

Harold Weisberg
Rt. 8, Frederick, Md. 21701
2/1/74

Mr. Edmund G. Brown, Jr.
Secretary of State
Sacramento, Calif.

Attention Mr. Daniel H. Lowenstein

Dear Mr. Brown,

This letter is prompted by what I saw and heard in TV interviews with you and Mr. DeMarco and in news stories, particularly that of the Los Angeles Times Service by Kenneth Reich in today's Washington Post. I am aware that both the reporting and the public statements may not reflect the extent of your knowledge of the facts.

I have read the documents in this case that were entered into the Congressional Record by Senator Weicher, including what is referred to as the "deed."

And I have had considerable experience with The National Archives and for a layman, fair contact with the relevant law.

What you are doing is important, therefore I take the liberty of suggesting that there is another and I believe very important point you and all others have missed in this matter and all that is related to it.

There is no "gift" under the law unless and until there is a finding of fact, that the papers on federal deposit serve the "public interest."

There is also no gift under the law if any restriction is imposed by the donor until such restriction is found to be in the "public interest" and agreed to by the Administrator of the General Services Administration.

If and when this happens, the "deed" takes what I believe to be the form of a contract. I have and have studied closely previous such contracts. There is precedent.

I do not believe that anyone involved, from Mr. Nixon down, was unaware of these minimal facts. I also believe that none of these preconditions were met and not having been met, on this basis alone, make an intended fraud of the transaction. A reading of the contract is consistent with this belief in that it gives Mr. Nixon the unlimited right to take 100% of the "gift" back notwithstanding his taking a tax credit for it.

There is precedent for counsel signing the contract. I have a contract signed by counsel only on that side and the GSA Administrator on the other, a contract the Nixon administration went to court to enforce after committing what I believe is perjury in denying me access to some of that "gift." Knowing this and knowing that he is a lawyer I have difficulty finding an innocent interpretation to what has been attributed to Mr. Morgan in the papers.

The GSA Administrators seem to have been associates of Senator Hugh Scott who also seems to be in some difficulty with the current one over the awarding of some GSA contracts in Philadelphia, where I believe the matter is currently before the courts there. I do hope that in the course of your taking of depositions you have deposed the present and the former GSA administrators on whether or not the minimum prerequisites of a gift were met under the law and why, if they were not, the materials were accepted and stored at public expense if they were not public property.

If I can be of any help, please let me know. Because I am writing a book in which I am dealing with this matter, I would appreciate copies of any papers you can let me have at the completion of your inquiry. No rush.

Good luck!

Harold Weisberg

Nixon's Tax Attorney Hints at 'New Facts'

By Kenneth Reich
Los Angeles Times

LOS ANGELES, Jan. 31—President Nixon's tax attorney, Frank DeMarco Jr., says that "some question" has arisen as to whether the man who appraised Mr. Nixon's vice-presidential papers given to the National Archives told him the truth about details of the appraisal.

DeMarco said Wednesday recent testimony of appraiser Ralph Newman to investigating congressmen, testimony which so far has not been publicly disclosed, had given him new light on the question of whether Mr. Nixon's gift was legitimate for tax deduction purposes.

The tax attorney said he still felt the gift was legally handled. But, emerging from the office here of California Secretary of State Edmund G. Brown Jr., where he had given a two-hour deposition on the matter Wednesday, he added:

"Now some facts have developed in the last two weeks which I didn't know existed at the time in 1970. But I don't believe they change my opinion that he [Mr. Nixon] complied with the law to the extent that was at all possible and I think that the donation was good."

DeMarco was asked about the new facts.

"Well, I think there's some question now on some of the testimony developed in the East from the appraiser as to what he told me and [whether] what he put in his affidavit in fact was true," the attorney replied. "It may very well be that he wasn't at the Archives on the dates he told me he was there."

Newman could not be reached for comment.

DeMarco has previously

claimed that the reason he did not prepare a final copy of a deed to the papers until the year following a change in the law that took away almost all tax deductibility from such gifts is that he was waiting for Newman to appraise them and give him a list of the documents that had been delivered to the Archives.

Mr. Nixon has saved \$250,000 in taxes as a result of taking deductions for the gift of the papers. That and other deductions enabled him to pay less than \$6,000 in federal income taxes the last three years on a total income of more than \$800,000.

Another controversy involving Newman's appraisal has to do with certain papers the Chicago expert removed from the Archives at the time he was appraising them.

According to DeMarco, Newman informed him that the papers removed were "sensitive" ones that should be retained by the President and not actually given to the Archives. However, there have been suggestions in some quarters that the more valuable or independently marketable papers were removed.

An investigative source said that the date on which Newman segregated the papers that were not to be given may be a key as to whether the papers had been legally delivered to the Archives before the law on tax deductibility changed in July, 1969.

In the process of giving the deposition, DeMarco was questioned extensively by Brown Aide Daniel H. Lowenstein on whether DeMarco had acted legally in back-dating a final copy of the deed to the papers and notarizing it.