



UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

OFFICE OF THE CHAIRPERSON

October 1, 1993

The Honorable Alexis Herman
Assistant to the President and
Director of Public Liaison
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Alexis:

First, let me say thanks for inviting me to lunch at the White House on Friday, September 24, 1993 and using the occasion to discuss the proposed slate of names that President Clinton is expected to forward to the U.S. Commission on Civil Rights for confirmation as members of the Commission.

Alexis, obviously I failed to make my position clear when we discussed certain persons whose names are supposedly on the slate. Therefore, let me clarify my position in writing. I am prepared to vote yes for commissioner Mary Berry as the Commission's next chairperson only under the following conditions; namely, that Mr. Bobby Doctor, the current acting staff director, and commissioner Charles Wang, the current vice chairperson of the Commission, are given the respect to which they are entitled. Mr. Doctor and Mr. Wang should be offered positions in the Clinton administration at a level commensurate with their qualifications, skills and competence, compatible with the contribution each has made to the nation as a whole, and the mission of the Commission on Civil Rights, in particular. These gentlemen performed yeomen services during our struggle to cause the Commission to survive and restore its status and integrity as the nation's moral conscience on civil rights. Therefore, until this is done, I'll vote no on commissioner Berry's confirmation.

A brief explanation is in order. Messrs. Bobby Doctor and Charles Wang are both life long democrats. However, Mr. Doctor has been a civil servant for the past two decades. Therefore, his activities have been restricted. Nevertheless, to the extent that the Hatch Act will allow, he has supported democrat candidates for office at every level of government. That includes supporting President Clinton for the office he holds now. As to Mr. Wang, not only has he supported democrat office seekers for every seat on the ballot, but over the years he has actually raised money for them throughout the nation's Chinese community. I know personally that he raised money for the Clinton campaign, too.

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During my tenure as chairman of the Commission, they both worked feverishly to keep the Commission alive at the time that the GOP controlled the executive branch of our government. They each did this while a hostile democrat-controlled Congress would have preferred to see the U.S. Commission on Civil Rights go down the drain.

Why did they want it to self-destruct? Because they were eager to point the finger at a GOP-appointed chairman and hold him and the republican party accountable for the Commission's demise. Well, it didn't happen. Consequently, their crime is that they put the Commission's reason for being above treacherous partisan political objectives. Because of this, certain devious individuals in the democrat party want to brand them as disloyal traitors because they supported my efforts to save the Commission. Now that the democrats control both the White House and the Congress, the intent of the devious ones in question is to deny both Mr. Doctor and Mr. Wang any favorable consideration for a high level appointment in the Clinton administration. Certain recent former GOP-appointed chairmen of the Commission might have stood by silently and allowed that to happen, but I don't fit that mold. Therefore, I will withhold my vote for commissioner Berry to become chairperson of the U.S. Commission on Civil Rights until each of these gentlemen inform me personally that they have had a fair hearing at the White House.

Secondly, I remember saying and, in fact, making it clear that I think Mr. Cruz Reynoso was a great addition to the Commission and that he enhanced its stature the moment he became a commissioner. I'll vote yes for him to be its next vice chairperson.

Finally, I remember saying point blank that under no circumstances am I willing to vote yes to confirm Mr. Stuart Ishimaru as the Commission's next staff director. If I failed to be explicit at the time we discussed his potential nomination, I am doing so now. In other words, I intend to vote no on his confirmation if it comes forth, and it matters not to me whether Congressmen Don Edwards and Ron Dellums, or both are supporting him for the position in question.

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Alexis, as far as I am concerned and as things stand now, the President does not have the votes on the Commission to confirm his entire slate. I am not willing to change my position until Messrs. Bobby Doctor and Charles Wang inform me personally that they are satisfied with the offers extended to them by the Clinton administration.

As for Mr. Ishimaru, I have two concerns: the first is that he lacks the administrative experience to be the staff director of the Commission, and secondly, I feel that his appointment represents an attempt on the part of Congressman Don Edwards to micromanage the U.S. Commission on Civil Rights' policies and practices from his Committee offices on the Hill. That's unacceptable to me.

I'll deal with the lack-of-qualifications issue first.

The naming of a staff director is of significant importance because this person must be equipped and experienced in administration and management to lead a national agency with regional offices of diverse, professional staff. He or she must not be perceived as a "ninth commissioner" but a person with strong leadership ability and a capacity to broker the relationships of eight diverse commissioners.

To my knowledge, Mr. Ishimaru lacks such skills or experience. In other words, he has no significant executive branch experience, and his supervisory skills are very limited in the legislative arena where supervisory/subordinate relations are a very clear pecking order that serves the members.

At this critical hour in the nation's wrenching transition period, civil rights is not only a top priority but a front-burner issue. Thus, it needs the very best administrator/staff director that the market can offer. Mr. Ishimaru falls short of meeting that requirement. In my opinion, he is a poor choice, and the nation, the Clinton administration, the civil rights community, and the Commission deserve much better.

By statute, the U.S. Commission on Civil Rights is an independent agency. Therefore, from a technical standpoint, it has not been and is not a part of any Administration, the current one included. This was deliberately done in order to guarantee the Commission's independence and assure its integrity. Although the staff director is appointed by the President of the United States, he or she must

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maintain a strong, firm arm's length relationship with the President, the White House and the Congress. In other words, the staff director must be a person who places the Commission's mandate above his or her personal relationships with the President of the United States and/or members of the Congress on either side of the aisle.

