TO: Ambassador Phillip D. Murphy

Limited Waiver of Section Two of the Obama Ethics Pledge

Background Regarding Ethics Pledge

Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," (EO) Section 1, requires all covered political appointees to abide by several commitments. One of those commitments provides that a covered appointee may not, for a period of two years from the date of his or her appointment, participate in any particular matter involving specific parties that is directly and substantially related to the appointee's former employer or former clients. (Obama Ethics Pledge, Paragraph 2).

However, a waiver of the restrictions contained in Paragraph 2 of the pledge may be granted upon certification either that the literal application of the restriction is inconsistent with the purpose of the restriction or that it is in the public interest to grant the waiver. EO, Sec 3(b). By memorandum dated February 23, 2009, the Office of Government Ethics (OGE) announced that the Designated Agency Ethics Official of each executive agency had been delegated the authority to grant such waivers, after consultation with the Counsel to the President. *See* DO-09-008, OGE Memorandum to Designated Agency Ethics officials, February 23, 2009.

Background Regarding Your Appointment

On August 12, 2009, you assumed the position as the United States Ambassador to the Republic of Germany. In that capacity, you are subject to the pledge you signed during your nomination process wherein you agreed that for two years after the date of your appointment you will not "participate in any particular matter involving specific parties that is directly and substantially related to [your] former employer or former clients." For purposes of the pledge, the term "former employer" includes anyone for whom you have "within the 2 years prior to the date of [your]...appointment, served as employee, officer, director, trustee or general partner...." EO, Section 2(i). Consistent with this requirement, you may not participate in a "meeting or other communication" with a former employer "unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties."

Prior to assuming your position with the Department of State, you served as an uncompensated board member of the United States Soccer Federation World Cup Bid Committee (Bid Committee). You served in this position for a brief

period of approximately six months between February 2009 and August 2009. You request a waiver of Section 2 of the Ethics Pledge so that you may participate in an official capacity in particular matters involving the Bid Committee that directly and substantially relate to your duties as Ambassador.

Where the former employer is a not-for profit organization with interests in matters in which it is involved, the concerns underlying the restrictions are not as great as they would be if the organization were motivated by financial interests. *See* DO-09-11, OGE Memorandum to Designated Agency Ethics Officials, March 26, 2009. Indeed, the United States Soccer Federation is a non-profit 501(c)(3) entity whose goal is to secure the 2018 or 2022 World Cup through the Bid Committee for the United States.

After consultation with the Office of White House Counsel, I determine that it is in the public interest for you to participate in certain matters relating to the United States Soccer Federation World Cup Bid Committee.

Communications with the United States Soccer Federation World Cup Bid Committee

The US Soccer Federation is a non-profit, nonpartisan organization dedicated to promoting and governing soccer in the United States. The Federation's Bid Committee is a committee whose purpose is to bring either the 2018 or 2022 World Cup to the United States. The Secretary of State has urged posts in voting-member nations to engage with Fédération Internationale de Football Association (FIFA) entities and the Bid Committee in support of the American bid for the 2018 or 2022 World Cup. FIFA's Executive Committee (ExCo) will vote on December 2, 2010 for both the 2018 and 2022 World Cup venue hosts. The German Football Association has a voting member on the ExCo and will vote on the World Cup's venue in December. Germany's vote is important to the United States efforts to procure the votes necessary to be selected to host either the 2018 or 2022 World Cup.

Several factors support a waiver. Importantly, neither the Bid Committee nor you will obtain a financial benefit from your efforts. Further, due in part to your relatively short amount of time as a member of the Bid Committee and the fact that your position was uncompensated, there is little likelihood of a conflict of interest or an appearance thereof.

In addition, it is in the United States best interests for you to host events and facilitate meetings between the Bid Committee and other German football officials to include FIFA and the German Football Association. According to the Secretary, hosting the World Cup in the United States would bring multiple public diplomacy and financial benefits to the U.S. and as a result, the United States Government

strongly supports the bid for the World Cup. Pursuant to the June 22, 2010 cable, the Secretary has requested posts in countries with voting members on the ExCo to promote and support the U.S. World Cup bid through appropriate activities. The Secretary has requested that Ambassadors and other key personnel publicly reaffirm the Department's commitment to the bid in appropriate public fora. Posts have been asked to include FIFA ExCo members at embassy functions and ensure the display of the U.S. Bid Committee's logo or other materials in appropriate places. A segment of post's proposed action plan to further the task of securing the German vote includes your hosting a dinner at the embassy that would include ExCo members and U.S. Bid Committee members. We understand that this dinner, and other similar events, will assist the U.S. in obtaining the German ExCo vote.

According to the information post provided on your behalf, we understand that your personal engagement with the efforts to secure the World Cup is important because the German Football Association officials as well as German government officials are aware of and have grown accustomed to your engagement with soccer and desire to bring the World Cup to the United States. We understand that soccer has been a pivotal outreach tool for you and has formed a platform upon which you have built many of your diplomatic relations with German officials. In addition, we understand that you have attended soccer matches in Germany and have built relationships with key members of the German Football Association, including the ExCo voting member, Franz Beckenbauer. We understand that you are concerned that your absence from engagements between the German football officials and the Bid Committee would be misperceived and may adversely affect the ability for the United States to win the German vote. In fact, post has indicated that it is more likely that Mr. Beckenbauer would accept an invitation to attend a function at the Embassy from you as opposed to an invitation from other Embassy officials. Thus, your participation is critical in helping to build the relationship between the U.S. Bid Committee members and the appropriate German football officials. Because of your intimate knowledge of the game and previously established credibility with key German Football officials, you are uniquely qualified to assist in convincing the German voting member that the United States is the best choice of venue for the World Cup.

Based on a consideration of the circumstances, I do not believe that your participation under the terms of this waiver would create a conflict of interest or an appearance thereof. Further, I believe that your participation, consistent with the terms of this waiver, is in the public's best interests.

Waiver

Based on the above analysis and after consulting with the White House Counsel's Office, I determine that a limited waiver of the restriction is appropriate and that it is in the public interest to grant you a waiver. Accordingly, I waive the requirements of paragraph 2 of the Pledge as it pertains to your communications to secure for the United States the World Cup in either 2018 or 2022. This waiver is limited to events, meetings, and communications you attend, host, sponsor, or make on behalf of the United States that are focused on bringing the U.S. Bid Committee in contact with the appropriate German football officials. Further, this waiver will expire upon the completion of the ExCo vote on 2 December 2010. This waiver does not extend to any activity or effort to benefit financially the U.S. Bid Committee.

29 Sep 2010
Date

James H. Thessin
Designated Agency Ethics Official