

## **Agreement Concerning Accommodation**

*Committee on the Judiciary, US House of Representatives v. Harriet Miers et al.*  
Civil Action No. 08-0409 (JDB)

This document describes the terms of an accommodation agreement between the Bush Administration and the House Judiciary Committee to resolve the U.S. Attorneys matter finally. The parties agree in good faith to resolve any outstanding questions with a view toward ending the entire matter between the parties. The Obama Administration and the House Judiciary Committee will execute a separate agreement concerning the final disposition of the ongoing litigation.

### Interviews

- The House Judiciary Committee (the “Committee”) will interview Karl Rove and Harriet Miers, but there will be no additional interviewees / witnesses (subject to the one exception below). The interviews will be conducted as soon as possible, consistent with needed preparation time and the availability of the witnesses and their counsel. After the conclusion of the interviews, the Committee reserves its right to seek public testimony from Mr. Rove and Ms. Miers.
  - The Committee has no current intention to seek interviews of any additional former Bush White House personnel. However, if information comes to light necessitating an interview from former Bush White House official William Kelley, the interview will be conducted pursuant to the terms of this agreement.
- Transcripts of interviews will be created and promptly provided to all involved parties.
- The scope of the interviews will be limited to: (1) facts relating to the evaluation of, decision to dismiss, or decision to replace the former U.S. Attorneys in question; the alleged decisions to retain certain U.S. Attorneys; and any allegations of selective prosecution related thereto; and (2) testimony or representations made by Department of Justice officials to Congress on the U.S. Attorneys matter. For the period beginning on March 9, 2007 (the date of the Committee’s first written demand for information from the White House), interviews will not include the content of conversations involving: (i) Mr. Rove and members of the White House Counsel’s office; or (ii) Ms. Miers and members of the White House Counsel’s office. In the case of Mr. Rove, the interview also will include facts relating to the prosecution of Alabama governor Don Siegelman.
- As to official privileges, counsel will direct witnesses not to respond to questions only when questions relate to communications to or from the President or when questions are outside the scope of questioning set forth above.
- The following counsel may attend the interviews: counsel for the interviewee, Committee majority, Committee minority, the President, and the former President.
- Interviewees will be allowed a reasonable period of time to review relevant documents in advance of the interview.

- Reasonable logistical details (*e.g.*, venue, time limitation, etc.) will be set in advance.

### Documents

- With the exception of 4 pages of particularly sensitive privileged material (which will be described for Committee staff by a representative of the former President), Committee staff (majority and minority) will be allowed to review the documents for the period December 2004 through March 8, 2007. Documents subpoenaed by the Committee from Harriet Miers will be treated in the same manner.
- The foregoing documents will be provided to Committee staff (majority and minority) at a reasonable time in advance of the interviews.
- As to documents post-dating March 8, 2007, the following will be made available for Committee review only and a copy will not be produced to the Committee:
  - The final draft of the Scudder Memorandum;
  - Any factual chronology prepared by the Department of Justice Office of Legal Counsel in the possession of the White House; and
  - Any documents showing White House inputs or edits to Congressional testimony of Department of Justice officials on the subject of the U.S. Attorneys matter.

Copies of the aforementioned documents will be made available for the Committee's use during interviews conducted pursuant to this agreement. The Committee will return and will not retain any such copies at the conclusion of the respective interviews.

- In addition, the former Administration will conduct a timely review to identify: (1) any documents sent to/from White House personnel to/from third parties other than Department of Justice personnel; and (2) any documents referenced in the aforementioned Scudder Memorandum or OLC chronologies shown to the Committee. The former Administration will consider making some or all of the above material available to the Committee (in the same manner as the other post-March 8, 2007 documents described above). This process will be completed and the issue resolved prior to the interviews described in this agreement.
- Documents and their contents will remain confidential through the time of completion of the last interview. At that time, copies of documents provided to the Committee and/or contents of documents reviewed by the Committee may be made public. The transcripts discussed above may be made public after the completion of the last interview and after counsel has had a reasonable opportunity to review them for accuracy. No document or part of any document and no description or partial description of any document shall be disclosed to any other person until after the completion of the last interview.

## Litigation

- The existing litigation will be stayed or the briefing schedule extended in such a way as to serve as the equivalent of a stay until at least the completion of the interviews.
- The Committee retains its rights to challenge any assertion of privilege over questions and documents for the period December 2004 through March 8, 2007.
- The Committee will not argue that this accommodation operates as a bar or waiver of the current or former Administration's existing rights, including but not limited to the right to argue jurisdictional objections, claims of immunity, or claims of executive privilege