

# WITHDRAWAL SHEET

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DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FRED FIELDING RE PROSPECTIVE NOMINEE	2	7/26/1983	B6	275
2	NOTES	RE PROSPECTIVE NOMINEE	3	ND	B6	276
3	NOTES	RE 6/22/83 MEETING ET AL.	6	ND	B6	277
4	FORM	FINANCIAL DISCLOSURE REPORT (SF 278)	6	5/23/1983	B6	278
5	MEMO	DAVID R. SCOTT TO DESIGNATED AGENCY ETHICS OFFICIALS (THIS DOCUMENT HAS BEEN RELEASED IN WHOLE)	1	1/20/1983	B6	1298
6	MEMO	ROBERTS TO HAUSER RE MEETING ON NOMINEE	2	7/8/1983	B6	279
7	FORM	FINANCIAL DISCLOSURE REPORT (SF 278) (ORIGINAL OF ID #278)	6	5/23/1983	B6	280

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

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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COPY - Reagan Presidential Record

MEMORANDUM

AN 20 1983

SUBJECT: Formal Advisory Opinion 83 OGE 1

FROM: David R. Scott  
Acting Director *David R. Scott*

TO: Designated Agency Ethics Officials

Enclosed is a copy of a recent formal opinion issued by this Office. It addresses the question whether, or under what circumstances, a federal employee's vested rights in a private corporation's pension plan constitute a financial interest under 18 U.S.C. § 208.

A request for an opinion on this issue was received by this Office on August 11, 1982. A notice of that request, including a request for comments, was circulated shortly thereafter to all executive branch Designated Agency Ethics Officials. We received many comments presenting a wide variety of views, and we have taken all comments into consideration in the preparation of this opinion.

It was suggested by some that a government employee having vested rights in a pension plan does not have a financial interest in matters affecting the sponsoring organization if the plan is insured by the Pension Benefit Guaranty Corporation. We could not accept that view. See enclosed opinion at page 4. Nor could we authorize the exemption by general rule or regulation of financial interests held as a result of pension rights, except under very limited circumstances. See opinion n. 4.

Briefly, our conclusions are as follows: A government employee's vested rights in a pension plan give him a financial interest in a particular matter whenever the employee, as a result of such vested rights, is in a position to gain or lose from developments in or resolution of the matter. Whether a financial interest exists in any particular case depends on both the nature of the particular matter and the terms of the pension agreement; determinations must be made on a case by case basis. The typical pension plan is so intertwined with the sponsoring organization that a government employee holding vested rights in the plan will be deemed to have a financial interest in matters affecting the organization, unless the employee can show otherwise. The Office of Legal Counsel, Department of Justice was consulted on and did concur in this opinion.

Enclosure