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July 3, 1973

Mr. Edward DLG. Pangelinan, Chairman
Marianas Political Status Commission
P. O. Box 825
Saipan, Mariana Islands 96950

Dear Ed:

I received another frantic call from Jim Wilson yesterday which apparently resulted from a report from Mary Trent. According to Wilson, Mary Trent informed him that the Commission through you has indicated that we intend to publish all of the position papers and responses accumulated during our recent negotiations in Saipan. As you might expect, Wilson was very alarmed at this prospect and indicated that the Ambassador was most unhappy. He stated that the Ambassador had been awaiting a call from you, which never came, and that the Ambassador has travel plans to go to Singapore in the near future.

I do not know whether this report regarding the Commission's plans is accurate or not. I know that this question was scheduled for consideration by the Commission at the meeting which you held last week. Assuming that there is still some time remaining before a final decision on this matter, I would like to suggest some of the reasons why complete publication of the working papers may not be in the Commission's best interest:

(1) The principal disadvantage to complete publication is the increased ammunition it provides for critics of the Commission to take issue with tentative or final positions adopted by the Commission. Although I feel quite confident regarding the record of the negotiations to date, I think we all recognize that during the negotiations to come there will be many instances where the Commission

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will be required to compromise. This kind of compromise is necessary to any real negotiation but it does enable critics with the benefit of hindsight to claim that the Commission "sold out" or otherwise failed to represent the best interests of the Marianas. If the Commission is required to justify publicly each and every decision made along the way of reaching a tentative agreement with the United States, there is a very considerable likelihood of widespread public confusion and misunderstanding of the extent to which any tentative agreement with the United States is a sound one.

(2) Although I do not think we will worry about this as much as the Ambassador would, the prospect that all position papers will be subsequently released may influence the way in which we advance our position during the negotiations. There certainly are times where, for tactical reasons, we will want to state a very strong position in a position paper to the United States even though we recognize that some compromise will have to be arrived at. The fact of publicity might tend to restrain our advocacy and therefore, to some extent, weaken our negotiating capabilities. I am assuming, of course, that once we start the practice of publishing position papers it will be very difficult to stop doing so in the future.

(3) Another consideration which should be evaluated is the extent to which publication of the papers is arguably contrary to our understanding with the United States delegation. The use of position papers in the course of the so-called working sessions was advantageous to both parties, I believe, and contributed to the meaningfulness of the discussion of the issues. Although my recollection is somewhat dim at this point, I believe that we agreed with the United States delegation that the recording of the working sessions would be kept for historical purposes and would be available only to members or representatives of the two delegations. If this is an accurate statement of our understanding with respect to the recording of our sessions, it seems to me that the same policy probably should apply to the position papers.

I am sure that all of the above considerations were evaluated by you and the members of the Commission in any discussion of this subject. I recognize that there may be public or political pressures in the Marianas which I cannot appreciate from here in Washington which would

lead you to conclude that publication of the position papers is nevertheless in the interest of the Commission and our negotiations. There may be other ways to cope with these pressures, however, other than full disclosure of the position papers. It might be very appropriate, for example, for the Chairman of the Commission to give detailed interviews regarding particular aspects of our negotiations, during the course of which you spell out the principal positions taken by the parties and the rationale of the eventual position reflected in the Joint Communique. Or it may be possible, as Jim White and I discussed from time to time, to have a "selective leak" of the Commission's position paper on a particular subject.

In the course of my conversation with Jim Wilson I also learned the following. First, no firm date has as yet been set for the negotiations with the Joint Committee. Second, the Ambassador and Mr. Wilson had a series of briefings with members of Congress regarding our negotiations and Wilson reports that these were quite satisfactory from his standpoint. Third, he stated that the working group of lawyers should probably meet in the near future but that it would be another "two or three weeks" before the United States would be ready to participate in a meeting on economics and financial support.

On a personal note, I read the June 22 issue of the Marianas Variety News and Views with considerable interest. I do not see any need to answer the allegations with respect to my law firm, but will defer to your judgment as to whether that is necessary or desirable from the Commission's standpoint. One of the ironic aspects of this criticism from the Marianas is that it came out the same week as President Nixon's list of "public enemies" received great publicity throughout the United States. Enclosed for your interest and amusement is one version of a short list circulated in the White House which includes my senior partner. We apparently found our way onto this list because of our efforts in 1971 to initiate litigation on behalf of Common Cause directed at the illegal campaign contribution practices of both the Republican and Democratic parties. The litigation, which was successful, contributed very significantly to the enactment of new legislation on this subject and indirectly to the widespread violations and misuse of funds that are now coming to light in the course of the Watergate investigation.

Best personal regards.

Sincerely,

Howard P. Willens

Enclosure

cc: Jim White

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