IN THE SENATE OF THE UNITED STATES
SITTING AS A COURT OF IMPEACHMENT

In re	**)**
Impeachment of	**)**
William Jefferson Clinton	**)**
President of the United States	**)**

ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO THE ARTICLES OF IMPEACHMENT

The Honorable William Jefferson Clinton, President of the United States, in response to the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the two Articles of Impeachment it has exhibited to the Senate as follows:

PREAMBLE

THE CHARGES IN THE ARTICLES DO NOT CONSTITUTE HIGH CRIMES OR MISDEMEANORS

The charges in the two Articles of Impeachment do not permit the conviction and removal from office of a duly elected President. The President has acknowledged conduct with Ms. Lewinsky that was improper. But Article II, Section 4 of the Constitution provides that the President shall be removed from office only upon "Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors." The charges in the articles do not rise to the level of "high Crimes and Misdemeanors" as contemplated by the Founding Fathers, and they do not satisfy the rigorous constitutional standard applied throughout our Nation's history.

Accordingly, the Articles of Impeachment should be dismissed.

THE PRESIDENT DID NOT COMMIT PERJURY OR OBSTRUCT JUSTICE

The President denies each and every material allegation of the two Articles of Impeachment not specifically admitted in this **ANSWER**.

ARTICLE I

President Clinton denies that he made perjurious, false and misleading statements before the federal grand jury on August 17, 1998.

FACTUAL RESPONSES TO ARTICLE I

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article I:

(1) The President denies that he made perjurious, false and misleading statements to the grand jury about "the nature and details of his relationship" with Monica Lewinsky.

There is a myth about President Clinton's testimony before the grand jury. The myth is that the President failed to admit his improper intimate relationship with Ms. Monica Lewinsky. The myth is perpetuated by Article I, which accuses the President of lying about "the nature and details of his relationship" with Ms. Lewinsky.

The fact is that the President specifically acknowledged to the grand jury that he had an improper intimate relationship with Ms. Lewinsky. He said so, plainly and clearly: "When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters . . . did involve inappropriate intimate contact." The President described to the grand jury how the relationship began and how it ended at his insistence early in 1997 -- long before any public attention or scrutiny. He also described to the

grand jury how he had attempted to testify in the deposition in the *Jones* case months earlier without having to acknowledge to the *Jones* lawyers what he ultimately admitted to the grand jury -- that he had an improper intimate relationship with Ms. Lewinsky.

The President read a prepared statement to the grand jury acknowledging his relationship with Ms. Lewinsky. The statement was offered at the beginning of his testimony to focus the questioning in a manner that would allow the Office of Independent Counsel to obtain necessary information without unduly dwelling on the salacious details of the relationship. The President's statement was followed by almost four hours of questioning. If it is charged that his statement was in any respect perjurious, false and misleading, the President denies it. The President also denies that the statement was in any way an attempt to thwart the investigation.

The President states, as he did during his grand jury testimony, that he engaged in improper physical contact with Ms. Lewinsky. The President was truthful when he testified before the grand jury that he did not engage in sexual relations with Ms. Lewinsky as he understood that term to be defined by the *Jones* lawyers during their questioning of him in that deposition. The President further denies that his other statements to the grand jury about the nature and details of his relationship with Ms. Lewinsky were perjurious, false, and misleading.

(*2) The President denies that he made perjurious, false and misleading statements to the grand jury when he testified about statements he had made in the Jones deposition.*

There is a second myth about the President's testimony before the grand jury. The myth is that the President adopted his entire *Jones* deposition testimony in the grand jury. The President was not asked to and did not broadly restate or reaffirm his *Jones* deposition testimony. Instead, in the grand jury he discussed the bases for certain answers he gave. The President

testified truthfully in the grand jury about statements he made in the *Jones* deposition. The President stated to the grand jury that he did not attempt to be helpful to or assist the lawyers in the *Jones* deposition in their quest for information about his relationship with Ms. Lewinsky. He truthfully explained to the grand jury his efforts to answer the questions in the *Jones* deposition without disclosing his relationship with Ms. Lewinsky. Accordingly, the full, underlying *Jones* deposition is not before the Senate.

