

Richard Nixon Presidential Library
Contested Materials Collection
Folder List

<u>Box Number</u>	<u>Folder Number</u>	<u>Document Date</u>	<u>No Date</u>	<u>Subject</u>	<u>Document Type</u>	<u>Document Description</u>
53	28	7/12/1974	<input type="checkbox"/>	Personal	Letter	From Leydorf to Haigh RE: "Estate Planning for President and Mrs. Nixon" 6pg

Presidential Materials Review Board

Review on Contested Documents

Collection: Staff Secretary
Box Number: 113

Folder: [Misc. Memos: WH Staff, Salary, Schedule, Communications;
Classified and Unclassified]

<u>Document</u>	<u>Disposition</u>
27	Return Private/Personal

DOCUMENT WITHDRAWAL RECORD [NIXON PROJECT]

DOCUMENT NUMBER	DOCUMENT TYPE	SUBJECT/TITLE OR CORRESPONDENTS	DATE	RESTRICTION
N-1 [DOC.#27]	Memo	Leydorf to Haig re: "Estate Planning for President and Mrs. Nixon".	7/12/74	C

FILE GROUP TITLE

STAFF SECRETARY

BOX NUMBER

113

FOLDER TITLE

[Misc. Memos: W.H. staff, Salary, Schedules, Communications; classified and unclassified]

RESTRICTION CODES

- A. Release would violate a Federal statute or Agency Policy.
- B. National security classified information.
- C. Pending or approved claim that release would violate an individual's rights.
- D. Release would constitute a clearly unwarranted invasion of privacy or a libel of a living person.

- E. Release would disclose trade secrets or confidential commercial or financial information.
- F. Release would disclose investigatory information compiled for law enforcement purposes.
- G. Withdrawn and return private and personal material.
- H. Withdrawn and returned non-historical material.

[Tlw 117]

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July 12, 1974

General Alexander Haig
c/o United States Secret Service
S. C. P. D.
Box 200
San Clémente, California

Re: Estate Planning for President and Mrs. Nixon

Dear General Haig:

On June 5, 1974, we sent to Fred Buzhardt new Wills for President and Mrs. Nixon, along with documents entitled "Revocation of Trust" relating to "The Family and Literary Properties Trust" and "The Patricia R. Nixon Trust". We have been informed by one of Fred's aides that the originals of all of these documents have been executed and are in Fred's personal safe, awaiting his return to his office. In my letter of June 5, I gave some recommendations as to disposition of the signed documents, and I am sure that Fred will review these and take the necessary action once he returns to his office. We are, however, proceeding on the assumption that the various documents referred to have been executed by the President and Mrs. Nixon.

There are several remaining points relating to the President's estate plan which need some further thought and attention. I would consider the major items to be as follows:

1. The President has expressed a desire in the past, which he reiterated during our meeting on May 31, to make some provision for Rose Mary Woods and Mr. and Mrs. Sanchez. This was considered in 1972, when the Mudge Rose firm put together the various documents relating to the prior estate plan. At that time, it was intended to designate the

foregoing parties as beneficiaries of certain life insurance policies on the President's life, so that funds would pass directly to these parties following the President's death. I believe it was intended that \$25,000 should be left to Miss Woods, and \$25,000 to Mr. and Mrs. Sanchez or the survivor of them.

I have checked with Mr. Alexander's office, and they have indicated that no further action was taken relating to Miss Woods and the Sanchezes, and more particularly that they have not been designated as beneficiaries of any life insurance policies. Accordingly, at this point, no provision has been made for them at all. I therefore think this should be brought to the President's attention.

The simplest way to make provision for these individuals would be to do a Codicil to the President's Will, whereby he could leave them a specific bequest of whatever amounts he deemed appropriate. It could also be provided in the Codicil that these bequests were to pass tax free to the recipients. On the other hand, some provision could be made to designate them as beneficiaries of certain life insurance policies, which would have the practical effect of making the gifts somewhat more confidential, since they would then not be referred to in the Will. Proceeds of life insurance could also be distributed free of any death taxes as far as the recipients were concerned. A third possibility would be to make lifetime gifts to these parties, which seems to me to be the least desirable alternative at this point in time.

2. In accordance with the President's request, I did meet with Earl Adams in Los Angeles, to obtain his thoughts on the naming of possible successor executors under the Wills of both President and Mrs. Nixon. He did agree to serve as a co-executor of the President's Will along with Mr. Rebozo, but expressed the same concern we did in having a nonresident executor or co-executor, because of the additional cost involved and the potential mechanical problems of having one executor in California and the other in another part of the country. Mr. Adams recognized that the naming of an executor or successor executor

is a very personal matter, and certainly the President should give it sufficient thought and attention.

Mr. Adams mentioned three individuals who might be appropriate, Jack Drown, Herb Kline and Paul Keys. Any of these individuals could be named as co-executor with Mr. Adams, or as a successor executor either to Mr. Adams or to Mr. Rebozo. Their insertion in the President's Will, or in a successor capacity under the Will of Mrs. Nixon, could be done either by codicil or by retyping the existing Wills. Of course at this time, the President may have some additional thoughts as to who should be named in these capacities.

