

September 8, 1977

MEMORANDUM

TO: Jody Powell

FROM: Bob Lipshutz

SUBJECT: Facts Relating to Bert Lance Affairs Prior to
Nomination and Confirmation Proceedings

I believe that you should have the following information, much of which you perhaps already have, concerning this matter.

First of all I am attaching a memorandum which I sent you recently relating to John Moore and to the termination of the agreement between the Calhoun National Bank and the Comptroller on November 22, 1976. This includes my memorandum and the proposed press release which was to be used when necessary in connection with the matter.

Next are important excerpts from the FBI report dated January 6, 1977, setting out the various conclusions of key persons in the Comptroller's office and in the Department of Justice relating to both the Calhoun Bank-Comptroller agreement and the referrals made by the Office of the Comptroller to the Justice Department:

1. Jeffrey Bogart, Assistant United States Attorney who handled the Billy Lee Cammel case for the Department of Justice: ".....the matter concerning the overdrawn checking accounts was assigned to John W. Stokes, Jr., United States Attorney, Atlanta, Georgia. He said, as he recalls, Mr. Stokes conferred with Mark Richard, Chief of the Fraud Section, Criminal Division, Department of Justice, Washington, D.C. , concerning the matter. He said that he believes that an opinion was obtained from the Department of Justice concerning a possible violation of Title 18, United States Code, Section 610, (Contributions or Expenditures by National Banks, Corporations, or Labor Organizations). He said concerning possible violations of Title 18, Section 656 (Theft, Embezzlement, or Misapplication by Bank Officers or Employees) and Section 1005 (Bank Entries, Reports and Transactions) that Mr. Stokes declined prosecution of these matters.....Mr. Bogart stated he is not sufficiently well-acquainted with Mr. Lance to furnish any comments concerning him."
2. John W. Stokes, Jr., United States Attorney, Northern District of Georgia, Atlanta, Georgia: ".....the matter was brought to the attention of his office in

September, 1975, by the Comptroller of the Currency, Washington, D.C., and Atlanta, Georgia.....He said that under Department of Justice regulations such a matter must be referred to the Department of Justice, Washington, D.C., for consideration and that in this case such action was taken. He said, as he recalls, Mr. Mark Richard, Chief of the Fraud Section, Criminal Division, Department of Justice, Washington, D.C., took the matter under consideration and subsequently declined prosecution on the basis that there was no intent and that the bank had sustained no losses. -- Mr. Stokes said that concerning the remaining two violations, that based on information contained in his file which had been obtained from the Comptroller of the Currency and the bank examinations, he declined prosecution of any of the bank officers involved on the basis he could ascertain no intent to violate either Title 18, United States Code, Section 656 or Section 1005, plus the fact that the bank in the ultimate has sustained no losses. Mr. Stokes said concerning his declination of prosecution he was not concerned with any prosecution of Mr. Lance, which was handled by the Department of Justice, but rather with possible violations by other bank officers.”

3. Mark Richard, Chief, Fraud Section, Criminal Division, Department of Justice, Washington, D. C.: “....There was no violation of Title 18, United States Code, Section 610, and accordingly he declined prosecution concerning that aspect of the case.....After the Department’s declination concerning a possible violation of Section 610, the entire file concerning the matter was forwarded to the United States Attorney, Atlanta, Georgia, for his determination as to whether other violations of the law may be present. He said it is his understanding that on December 2, 1976, United States Attorney, Atlanta, Georgia, decided that there were no violations of Title 18, United States Code, Section 656 or 1005..... He considers this matter to be in a closed status.”

4. Robert Bloom, Acting Comptroller of the Currency, Department of Treasury, Washington, D. C.: “.....He would not hesitate to recommend him (Mr. Lance) as being a loyal citizen of excellent character and associates. He said he knows nothing unfavorable concerning Mr. Lance and would recommend him for appointment to the position of Director, Office of Management and Budget..... As he recalled the accounts of the individual overdrafts were not significant amounts and the overdrafts did not appear to be anything that was intentional. He said in his opinion the matter did not reflect adversely upon Mr. Lance in any manner..... The agreement which was drawn up was utilized as a method in which to remedy the poor banking practices which existed in the bank.....such practices involved ‘no willfulness’ and did not constitute practices in violation of any criminal law..... The bank had made sufficient progress in its bank practice that it was no longer necessary that the agreement be continued and that it was rescinded effective November 22, 1976, in accordance with the provisions of the ‘Financial Institution Supervisory Act of 1966’.”

5. David A. Schaub, Attorney, Division of Enforcement and Compliance, Office of the Comptroller of the Currency, Department of Treasury: “.....His

review of records concerning Mr. Lance did not reflect adversely on Mr. Lance's personal or professional qualifications.”

6. Donald L. Tarleton, Regional Administrator of National Banks, Sixth Regional District, Comptroller of the Currency, Department of Treasury, Atlanta, Georgia: “.....Reviewed the examination of the report and it was his opinion, which was concurred with by Mr. Robert Serino, who is Director of Enforcement and Compliance, Office of the Comptroller of the Currency, Washington, D.C., that there was no lawful wrongdoing on behalf of Mr. Lance or any of the bank's officers concerning the irregularities. He said there was no loss sustained by the bank and he recalls Mr. Lance had a personal guarantee on file with the bank which would cover any expenses incurred by the bank on his behalf. In his opinion the irregularities were caused by poor bookkeeping without willful intent. In certain states, such as Georgia, where unit banking is required as a general rule, bank audits uncovered 'sloppy bookkeeping'. It is not at all uncommon for such examinations to uncover overdrafts in checking accounts that are maintained by bank officers and that this type of thing is generally found in small rural banks, particularly in Georgia. In his opinion, any number of small rural banks would have permitted the same type overdraft situation to exist, particularly if an officer of a bank was running for a political office. It simply boils down to rural banks 'lacking prosecuted sophistication'. He does not believe Mr. Lance was fully aware of what was going on concerning the extent of payments that the bank was making on behalf of campaign accounts.....(His) opinion that the irregularities that occurred at the CFNB would not have been prosecuted because no intent to violate the law was found and no losses were sustained by the bank.”

IN ADDITION TO THE FOREGOING DETAILED REPORT CONCERNING THE ALLEGATIONS AGAINST MR. BERT LANCE, THE SAME FBI REPORT INCLUDED THE FOLLOWING INFORMATION AS A RESULT OF APPROXIMATELY 83 OTHER INTERVIEWS MADE BY THE FBI:

1. Unqualified and consistent high recommendations of him for a position of trust and responsibility.
2. Without contradiction, Mr. Lance was described as a loyal American whose character, reputation and associates are above reproach, as well as being intelligent, straight-forward, civic-minded, hard-working, dedicated, and trustworthy.
3. His close relatives were described by those who knew them as being reputable individuals.

4. Among those who were interviewed, and whose names and comments appear in the report, are the following: Senator Sam Nunn; Senator Herman Talmadge; the First Vice President of the Citizens and Southern National Bank of Atlanta, Georgia; the Executive Vice President of the Georgia Bankers Association; the President of the Federal Reserve Bank, Atlanta, Georgia; and others.

The January 31, 1977, FBI report gave additional details concerning these same matters, including the September 22, 1975, report from John P. Sherry, attorney for the Enforcement and Compliance Section, which set out many of the details leading up to the agreement entered into by the office of the Comptroller and the Calhoun Bank (the agreement which was terminated November 22, 1976). Although it elaborates in much more detail the background of the Calhoun Bank operation which led up to this agreement, it does not introduce any contradictory facts or opinions.