Indeed, the House specifically considered and rejected an article of impeachment based on the President's deposition in the *Jones* case. The House managers should not be allowed to prosecute before the Senate an article of impeachment which the full House has rejected.

(3) The President denies that he made perjurious, false and misleading statements to the grand jury about "statements he allowed his attorney to make" during the Jones deposition.

The President denies that he made perjurious, false and misleading statements to the grand jury about the statements his attorney made during the *Jones* deposition. The President was truthful when he explained to the grand jury his understanding of certain statements made by his lawyer, Robert Bennett, during the *Jones* deposition. The President also was truthful when he testified that he was not focusing on the prolonged and complicated exchange between the attorneys and Judge Wright.

(*4) The President denies that he made perjurious, false and misleading statements to the grand jury concerning alleged efforts "to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case*.

For the reasons discussed more fully in response to **ARTICLE II**, the President denies that he attempted to influence the testimony of any witness or to impede the discovery of evidence in the *Jones* case. Thus, the President denies that he made perjurious, false and

misleading statements before the grand jury when he testified about these matters.

FIRST AFFIRMATIVE DEFENSE:
ARTICLE I DOES NOT MEET THE CONSTITUTIONAL STANDARD FOR CONVICTION AND REMOVAL

For the same reasons set forth in the **PREAMBLE** of this **ANSWER**, Article I does not meet the rigorous constitutional standard for conviction and removal from office of a duly elected President and should be dismissed.

SECOND AFFIRMATIVE DEFENSE:
ARTICLE I IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL

Article I is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. It alleges that the President provided the grand jury with "perjurious, false, and misleading testimony" concerning "one or more" of four subject areas. But it fails to identify any specific statement by the President that is alleged to be perjurious, false and misleading. The House has left the Senate and the President to guess at what it had in mind.

One of the fundamental principles of our law and the Constitution is that a person has a right to know what specific charges he or she is facing. Without such fair warning, no one can prepare the defense to which every person is entitled. The law and the Constitution also mandate adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of false statements, a trial becomes a moving target for the accused. In addition, the American people deserve to know upon what specific statements the

President is being judged, given the gravity and effect of these proceedings, namely nullifying the results of a national election.

Article I sweeps broadly and fails to provide the required definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

THIRD AFFIRMATIVE DEFENSE:
ARTICLE I CHARGES MULTIPLE OFFENSES IN ONE ARTICLE

Article I is fatally flawed because it charges multiple instances of alleged perjurious, false and misleading statements in one article. The Constitution provides that "no person shall be convicted without the Concurrence of two thirds of the Members present," and Senate Rule XXIII provides that "an article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial." By the express terms of Article I, a Senator may vote for impeachment if he or she finds that there was perjurious, false and misleading testimony in "one or more" of four topic areas. This creates the very real possibility that conviction could occur even though Senators were in wide disagreement as to the alleged wrong committed. Put simply, the structure of Article I presents the possibility that the President could be convicted even though he would have been acquitted if separate votes were taken on each allegedly perjurious statement. For example, it would be possible for the President to be convicted and removed from office with as few as 17 Senators agreeing that any single statement was perjurious, because 17 votes for each of the four categories in Article I would yield 68 votes, one more than necessary to convict and remove.

By charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Accordingly, Article I should fail.

ARTICLE II

President Clinton denies that he obstructed justice in either the *Jones* case or the Lewinsky grand jury investigation.

FACTUAL RESPONSES TO ARTICLE II

Without waiving his affirmative defenses, President Clinton offers the following factual responses to the allegations in Article II:

> *(1) The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.*"

The President denies that he encouraged Monica Lewinsky to execute a false affidavit in the *Jones* case. Ms. Lewinsky, the only witness cited in support of this allegation, denies this allegation as well. Her testimony and proffered statements are clear and unmistakable:

- "[N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, sometime in December 1997, Ms. Lewinsky asked him whether she might be able to avoid testifying in the *Jones* case because she knew nothing about Ms. Jones or the case. The President further states that he told her he believed other witnesses had executed affidavits, and there was a chance they would not have to testify. The President denies that he

ever asked, encouraged or suggested that Ms. Lewinsky file a false affidavit or lie. The President states that he believed that Ms. Lewinsky could have filed a limited but truthful affidavit that might have enabled her to avoid having to testify in the *Jones* case.

