9 Box 3 - [JGR/Appointee Clearances – 05/03/1983-05/04/1983] - Roberts, John G.: Files SERIES I: Subject File
**WITHDRAWAL SHEET**
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**Collection Name** Roberts, John

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**REPORT**

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD RE SEELEY LODWICK

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SEELEY LODWICK TO MICHAEL STEIN

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April 29, 1983

John G. Roberts, Esq.
Associate Counsel to the President
The White House
Washington, D.C. 20500

Re: Seeley G. Lodwick

Dear Mr. Roberts:

We have reviewed Mr. Lodwick's letter of April 22, 1983, describing his farm holdings and his intended activities as trustee of the William G. Lodwick trust. Based on the representations made in the letter, we determine that Mr. Lodwick's activities would not be contrary to the provisions of 19 U.S.C. § 1330(c)(5).

Although consideration of a waiver under 18 U.S.C. § 208(b) is somewhat premature prior to Mr. Lodwick's confirmation, we note that the Commission has infrequently conducted investigations regarding the kinds of agricultural products raised on the properties in which Mr. Lodwick holds an interest.

If I can be of further assistance in this matter please do not hesitate to contact me.

Sincerely,

[Signature]

Michael P. Mabile
Deputy Ethics Counselor

cc: Jane Ley, Esq.
    Office of Government Ethics
THE WHITE HOUSE
WASHINGTON

April 22, 1983

MEMORANDUM FOR MICHAEL STEIN
GENERAL COUNSEL
INTERNATIONAL TRADE COMMISSION

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Seeley G. Lodwick


Attachments
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Withdrawal Sheet

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**LETTER**

LEON ULMAN TO H. CANNON RE POTENTIAL CONFLICTS OF INTEREST

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L ULMAN TO WARREN MAGNUSON RE POTENTIAL APPOINTEE

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29 SEP 1976

Honorable Frank E. Moss
Chairman, Subcommittee for Consumers
Senate Committee on Commerce
Washington, D.C. 20510

Dear Senator Moss:

This is in response to your letter of September 20, 1976, asking that we reconsider one aspect of our opinion regarding potential conflict of interest problems or other legal impediments to the service of Thaddeus Garrett as a Member of the Consumer Product Safety Commission. Specifically, you question the statement in our September 13 letter to Senator Magnuson that Mr. Garrett's service as an associate pastor of the Wesley Temple A.M.E. Zion Church in Akron, Ohio, "would seem to constitute engaging in another 'business, vocation, or employment,' which is prohibited by 15 U.S.C. § 2053(c)."

Mr. Garrett has informed us orally that he has regular responsibilities as associate pastor, including officiating at church services on two or three Sundays each month and at occasional wedding and funeral ceremonies on Saturdays or Sundays. Such activities by an ordained minister -- which Mr. Garrett is -- seem to us to constitute engaging in a "vocation" within the ordinary meaning of that word. They are the type of activities, for example, of which many persons make a professional career. We do not believe that 15 U.S.C. § 2053(c) is nevertheless inapplicable in the present context merely because Mr. Garrett receives no compensation for his work.

The Committee reports and debates on the Consumer Product Safety Act of 1972 are silent as to the legislative purpose in prohibiting Members from engaging in any outside
business, vocation, or employment. This provision was first contained in draft legislation submitted in 1970 as part of the Final Report of the National Commission on Product Safety, which was established to study the need for Federal legislation in the area. See Hearings on the Consumer Product Safety Act before the Subcommittee on Commerce and Finance of the House Interstate and Foreign Commerce Committee, 92d Cong., 1st & 2d Sess. 319, 503 (1972). The Final Report contains no discussion of the recommended provision, and it was apparently adopted without question by the Congress in the legislation that was finally enacted. Any analysis of legislative intent must therefore be speculative and, indeed, somewhat artificial.

The prohibition in 15 U.S.C. § 2053(c) was no doubt borrowed by the National Commission from comparable provisions in statutes governing other independent regulatory agencies. See, e.g., 15 U.S.C. § 41 (FTC); 16 U.S.C. § 792 (FPC); 47 U.S.C. § 154(b) (FCC); 49 U.S.C. § 11 (ICC). Unfortunately, there are no published opinions construing these provisions which might be of help here.

