment in testimony before Congressional committees, boards and other deliberative bodies; in private conversations with former colleagues; in meetings, correspondence or telephone calls with Congressional staff.

4. As a Director, developing, voting on or otherwise affecting LSC regulatory activity on core reforms contained in the McCollum-Stenholm reform amendment.

5. Advocating in any way, before Congress, the LSC Board, Administration officials or other policymakers, that development of regulatory reforms patterned on McCollum-Stenholm provisions is preferable to seeking a vote during the 101st Congress on McCollum-Stenholm.

6. Advocating in any way, before Congress, the LSC Board, Administration officials or other policymakers, that securing reform of the federal legal services system through reauthorization of the LSC Act is preferable to the McCollum-Stenholm reform amendment's consideration by the 101st Congress.

Kaufman 5/30/90

AMERICAN FARM BUREAU FEDERATION
WASHINGTON OFFICE
600 MARYLAND AVENUE, S.W., SUITE 800
WASHINGTON, D.C. 20024
TELEPHONE: 202 - 484 - 3600
FACSIMILE NUMBER: 202 - 484 - 3604

TO: Ed Rogers

COMPANY: White House

TELEPHONE NUMBER TO BE CALLED 456-2397

FROM: Libby Whitley
484-3614

AMERICAN FARM BUREAU FEDERATION, WASHINGTON OFFICE

NUMBER OF PAGES NOT INCLUDING THIS COVER PAGE ~~4~~ 3

IF THERE IS A PROBLEM WITH THIS DOCUMENT, PLEASE CONTACT THIS OFFICE AT 202-484-3600

Rich Bond suggested I send this to you ASAP

Thanks

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