> *(2) The President denies that on or about December 17, 1997, he "corruptly encouraged" Monica Lewinsky "to give perjurious, false and misleading testimony if and when called to testify personally" in the Jones litigation.*

Again, the President denies that he encouraged Ms. Lewinsky to lie if and when called to testify personally in the *Jones* case. The testimony and proffered statements of Monica Lewinsky, the only witness cited in support of this allegation, are clear and unmistakable:

- "[N]o one ever asked me to lie and I was never promised a job for my silence."
- "Neither the President nor anyone ever directed Lewinsky to say anything or to lie . . ."
- "Neither the Pres[ident] nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L[ewinsky] to lie."

The President states that, prior to Ms. Lewinsky's involvement in the *Jones* case, he and Ms. Lewinsky might have talked about what to do to conceal their relationship from others. Ms. Lewinsky was not a witness in any legal proceeding at that time. Ms. Lewinsky's own testimony and statements support the President's recollection. Ms. Lewinsky testified that she "pretty much can" exclude the possibility that she and the President ever had discussions about denying the relationship after she learned she was a witness in the *Jones* case. Ms. Lewinsky also stated that "they did not discuss the issue [of what to say about their relationship] in specific relation to the *Jones* matter," and that "she does not believe they discussed the content of any deposition that [she] might be involved in at a later date."

(3) The President denies that on or about December 28, 1997, he "corruptly engaged in, encouraged, or supported a scheme to conceal evidence" in the Jones case.

The President denies that he engaged in, encouraged, or supported any scheme to conceal evidence from discovery in the *Jones* case, including any gifts he had given to Ms. Lewinsky. The President states that he gave numerous gifts to Ms. Lewinsky prior to December 28, 1997. The President states that, sometime in December, Ms. Lewinsky inquired as to what to do if she were asked in the *Jones* case about the gifts he had given her, to which the President responded that she would have to turn over whatever she had. The President states that he was unconcerned about having given her gifts and, in fact, that he gave Ms. Lewinsky additional gifts on December 28, 1997. The President denies that he ever asked his secretary, Ms. Betty Currie, to retrieve gifts he had given Ms. Lewinsky, or that he ever asked, encouraged, or suggested that Ms. Lewinsky conceal the gifts. Ms. Currie told prosecutors as early as January 1998 and repeatedly thereafter that it was Ms. Lewinsky who had contacted her about retrieving gifts.

(4) The President denies that he obstructed justice in connection with Monica Lewinsky's efforts to obtain a job in New York to "corruptly prevent" her "truthful testimony" in the Jones case.

The President denies that he obstructed justice in connection with Ms. Lewinsky's job search in New York or sought to prevent her truthful testimony in the *Jones* case. The President states that he discussed with Ms. Lewinsky her desire to obtain a job in New York months before she was listed as a potential witness in the *Jones* case. Indeed, Ms. Lewinsky was offered a job in New York at the United Nations more than a month before she was identified as a possible witness. The President also states that he believes that Ms. Lewinsky raised with him, again before she was ever listed as a possible witness in the *Jones* case, the prospect of having Mr.

Vernon Jordan assist in her job search. Ms. Lewinsky corroborates his recollection that it was her idea to ask for Mr. Jordan's help. The President also states that he was aware that Mr. Jordan was assisting Ms. Lewinsky to obtain employment in New York. The President denies that any of these efforts had any connection whatsoever to Ms. Lewinsky's status as a possible or actual witness in the *Jones* case. Ms. Lewinsky forcefully confirmed the President's denial when she testified, "I was never promised a job for my silence."

(5) The President denies that he "corruptly allowed his attorney to make false and misleading statements to a Federal judge" concerning Monica Lewinsky's affidavit.