We have not undertaken an exhaustive study of the legislative history of these earlier statutes, although we did unearth a statement in the Senate debates concerning the comparable provision in the Interstate Commerce Act, which was apparently the grandfather of them all, to the effect that Commissioners were to have "no other business . . . thus necessitating . . . an income limited to the amount named in the bill." 17 Cong. Rec. 3477 (1886). We do not read this to mean that limiting a Commissioner's income to his authorized salary is necessarily the only purpose of the ICC provision, however. For one thing, it does not even effectively limit a Commissioner's income to his Government salary, because Commissioners may still receive income from securities of companies not regulated by the ICC. 49 U.S.C. § 11. In any event, we do not attach much significance to this fleeting reference in the legislative history of an essentially unrelated act passed almost 90 years ago in view of the fact that there is no indication that later Congresses, including that which passed the Consumer Product Safety Act, ever gave any thought to the precise meaning of the prohibition. We think it equally if not
more plausible that those who voted for the later provisions, and perhaps even the ICC provision as well, believed that members of independent regulatory commissions should be prohibited from engaging in any outside business, vocation, or employment in order to minimize professional diversions and thereby to focus their energies on official duties. Under this interpretation, even uncompensated outside activities of such a nature must be prohibited, since they too might detract from a member's performance of his official duties.

The Supreme Court has stated that one of the justifications for establishing regulatory commissions comprised of members having a fixed statutory term is to foster independence and to enable the members to develop expertise during their tenure. Humphrey's Executor v. United States, 295 U.S. 602, 625-26 (1935). Limiting outside activities of members, whether compensated or not, is consistent with this purpose.

Our conclusion that the prohibition in 15 U.S.C. § 2053(c) applies to uncompensated outside activities also finds support in the fact that the President is authorized to remove any Member of the Consumer Product Safety Commission "for neglect of duty or malfeasance in office." 15 U.S.C. § 2053(a). This section too reflects a concern that Members not be distracted from their official responsibilities.

Finally, we have been advised on an informal basis by several of the other independent regulatory agencies that the matter of compensation would not be regarded as controlling in determining whether outside activities by members would violate comparable prohibitions against engaging in any other business, vocation, or employment. In fact, we were informed that a member of one such agency who also happened to be a minister was orally advised under circumstances quite similar to those involved here that he should cease servicing his congregations when he became a member, and we understand that he did so.

The conclusion that uncompensated services are covered seems quite sound if reference is made to some of the other
situations in which the issue could arise. We assume that there would be agreement, for example, that a Member of the Consumer Product Safety Commission would be prohibited by 15 U.S.C. § 2053(c) from devoting his weekends to practicing law without compensation for a local legal services organization or teaching or consulting on a regular basis for free. In our view, the same rule should apply to the ministry.

Sincerely;

[Signature]

Leon Ulman
Deputy Assistant Attorney General
Office of Legal Counsel
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DAVID KIRSTEIN TO J. JACKSON WALTER RE NOMINEE'S FINANCIAL INTERESTS

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Answer. In general, I support the provisions of the Clean Air Act relative to limiting visibility impairment for areas designated as wilderness as of the effective date of the Act. The Act contains substantial flexibility. I am concerned that interpretation of the Act could be too strict. For example, designation of integral vistas outside wilderness areas does not appear to be required. A clarification of intent by the Congress would be helpful.

Question 6. What is your position on the wilderness recommendations which were submitted by the previous Administration following the Forest Service's roadless area review and evaluation (RARE II), but which have not yet been acted on by Congress?

Answer. For the most part the RARE II recommendations provide a good starting point for Congressional consideration. We expect Congress to continue its consideration as to which lands should be designated as wilderness. As requested, we will provide Congress specific recommendations on individuals bills.

Question 7. On the Colorado Wilderness Act of 1980, the Forest Service directed to conduct 10 wilderness studies "in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964." Will the Forest Service, in conducting these studies, follow the current regulations and practices established under sections 3(c) and 3(d) of the Wilderness Act?

Answer. Yes.

Question 8. The Colorado delegation and other interested members of Congress developed last year statutory provisions on the "release" of national forest lands which had been studied for possible wilderness designation RARE II. These provisions were included in the Colorado, New Mexico, and Alaska wilderness bills. Do you support these provisions? Would you support the inclusion of the same or different "release" provisions in any additional legislation based on RARE II?

