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15 March 1978

MEMORANDUM FOR THE RECORD

OLC #78-3314/A

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FROM : [redacted]
Associate General Counsel

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SUBJECT : Question from [redacted] Office of Public Affairs

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1. On 13 March [redacted] asked the Office of General Counsel Librarian, [redacted] if she could furnish information concerning a question received from Dan Gilmore, UPI. Gilmore asked if any law prohibited U.S. intelligence officers from working for a foreign government after retirement. [redacted]

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2. I reviewed the code index and came up with one prohibition. This prohibition applies specifically to State Department employees "while holding office" (22 U.S.C. 805). I did note that on the affirmative side of the question Title 26 of the U.S. Code sets forth the Internal Revenue Code which provides for the reporting of income received by U.S. citizens from governments in foreign countries.

3. On 14 March I contacted [redacted] and explained to him that my initial research had not located any specific prohibition. I further stated that it would appear that we needed a lot more information, namely, where the employment took place, how long it was to last, the kinds of fee arrangements, etc. I explained that the Foreign Agents Registration Act (18 U.S.C. 951) only applies to acts of foreign agents in the United States. [redacted] said that he would respond to Mr. Gilmore's question by suggesting that due to the complexity of the problem Mr. Gilmore should contact the Department of Justice.

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[redacted] stated that he would not give any details to Gilmore about [redacted]. This answer was sufficient for [redacted] purpose.

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OGC/JKG/eh
Distribution:

OGC 78-1561
3-14-78

13 March 1978

Mr. Lapham,

[redacted] in your research/library unit) asked me to provide you with material related to question I asked her this morning. Dan Gilmore, UPI, asks several questions about the attached item, one of which is: "Are Americans, especially former U.S. intelligence officers, prohibited by law from working for a foreign intelligence service?" We are not providing Mr. Gilmore with any information on [redacted] but I would like to determine whether any law or regulation fits the description outlined by Gilmore. If we do find anything on this subject, do you have any problems with passing it to Gilmore? I have been in touch with [redacted] DDO, on this subject, and he agrees that we will have nothing to say about [redacted]

[redacted]
Public Affair Office

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Approved For Release 2004/05/21 : CIA-RDP81M00980R000700020023-8

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GENERALLY

22 USCS § 806

§ 804. Acceptance of gifts by chief of mission or other principal officer

A chief of mission or other principal officer may, under such regulations as the President may prescribe, accept gifts made to the United States or to any political subdivision thereof by the government to which he is accredited or from which he holds an exequatur.

(Aug. 13, 1946, c. 957, Title X, Part A, § 1002, 60 Stat. 1030; Oct. 15, 1966, P. L. 89-673, § 8(3), 80 Stat. 953.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1966. Act Oct. 15, 1966, deleted the former first sentence, which read: "An officer or employee of the Service shall not ask or, without the consent of the Congress, receive, for himself or any other person, any present, emolument, pecuniary favor, office, or title from any foreign government.";

Deleted "however," preceding "under such regulations".

§ 805. Prohibition against engaging in business abroad

An officer or employee of the Service shall not, while holding office, transact or be interested in any business or engage for profit in any profession in the country or countries to which he is assigned abroad in his own name or in the name or through the agency of any other person, except as authorized by the Secretary.

(Aug. 13, 1946, c. 957, Title X, Part A, § 1003, 60 Stat. 1030.)

RESEARCH GUIDE

Am Jur:

4 Am Jur 2d, Ambassadors and Consuls § 17.

§ 806. Prohibition against correspondence on affairs of foreign governments

(a) An officer or employee of the Service shall not correspond in regard to the public affairs of any foreign government except with the proper officers of the United States, except as authorized by the Secretary.

(b) An officer or employee of the Service shall not recommend any person for employment in any position of trust or profit under the government of the country to which he is detailed or assigned, except as authorized by the Secretary.

(Aug. 13, 1946, c. 957, Title X, Part A, § 1004, 60 Stat. 1030.)