

20 July 2005

MEMORANDUM FOR FILE

Ref: Phoncon today with Steve Epstein and Gail Mason DodGC SOC

Subj: ADM Klemm USN (Ret.)

Adm Klemm was to testify about Portsmouth NSY at the Boston public hearing. He was advised by Navy and DoD ethics lawyers that he might be in violation of 18 USC 207 if he did so. I also advised him at that time that there was personal risk to him if he testified. He heeded the advice and declined to testify. Issue: recently retire; active in the Navy BRAC process as ViceCmdr of NAVSEA. Would have been an advocate for a save-the-base group.

BRAC invited Adm Klemm to speak with us. He will arrive on invitational orders this Friday at 1000. He will not be sworn. Nor will be asked to provide expert advice. Nor will he be involved in any strategy development. He will be speaking on his own behalf in an independent and neutral capacity. No active duty Navy personnel or Navy Department civilians will speak with Adm Klemm.

I will speak with Adm Klemm before he talks with BRAC analysts. I will read the statute to him and reinforce the fact that he is speaking only on his own behalf. And, I will remind him of a potential 207 bar.

David C. Hague

7/22/05

spoke w/ Adm on phone in Jim Harmon's office. Addressed per above - did not read statute. Jim followed up after I departed w/ conversation w/ Adm.



Section 207 places additional post-employment restrictions upon employees who are considered Senior Employees. Section 207(c) bars Senior Employees from representing or making any oral or written communication on behalf of anyone other than the United States before the department or agency in which the employee served concerning any particular matter pending before such department or in which such department has a direct and substantial interest. This bar, however, only extends for a period of one year after the affected employment has ended, and therefore would not apply to you because your Government employment ended more than one year ago. More importantly, section 207(b)(ii) places a two-year restriction prohibiting former Senior Employees from aiding or assisting (in addition to the lifetime prohibition on actually representing) anyone other than the United States concerning any particular matter involving a specific party or parties in which such employee participated personally and substantially as an officer or employee. This restriction does not prevent a former Senior Employee from serving as president of a corporation directly. It does, however, make it illegal for him or her to aid or assist in the representation of clients (claimants) "by personal presence" at any formal or informal appearance before a court, agency, court-martial, or any civil, military or naval commission of the United States, or any officer or employee thereof in certain instances. As with the two-year restriction of section 207(b)(i), this restriction will no longer apply to you in any event after December 31, 1990.

Adm Klemm

Steve Epstein

Russ Farrow

Gail 185207

independent  
neutral

honestly

not compensated  
thoughts on our  
own strategies  
w/ us.

"speak on behalf of  
someone else in  
207"

Klemm straddles  
no compensation  
paying travel

reimbursement for travel  
for

quote his questions about

protect record

raise issue of  
potential 207 bar

read statute

no testify only on  
his own behalf

intention now only on  
own behalf →

conscious decision