Answer. a. Yes, we support the objectives of these provisions in seeking to resolve the status of roadless areas; b. We expect that release language will be included in any bills developed in the 97th Congress. We will respond to these proposals as they are developed.

Question 9. The conference report accompanying the Colorado Wilderness Act specifically identified five areas which had been recommended for wilderness designation by the previous Administration but were rejected by Congress. The conference report directed that these areas should be made available for non-wilderness multiple use. Will the Forest Service, under the new Administration, continue to follow this directive?

Answer. Yes.

Question 10. In the Colorado Wilderness Act, Congress directed the Forest Service to administer and interpret the provisions of the Wilderness Act relating to grazing in accordance with the guidelines on grazing policy and practices which were developed in conjunction with the Colorado bill and included in the House of Representatives' report accompanying the bill. These guidelines have subsequently been included in the Forest Service Manual and are being followed by agency officials. Do you support these guidelines and their continued implementation?

Answer. Yes.

Biographical Information of Seeley G. Lodwick, Under Secretary of Agriculture for International Affairs and Commodity Programs—Designate

Seeley Lodwick was nominated for the position of Under Secretary of Agriculture for International Affairs and Commodity Programs on March 17, 1981.

Lodwick was born October 19, 1920 in Evanston, Illinois. He received his B.S. degree in agricultural economics from Iowa State University in 1942. He served in the U.S. Marine Corps from 1942 to 1945, when he was discharged as a lieutenant. From 1945 until 1963 Mr. Lodwick was engaged in various farming activities, including livestock: both dairy and beef, along with hogs; and grains—corn, soybeans, and wheat.

In 1963 he assumed the responsibility of Director, Conservation and Land Use Division, ASCS. In 1970 he became Secretary of the Commodity Credit Corporation, and Executive Assistant to the Administrator of ASCS. Leaving that post in 1973, Mr. Lodwick became Director, Government Relations, American Farm Bureau Federation, Washington, D.C., and served in this capacity until 1976 when he was named Assistant Administrator for ASCS in the Department of Agriculture. From 1979 until his nomination Mr. Lodwick served as Iowa Administrator for Senator Roger W. Jepsen (R-Iowa).

Mr. Lodwick is married to Helen (Pat) Barbrey and they have three daughters.
Hon. Jesse A. Helms,  
Chairman, Committee on Agriculture, Nutrition and Forestry,  
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Seeley G. Lodwick. President Reagan has nominated Mr. Lodwick for the position of Under Secretary for International Affairs and Commodity Programs, Department of Agriculture.

We have reviewed the report and obtained advice from the Department of Agriculture concerning any possible conflict in light of the agency's functions and the nominee's proposed duties. Copies of letters from the agency and Mr. Lodwick concerning this matter are attached to his report. We note that by his letter, Mr. Lodwick has made various commitments in order to resolve issues relating to potential conflicts of interest. We concur with the agency concerning a waiver under 18 U.S.C. § 208(b). Such a determination is necessary and appropriate in this case, and we have been advised that it will be forthcoming.

Subject to afflicting the commitments referred to above and the waiver determination, we believe that Mr. Lodwick will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

J. Jackson Walter, Director.

Department of Agriculture,  
Office of the Secretary,  
Washington, D.C., March 5, 1981.

Hon. J. Jackson Walter,  
Director, Office of Government Ethics,  
Washington, D.C.

Dear Mr. Walter: Enclosed is a copy of the SF-278, Financial Disclosure Report, for Seeley G. Lodwick, nominee for the position of Under Secretary of Agriculture for International Affairs and Commodity Programs, which I have signed as this Department's designated official under the Ethics in Government Act of 1978. Also enclosed is Mr. Lodwick's letter to you of this date detailing the steps he has agreed to take in order to avoid the possibility of any actual or apparent conflict of interest between his personal financial interests and the duties he will perform as Under Secretary. I believe that, on the basis of the financial interests disclosed in the SF-278, and considering the steps which Mr. Lodwick has agreed to take, the report discloses no conflict of interest under applicable laws and regulations.

