

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE ABE FORTAS

May 14, 1969

The Honorable Earl Warren
Chief Justice
Supreme Court of the United States
Washington, D. C. 20543

My dear Chief Justice:

I am filing with you this memorandum with respect to my association with the Wolfson Family Foundation, and a statement of the reasons which in my judgment indicate that I should resign in order that the Court may not continue to be subjected to extraneous stress which may adversely affect the performance of its important functions.

As you know, I have delayed issuing a detailed report or announcing my decision until it could first be communicated to the members of the Court. In my judgment, this was the only proper course open to me as an Associate Justice of this Court, because of the Court's position as a separate and independent branch of the government under the Constitution. Because of the Court's recess, this report was not possible until yesterday.

In the spring or summer of 1965, before I was nominated as Associate Justice of the Supreme Court, my law firm represented New York Shipbuilding Corporation, a company controlled by Mr. Louis E. Wolfson, with respect to various civil claims. Later in the summer of 1965, and also before my nomination, my firm was retained in connection with some securities problems of Merritt-Chapman and Scott Corporation, of which Mr. Wolfson was Chairman of the Board.

I became acquainted with Mr. Wolfson and he told me about the Wolfson Family Foundation and his hopes and

plans for it. He knew that its program - the improvement of community relations and the promotion of racial and religious cooperation - concerned matters to which I had devoted much time and attention.

Mr. Wolfson stated that he intended to increase the Foundation's resources, and he hoped that the Foundation might expand its work so as to make unique and basic contributions in its field. As we proceeded in our discussions, Mr. Wolfson suggested that he would like me to participate in and help shape the Foundation's program and activities. I told him I was interested in these objectives and that I hoped we would continue our discussions.

I became a member of the Court in October 1965. Shortly thereafter, Mr. Wolfson was in Washington and again conferred with me about the Foundation's work and my possible association with it. I again indicated my interest in the Foundation's program and in expanding its scope, and we discussed the possibility of my participating in the project on a long-term basis. Because of the nature of the work, there was no conflict between it and my judicial duties. It was then my opinion that the work of the Court would leave me adequate time for the Foundation assignments.

The Board of the Foundation met in December 1965, and approved, by resolution, an agreement under which I was to perform services for the Foundation. It was understood between us that the program in question was a long-range one and that my association would be meaningful only if it were on a long-term basis. The agreement, therefore, contemplated that I would perform continuing services, and, instead of fixing variable compensation from time to time for work done, it provided that I would receive Twenty Thousand Dollars per year for my life with arrangements for payments to Mrs. Fortas in the event of my death.

In January 1966, I received a check for Twenty Thousand Dollars under the agreement, and began my association with the Foundation. In June of that year I attended

- 3 -

and participated in a meeting of the Trustees of the Foundation at Jacksonville, Florida. It is my recollection that Mr. Wolfson did not attend the meeting. I went from Jacksonville to his farm at Ocala where I had an overnight visit, as I recall, with him and his family.

Later, in June 1966, I reached the decision that the continuing role in the Foundation's work which our agreement contemplated should be terminated. There were two reasons for this decision: My work for the Court was much heavier than I had anticipated and my idea of the amount of time I would have free for non-judicial work had been a substantial over-estimate. I had also learned shortly before informing the Foundation of my decision to terminate the arrangement, that the SEC had referred Mr. Wolfson's file to the Department of Justice for consideration as to criminal prosecution.

I therefore wrote a letter to the Foundation, addressed to its General Counsel, dated June 21, 1966, cancelling the agreement we had entered into, subject to completing the projects for the year. I recited as my reason only the burden of Court work.

In September and October of 1966, Mr. Louis E. Wolfson was indicted on separate charges stemming from stock transactions, and in December 1966, I returned to the Foundation, in its entirety, the sum of Twenty Thousand Dollars previously paid to me. I concluded that, because of the developments which had taken place, the services which I had performed should be treated as a contribution to the Foundation.

Since becoming a member of the Court, I have not, at any time, directly or indirectly, received any compensation from Mr. Wolfson or members of his family or any of his associates for advice, assistance or any reason whatever, except the Foundation fee which was returned.

Since I became a member of the Court, Mr. Wolfson on occasion would send me material relating to his problems, just as I think he did to many other people, and

on several occasions he mentioned them to me, but I have not interceded or taken part in any legal, administrative or judicial matter affecting Mr. Wolfson or anyone associated with him.

It is my opinion, however, that the public controversy relating to my association with the Foundation is likely to continue and adversely affect the work and position of the Court, absent my resignation. In these circumstances, it seems clear to me that it is not my duty to remain on the Court, but rather to resign in the hope that this will enable the Court to proceed with its vital work free from extraneous stress.

There has been no wrongdoing on my part. There has been no default in the performance of my judicial duties in accordance with the high standards of the office I hold. So far as I am concerned, the welfare and maximum effectiveness of the Court to perform its critical role in our system of government are factors that are paramount to all others. It is this consideration that prompts my resignation which, I hope, by terminating the public controversy, will permit the Court to proceed with its work without the harassment of debate concerning one of its members.

I have written a letter asking President Nixon to accept my resignation, effective as of this date.

I leave the Court with the greatest respect and affection for you and my colleagues, and my thanks to all of you and to the staff of the Court for your unfailing helpfulness and friendship. I hope that as I return to private life, I shall find opportunities to continue to serve the Nation and the cause of justice which this Court so ably represents.

Sincerely,

A handwritten signature in dark ink, appearing to read "The Fortas", written in a cursive style.