

George W. Bush Presidential Library

Collection: Counsel's Office, White House

Series: Kavanaugh, Brett – Subject Files

Folder Title: Harken Energy Corporation

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Action Memorandum - To: The Commission - From: The Division of Enforcement	4	03/18/1992	P6/b6;
002	Letter	[Letter from Bruce Hiler] - To: Robert Jordan - From: Bruce Hiler	2	10/18/1993	P6/b6;
003	Memorandum	Memorandum - To: The Files - From: Herbert Janick, III	2	04/09/1991	P6/b6;
004	Memorandum	Harken Energy's Earnings Announcement - To: Herb Janick, et al - From: Lisa Meulbroek	3	07/07/1991	P6/b6;
005	Chart	Intraday Harken Price Movement	1	N.D.	P6/b6;
006	Chart	Harken Energy Performance	1	N.D.	P6/b6;
007	Form	Form 144 Notice of Proposed Sale of Securities	2	06/22/1990	P6/b6;

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Harken Energy Corporation

FRC ID:

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AP National

Documents Detail Bush Oil Moves

by **PETE YOST**

Associated Press Writer

WASHINGTON (AP) -- Before selling his stock in a Texas oil company, a transaction that prompted an insider trading inquiry, George W. Bush was informed as a company director that the firm was suffering a cash "crisis," newly released records show.

The internal corporate documents, released by the Securities and Exchange Commission, provide the most detailed view yet of Bush's knowledge of Harken Energy Corp.'s financial problems when he sold his shares for \$848,560 in June 1990.

Bush's lawyer said Wednesday the information, while new to the presidential campaign, was provided to the SEC as part of its investigation a decade ago and contributed to the agency's finding that Bush's trading was appropriate.

"The SEC did their job by the book, and this is old news," attorney Robert Jordan said. The Bush lawyer added that "the company's financial situation was well-disclosed to the public" through filings at the time with the SEC.

"By the time Bush sold his stock, the cash crisis had been largely resolved," said Jordan. "By May 21, 1990, the major shareholders had agreed to a credit agreement which put \$26 million into the company immediately."

Insider trading allegations have been an issue in both Bush's run for governor in Texas and his presidential bid. The SEC in the last month released several hundred pages of corporate documents from its investigation under the Freedom of Information Act.

Bush has said he had no knowledge the Texas-based company was going to report a \$23 million loss two months after he sold his stock. "I absolutely had no idea



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and would not have sold it had I known," he said during his 1994 campaign for governor.

SEC investigators concurred there was no evidence Bush knew that the loss would be of that magnitude. At most, the investigators found, Bush was aware of a projected \$4 million loss, which was "consistent with Harken's publicly reported trend" of losses, states an SEC investigative document obtained by AP. The same document projecting the \$4 million loss, Jordan noted, projected a profit for the fourth quarter.

The Harken documents released under FOIA detail Bush's knowledge of the company's problems.

As a Harken director, he received memos in spring 1990 that referred in stark terms to the company's cash-strapped condition as banks demanded it pay down its debts. One document said the company was in the midst of a "liquidity crisis" and another told Bush the company was "in a state of noncompliance" with its lenders.

Bush also was informed that a company plan to make a public stock offering to generate cash was being abandoned because one of its lenders objected.

"On the eve of filing this offering, the Bank of Boston refused to grant waivers and consents necessary to allow the offering to proceed," Harken said in a letter to the SEC in 1991. "Bank of Boston refused to alter its position and instead made demands that it be removed from the company's credit." The company solved the crisis when two of its biggest stockholders loaned it the \$43 million it needed.

Bush served on three committees inside the company and also was paid as a consultant.

Even after his stock sale, Bush remained on the company's board of directors until 1993.

The SEC investigators never interviewed Bush about what else he might have known about the company's financial situation before selling the stock.

The investigators noted that Bush did not initiate the sale of his stock, that he was approached by a broker and checked with the company's general counsel about the propriety of the sale before carrying it out.

"It appears that Bush did not engage in illegal insider trading because it does not appear that he possessed material nonpublic information or that he acted with" wrongful intent "when he sold the Harken stock," SEC investigators wrote in a March 1992 summary obtained by AP.

When Harken announced its \$23 million quarterly loss on Aug. 20, 1990, its stock held steady for more than two hours, then plummeted to \$2.38 a share. The next day it rebounded to the previous day's \$3 high. Regulators said the fact that the stock didn't immediately plunge and recovered so quickly was further evidence that the information could not be viewed as important to a reasonable investor.

At the time of the investigation, Bush's father was president of the United States and the SEC was run by one of his biggest political supporters, Richard Breeden. The SEC's then-general counsel, James R. Doty, was another staunch presidential supporter.

SEC's enforcement chief at the time, William McLucas, said in an interview that the Bush investigation "was handled the same way any insider trading inquiry would be handled."

New York University law professor Stephen Gillers, who reviewed the SEC investigative documents at AP's request, said the agency made a sound judgment legally and ethically to close the insider trading probe without interviewing Bush.

"We're dealing with investigators here who are not political appointees," he said.

Gillers said the evidence contained in the SEC documents was "fairly persuasive against proceeding" against Bush.

(PROFILE

(CO:Harken Energy Corp; TS:HEC; IG:OIS;)

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