The President denies that he corruptly allowed his attorney to make false and misleading statements concerning Ms. Lewinsky's affidavit to a Federal judge during the *Jones* deposition. The President denies that he was focusing his attention on the prolonged and complicated exchange between his attorney and Judge Wright.

(6) The President denies that he obstructed justice by relating "false and misleading statements" to "a potential witness," Betty Currie, "in order to corruptly influence [her] testimony."

The President denies that he obstructed justice or endeavored in any way to influence any potential testimony of Ms. Betty Currie. The President states that he spoke with Ms. Currie on January 18, 1998. The President testified that, in that conversation, he was trying to find out what the facts were, what Ms. Currie's perception was, and whether his own recollection was correct about certain aspects of his relationship with Ms. Lewinsky. Ms. Currie testified that she felt no pressure "whatsoever" from the President's statements and no pressure "to agree with [her] boss." The President denies knowing or believing that Ms. Currie would be a witness in any proceeding at the time of this conversation. Ms. Currie had not been on any of the witness

lists proffered by the *Jones* lawyers. President Clinton states that, after the Independent Counsel investigation became public, when Ms. Currie was scheduled to testify, he told Ms. Currie to "tell the truth."

(7) The President denies that he obstructed justice when he relayed allegedly "false and misleading statements" to his aides.

The President denies that he obstructed justice when he misled his aides about the nature of his relationship with Ms. Lewinsky in the days immediately following the public revelation of the Lewinsky investigation. The President acknowledges that, in the days following the January 21, 1998 *Washington Post* article, he misled his family, his friends and staff, and the Nation to conceal the nature of his relationship with Ms. Lewinsky. He sought to avoid disclosing his personal wrongdoing to protect his family and himself from hurt and public embarrassment. The President profoundly regrets his actions, and he has apologized to his family, his friends and staff, and the Nation. The President denies that he had any corrupt purpose or any intent to influence the ongoing grand jury proceedings.

FIRST AFFIRMATIVE DEFENSE:
ARTICLE II DOES NOT MEET THE CONSTITUTIONAL STANDARD FOR CONVICTION AND REMOVAL

For the reasons set forth in the **PREAMBLE** of this **ANSWER**, Article II does not meet the constitutional standard for convicting and removing a duly elected President from office and should be dismissed.

SECOND AFFIRMATIVE DEFENSE:
ARTICLE II IS TOO VAGUE TO PERMIT CONVICTION AND REMOVAL

Article II is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against the President. Article II alleges that the President "obstructed

and impeded the administration of justice" in both the *Jones* case and the grand jury investigation. But it provides little or no concrete information about the specific acts in which the President is alleged to have engaged, or with whom, or when, that allegedly obstructed or otherwise impeded the administration of justice.

As we set forth in the **SECOND AFFIRMATIVE DEFENSE TO ARTICLE I,** one of the fundamental principles of our law and the Constitution is that a person has the right to know what specific charges he or she is facing. Without such fair warning, no one can mount the defense to which every person is entitled. Fundamental to due process is the right of the President to be adequately informed of the charges so that he is able to confront those charges and defend himself.

Article II sweeps too broadly and provides too little definite and specific identification. Were it an indictment, it would be dismissed. As an article of impeachment, it is constitutionally defective and should fail.

THIRD AFFIRMATIVE DEFENSE:
ARTICLE II CHARGES MULTIPLE OFFENSES IN ONE ARTICLE

For the reasons set forth in the **THIRD AFFIRMATIVE DEFENSE TO ARTICLE I**, Article II is constitutionally defective because it charges multiple instances of alleged acts of obstruction in one article, which makes it impossible for the Senate to comply with the

Constitutional mandate that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article II should fail.

Respectfully submitted,

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David E. Kendall
Nicole K. Seligman
Emmet T. Flood
Max Stier
Glen Donath
Alicia Marti
Williams & Connolly
725 12th Street, N.W.
Washington, D.C. 20005

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Charles F.C. Ruff
Gregory B. Craig
Bruce R. Lindsey
Cheryl D. Mills
Lanny A. Breuer
Office of the White House Counsel
The White House
Washington, D.C. 20502

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