While the information contained in the report discloses no present conflicts of interest between Mr. Lodwick's personal financial interests and the duties he will perform as Under Secretary of Agriculture, it is nonetheless apparent to me that matters will routinely arise during Mr. Lodwick's tenure as Under Secretary which, when viewed alongside his agricultural interests, could well rise to actual or apparent conflicts of interest. The types of activities in which the Under Secretary is called upon to participate personally and substantially on a regular basis, any of which could give rise to at least an appearance of conflict of interest, include, among others, advice with respect to export sales of U.S. agricultural commodities, or embargoes on such sales; questions regarding imports of meat products from foreign countries; and decisions regarding loan rates and target prices for corn, soybeans and other agricultural crops.

Because the types and numbers of such matters are so varied and extensive, I recommend that serious consideration be given to issuance of a determination for Mr. Lodwick, under the provisions of 18 U.S.C. 208(b), that his financial interests in agricultural production areas are not so substantial as to be deemed likely to affect the integrity of his services to the Government as Under Secretary of Agriculture. While Mr. Lodwick has, in my view, taken all the steps which should be expected of him to avoid the possibility of any conflict of interest or appearance thereof, I believe that issuance of such a determination would foreclose the possibility that any such matters would preclude his performance of the full range of duties assigned to the Under Secretary of Agriculture for International Affairs and Commodity Programs.

Sincerely,

John W. Fossum,  
Director of Personnel and Designated Agency Official.
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ROBERTS TO MICHAEL STEIN, RE SEELEY G. LODWICK

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**Freedom of Information Act - [5 U.S.C. 552(b)]**

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** Lodwick TO STEIN **

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HON. J. JACKSON WALTER,  
Director, Office of Government Ethics,  
Washington, D.C.

Dear Mr. Walter: The purpose of this letter is to inform you of the steps I intend to take in order to avoid the possibility of any actual or apparent conflict of interest between my personal financial interests and the duties I will perform if confirmed to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

As indicated on my SF-278, Financial Disclosure Report, I own an interest, as one of the beneficiaries of the William G. Lodwick trust, in 1200 Acres of farmland in Lee County, Iowa. This land is used to raise corn, soybeans, and wheat, and is managed by a third party. During my tenure as Under Secretary, I will abstain from any active participation in the management of these farming operations, and will receive only my proportional share of the income from the land. I will also abstain from acting as an fiduciary in any particular matter which may arise within the Department of Agriculture concerning farming or agricultural production in Lee County, Iowa, where all the lands owned by the William G. Lodwick trust and by La Crew Acres, Inc., are located.

I also own, jointly with my sister, 1,400 Acres of land located in Sherman County, Texas, which is managed and operated on a rental basis. This land is used for pasture for which we receive cash rent. I will abstain from any active participation in the management of these farming operations. I will also abstain from advising or participating in any USDA lending or farm price support programs. Further, I will abstain from advising or participating in any such programs during my tenure as Under Secretary.

Neither I nor any of my farming or business interests currently have any indebtedness under any USDA lending or farm price support programs.

John W. Fossam
Designated Agency Official
return for any income which I receive from such operations during my tenure as Under Secretary of Agriculture.

In addition, I intend to recuse myself, on a case-by-case basis, in any matter in which, in order to avoid the possible appearance of impropriety, it appears to me desirable that I do not personally or substantially participate, despite the lack of any actual conflict of interest. I believe that this general policy, to which I am committed, will avoid not only the occurrence of any actual conflict of interest, but even the possible appearance of any conflict between my duties as an officer of the Government and my personal financial interests, while at the same time enabling me to participate fully in generic policy decisions as Under Secretary of Agriculture for International Affairs and Commodity Programs.

Sincerely,

Seeley G. Louw.ck.
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11 STATEMENT

BANK STATEMENT RE LODWICK FAMILY
FINANCIAL HOLDINGS FOR 12/1/81-2/28/82

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### 12 STATEMENT

**Bank Statement Re Lodwick Family Financial Holdings For 3/1/82-5/31/82**

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13 STATEMENT

BANK STATEMENT RE LODWICK FAMILY
FINANCIAL HOLDINGS FOR 6/1/82-8/31/82

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BANK STATEMENT RE LODWICK FAMILY FINANCIAL HOLDINGS FOR 9/1/82-11/30/82

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### Statement

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**FINANCIAL DISCLOSURE REPORT (SF278)**

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RE REQUIRED FINANCIAL DOCUMENTS

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