

November 10, 1961

Mr. Stuart T. Saunders, Chairman
Virginia Industrialization Group
% Norfolk and Western Railway Company
Roanoke, Virginia

Dear Mr. Saunders:

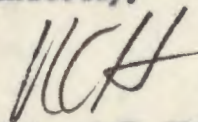
As you know, I have been checking here in connection with the legal aspects of my status with the Virginia Industrialization Group as it relates to your letter of September 28.

From what I can learn so far, my relationship to the Group as expressed in your letter would make it impossible for me to set up a deferred tax annuity, which I had anticipated doing when I accepted the job. As I understand it, some sort of document needs to be filed establishing the Virginia Industrialization Group as a non-profit organization and with me working for it, rather than a consultant to it, if I am to be able to do this.

I talked with Harvie Wilkinson this morning and he suggested I write you to see what steps might be taken to clarify this situation. I imagine it is something that the lawyers could take care of without too much difficulty.

Meanwhile I will hold your letter here in the hope that something can be worked out inasmuch as this would cost me more than \$2,000 a year if my status has to remain as you indicate.

Sincerely,



Richard C. Holmquist

RCH:ksq

CC: ✓ Mr. Lewis F. Powell, Jr.
Mr. J. Harvie Wilkinson, Jr.

NORFOLK AND WESTERN RAILWAY COMPANY
ROANOKE, VIRGINIA

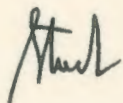
November 14, 1961.

STUART T. SAUNDERS
PRESIDENT

Dear Lewis,

You received a copy of Dick Holmquist's letter of the 10th to me. Won't you please look into this matter and let me have your views. If Jim Carr can be of any assistance, please call on him. I have told him you may get in touch with him.

Sincerely,



Lewis F. Powell, Jr., Esquire,
Attorney at Law,
Electric Building,
Richmond, Virginia.

8870-80
Extra

MEMORANDUM

To: Mr. Powell
From: H. Brice Graves

November 16, 1961

Virginia Industrialization Group

Richard C. Holmquist

At the time Mr. Holmquist accepted employment by Virginia Industrialization Group he apparently thought that it would be possible for him to arrange that a portion of his compensation would be withheld and applied to the purchase of an annuity for his benefit, and of course the only advantage in that procedure would be gained by being able to exclude the amount applied to the purchase of the annuity from the taxable income of Mr. Holmquist.

The statutory provision in this area is contained in §403(b) of the Internal Revenue Code of 1954. That section provides that if "an annuity contract is purchased for an employee by an employer described in section 501(c)(3) which is exempt from tax under section 501(a)", and if certain other specified requirements are met "then amounts contributed by such employer for such annuity contract * * * shall be excluded from gross income of the employee * * *".

I do not see any particular problem from a legal standpoint in arranging the situation so that Mr. Holmquist would be an employee of the Group. That would doubtless require

a more formal organization of the Group, but it could be done if the members of the Group were willing to do it. The barrier that seems virtually insurmountable to me is the requirement that the employer must be an organization described in §501(c)(3). That section relates to corporations, funds or foundations "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes" that meet certain additional requirements. It does not seem to me that the Group is operating in the charitable area at all. If it were organized in a more formal manner, it would be more in the nature of a business league, which would be exempt from income tax under §501(c)(6) but to which contributions would not be deductible as charitable contributions. Dues and other payments, however, if unrelated to political and legislative activities, would qualify as business expenses.

As you know, the fact that the organization is not organized for profit is not controlling since many non-profit organizations do not qualify as charitable organizations under §501(c)(3). My present reaction is that the Group could not qualify as a charitable organization if it retains its present purpose, which was stated in the letter of Mr. Saunders to Mr. Holmquist, dated September 28, 1961, to be the stimulation of "industrial growth and development in Virginia for the benefit of our respective businesses, and we hope also for the benefit of the State of Virginia generally." In view of your more intimate knowledge of the background, however, possibly you may be able

MEMORANDUM

To: Mr. Powell

November 26, 1961

From: H. Brice Graves

Virginia Industrialization Group

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to suggest an acceptable charitable purpose, and I will be glad to talk with you further at your convenience.

H. B. G.

/123

H. Brice Graves

11/16/61

L. F. Powell, Jr.

8870-85

Virginia Industrialization Group

I believe you are generally familiar, having talked with Mr. Holmquist, with the above group which is completely informal and has no legal entity.

You will note the enclosed letter from Mr. Holmquist and Stuart Saunders' request of November 14 that we look into Mr. Holmquist's request. I am also sending you herewith a copy of the letter agreement which I prepared for the informal group and submitted to Mr. Holmquist.

Possibly the answer is to organize a non-profit corporation if this can be done on a basis which would permit deduction for tax purposes of gifts. All concerned have sought in the past to avoid any formal legal entity - both for reasons of "politics" and convenience.

If you will give some thought to this, we can discuss it next week.

LFP, Jr.

24/166
Encl.

MEMORANDUM

to H. Brice Graves

DATE 11/16/61

FROM L. F. Powell, Jr.

FILE NUMBER 8870-85

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