3. The basic estate plan established by the Mudge Rose firm in 1972 involved the use of three living trusts. As indicated above, two of these trusts have now been revoked. The third trust, known as "The Irrevocable Literary Trust" remains in existence. Since this trust is irrevocable, it cannot formally be revoked, but its only asset is a Statement by Arthur M. Burns before the Joint Economic Committee on July 26, 1972, and if it is desired not to utilize this Trust in the future, its existence can be terminated as a practical matter merely by turning this Statement over to the government archives or some other governmental entity.

The Irrevocable Literary Trust is a tax exempt, charitable trust. The Mudge Rose firm filed an "Exemption Application" with the Internal Revenue Service in 1972, seeking a determination letter that the Trust would qualify as a charitable trust under Section 501(c)(3) of the Internal Revenue Code, on the basis that it was organized and to be operated exclusively for educational, charitable and literary purposes. On November 8, 1972, the Internal Revenue Service gave a determination letter stating that the Trust is exempt under Section 501(c)(3) of the Code. As a result, any contributions to the Trust would be deductible for Federal income tax purposes, and any distributions to the Trust also would be deductible for Federal estate and gift tax purposes.

I believe this Trust has been well drafted, and would provide a vehicle, either now or in the future, for public viewing, study or research of the President's papers or other materials relating to his official or personal life which have historical or commemorative significance, as well as possible distribution of these materials either to the government or to the other recognized charitable organizations. Even though at this point in time the President apparently is not inclined to utilize this vehicle, I think there is very little to be lost in maintaining its existence. Annual filings are required with various government entities, but since the Trust has no particular activity this is not a great burden. If it is to be continued, filings will have to be made with the State of California, which have not been done in the past simply because of the lack of activity of the Trust. In any event, further consideration should be given as to whether to maintain this Trust in existence, and as set forth below whether to consider its possible utilization in connection with the President's estate plan. .

4. The present trustee of the Irrevocable Literary Trust is H. R. Haldeman. He has executed a document pursuant to which he appointed John D. Erlichman as successor trustee if he, for any reason whatsoever, should cease to act. If this trust is to be continued in existence for any significant period of time, therefore, attention should be given as to the proper trustee, or successor trustee.
5. At our meeting with the President in Washington in May, he was quite emphatic in his thought that he does not wish any of his papers or materials relating to his public life in any way left to the "government" at this point in time. Accordingly, under his new Will, all of his property, including these materials, is left for the benefit of Mrs. Nixon and the children. This could, and probably would, produce a substantial Federal estate and California inheritance tax cost, depending on the value placed on these items. Since valuation of the materials would, in itself, be a difficult problem, there could be substantial and prolonged litigation relating to the ultimate determination of death taxes.

There is an approach which might provide some flexibility in dealing with this situation, which would involve utilization of "The Irrevocable Literary Trust". California adopted, in 1972, a "disclaimer statute" which allows a beneficiary of an interest under a will to disclaim that interest, and allow it to pass to other parties or entities named in the will. The procedures are relatively simple, and provide that the beneficiary of the interest under the will merely files a written document evidencing the disclaimer with the court administering the decedent's estate, within a specified period of time. The property involved is then distributed directly to the next person or entity that would otherwise have received the property if the beneficiary had predeceased the decedent.

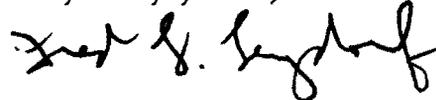
I would like to consider the possibility of inserting in the Wills of President and Mrs. Nixon a provision that any property they or the children might "disclaim" would automatically be distributed to The Irrevocable Literary Trust. It would be intended, of course, that they would not plan to disclaim any property other than some of the papers or other "public" materials. The California statute makes it clear that a person may disclaim an "Interest" in property, which is defined to mean and include "the whole of any property, real or personal, legal or equitable, or any fractional part, share or particular portion or specific assets thereof ...". I would therefore feel that the family members involved could determine those materials which they wanted to retain, and which would thereby be distributed to them, and those in which they might have no interest, which could then automatically pass to The Irrevocable Literary Trust. The result would be that any property actually passing to the Trust would be free of death taxes, which could materially reduce the amount of death taxes involved, as well as perhaps reduce the possibility of extended litigation over valuation of all the materials. The Irrevocable Literary Trust contains adequate provision for the sorting, classification and other handling of any materials distributed to it, as well as full authority over the ultimate disposition of those materials, as long as they are distributed either to charitable or governmental entities. It therefore seems to me that

July 12, 1974

The Irrevocable Literary Trust might be a valuable tool as a possible receptacle for some of the great bulk of public papers and other materials in which the family might have no particular interest. They would still have the full right to receive all of these materials if they wished, and certainly the right to retain any particular materials they wished to retain either because of their economic, sentimental or historical value. I think this is one major aspect of the President's estate plan which should be considered very carefully.

I have placed the foregoing thoughts on paper, primarily so all of us will have something to refer to in connection with the remaining areas to be considered in connection with the President's estate plan. I of course would be most happy to discuss any of these matters personally with you and/or the President at any time that is convenient or appropriate. Since virtually each of the points referred to requires a personal decision by the President, I would hope that all of them could be given some attention within the relatively near future.

Very truly yours,



FRED L. LEYDORF

FLL:jc