The Commission exists to evaluate and pass judgment on the performance of the Congress, the executive branch, and the regulatory agencies on matters of civil rights. I for one am not convinced that Mr. Ishimaru can distance himself far enough from Congressman Edwards and his other democrat colleagues in the Congress to satisfy that standard. I am not challenging the President's right to name a staff director, but cannot and will not concur with his selection of Mr. Ishimaru as the Commission staff director.

Now for the matter of attempts to micromanage the U.S. Commission on Civil Rights' mission, I will preface my remarks with the following: as to the staff director's position, my opposition to Mr. Ishimaru is not limited or attached to him alone. I would oppose any individual, male or female, democrat, republican or alleged independent, who had worked on the staff of a Congress person or a congressional staff committee. My years of experience on the Washington scene have convinced me that it would be naive to say the least to expect such a person to extract and rescue himself from the influence of his former boss and/or Hill colleagues when they are opposed to a Commission's investigation, policies or fact-finding process.

To say it another way, I believe the original idea was right in the late 1950s when the first Commission and its top staff officials were appointed. At that time, and down through the years, individuals appointed to the Commission resided in various regions of the country. The same holds true today. Thus, they were independent of the influence of the White House, various executive departments and regulatory agencies, as well as attempts to influence them on the part of members of Congress. The same standard should hold true for the staff director and the general counsel. The less beholden the latter are to the members of Congress, the President, and top level White House operatives, the more likely they are to protect the Commission's independence and integrity. Appointing Mr. Stuart Ishimaru as staff director of the Commission on Civil Rights violates that standard. In doing so, it holds out the promise of doing violence to the Commission on its civil rights' legislative mandate.

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As we all know, appointees to the Commission during President Reagan's first term tried to do just that--manage the Commission in harmony with Reagan administration policies. We all know the chaos that resulted. The Commission's independence was destroyed, its integrity demolished, and its mission aborted. When I became its chairman, it was assumed by Congressman Edwards and others on his Committee staff that I would follow in the steps of Reagan appointees to the Commission.

When it comes to attempting to micromanage the Commission's mandate, I know whereof I speak. Because President Bush appointed me chairman of the Commission, and further because we were (and still are) personal friends, it was automatically assumed that I would allow the White House to micromanage the Commission's mandate. Make no mistake about it, certain high level Bush administration operatives did indeed attempt to coerce me into permitting them to influence the Commission's policy decisions. I refused to allow it to happen. Although it pained me terribly to do so, in order to re-establish and maintain the Commission's independence and the integrity of its policies, I went public with my opposition to President Bush's decision to veto the 1990 civil rights bill. Alexis, you should know that certain influential Bush administration White House operatives, as well as powerful republican party functionaries, never forgave me for taking that stand. In fact, it brought an end to my career as a political aspirant in the republican party.

Let me make myself clear on this point: My years of front line experience in the political arena has taught me that politics is politics and politicians will be politicians when circumstances dictate the same. I have also noticed during this period that democrat politicians who are regarded as hard nose, no nonsense advocates on civil rights will indeed make deals, blink, back pedal, duck, dodge, as well as cut and run when civil rights issues become too much of a burden to bear.

I have struggled for five decades on the firing line of the civil rights movement, functioning twenty-plus of those years at the national level in both the private and public sectors. Consequently, experience and wisdom have convinced me that the moment of truth on the civil rights front comes fast and frequent. Thus, if Mr. Ishimaru is appointed staff director, he will face the same pressures to reverse courses, change directions, go slow, etc., from Congressman Edwards and his colleagues on the Hill when it suits their purpose.

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In other words, biting the bullet is a frequent experience and a painful choice when maintaining the Commission's integrity is in conflict with certain friendships and or partisan political objectives. Because of this, I am unalterably opposed to his nomination as staff director of the U.S. Commission on Civil Rights, and I will vote **no** to confirm him if his name is submitted to the Commission.

I'll conclude my point on this issue with the following: Should Congressman Edwards decide to exercise his power to defund the Commission because he cannot micromanage its mission, so be it. I would hate to see an experienced, dedicated, highly qualified work force lose their jobs because of this gridlock. However, I am satisfied that I am standing on the political, moral high ground on this occasion, assuming that there is such a thing in these uncertain times. Therefore, as for me--and speaking for myself only, having experienced the challenges that I have to restore the Commission's independence and the integrity of its policies, practices and procedures--I would prefer to see no Commission at all than to see a lame duck shell of an operation with little or no independent decision-making power to speak of. In other words, I oppose Mr. Ishimaru's appointment as staff director of the U.S. Commission on Civil Rights to the extent that I am willing to accept this unthinkable outcome.

Ms. Herman, besides you and President Clinton, I am copying this letter to each of the members of the Commission and to acting staff director Bobby Doctor. That way, there will be no confusion as to where I stand regarding each individual on the proposed slate of nominees soon to be forwarded to the Commission by the White House.

Thanks again for inviting me to the White House for lunch to discuss the matter at hand. I thought the meeting went well. Had it not been for the confusion that caused me to write this letter, it would have been a positive encounter from start to finish. As a former White House occupant might have stated, "It's my fault that I failed to make myself perfectly clear."

You are doing an outstanding job. Take care of your health and enjoy your work.

Respectfully,



ARTHUR A. FLETCHER