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MEMORANDUM FOR: General Counsel

SUBJECT : Request for Determination of Creditable Service - Mr. David A. Phillips

1. This memorandum requests a determination as to whether service performed for CIA by Mr. David A. Phillips - as an independent contractor - during the period August 1950 until 3 March 1954 and again for the period 19 August 1958 until 13 March 1960 can be considered as creditable service under CIARDS. Mr. Phillips, currently a GS-18 staff employee assigned as Chief, Latin America Division, DDO, plans to retire in early May 1975.

2. Mr. Phillips was a resident of [redacted] in 1950 running an English-language newspaper when he was asked to work with the CIA Station there. Headquarters granted a Provisional Operational Clearance for his use on 2 May 1950 under Project FULMINATER. The operational file contains a project approval for FULMINATER-1 (Mr. Phillips) issued 31 May 1950 in the amount of \$65.00 (\$50 per month salary plus \$12.50 expenses) for the month of June 1950 and an amount of \$780 for FY 1951. An operational dispatch, TCS-A 11064 dated 10 July 1950, from the Chief of Station, [redacted] requested that the first payment be made 1 August 1950 for the month of July 1950 in the amount of \$50.00 to Mr. Phillips' bank account in Fort Worth, Texas. A payment in the amount of \$50 was to be made on the first of each month thereafter until further notice".

3. On 17 November 1950, the Chief of Station, [redacted] advised Headquarters that the Station had acquired a safe apartment for Mr. Phillips to be used by Mr. Phillips in having an agent polygraphed by a Headquarters polygraph team.

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4. Mr. Phillips states:

"During this period I recall a number of activities undertaken for the Station, and I travelled to New York for clandestine training. The file indicates 'He was originally approved operationally to handle the complex Soviet espionage case of [FULMINATER-2. His conduct of this case was considered excellent.?' Also, 'It will be recalled that Headquarters was very pleased with the printing job...which he had done.' The latter was indicative of a number of such chores, when I stayed behind in my plant after the employees had left for the night, printing leaflets, booklets, etc. I also handled agents and did a number of spotting and assessing jobs for the Station.

"I signed a new contract on 25 January 1952 for \$500.00 per month which ran until the termination date of 31 August 1953. (Actually this was in the form of a loan which was paid off at the rate of \$500.00. The advance was used to purchase printing equipment which allowed me to do certain work for the Station, but which I retained.)

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"After termination of the contract on 31 August I remained in [redacted] until 4 March 1954. During this period I recruited a [CP] agent who still works for the Station--and was a cabinet member under [redacted]. On 3 February 1954 Headquarters asked that I be made available for another assignment. The Station pointed out that I was working on the recruitment, and that I and my family were planning on a European vacation. Headquarters again requested my assignment. Thus I departed for the Guatemala project in early March, abandoning my free family trip to Europe (tickets paid for by advertising in my paper) and leaving my family behind to pack up. I accepted this assignment without knowing where it was, or for how long it would last. Indeed I did not even have a contract.

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"I worked for the Agency in [redacted] then, between 1 August 1950 until departure for PPSUCCESS on 4 March 1954. I was always available and when I finally did leave it was for Agency business rather than my own."

5. As indicated in Mr. Phillips' statement above, he became an Agency contract employee on 4 March 1954 in connection with Project PSSUCCESS. The following is a record of his employment history beginning 4 March 1954:

<u>Date</u>	<u>Action</u>
4 March 1954	Contract Employee
31 July 1954	Contract terminated
1 August 1954	Contract Employee
31 March 1955	Contract terminated
1 April 1955	Excepted Appointment Staff Employee
6 February 1956	Resignation Staff Employee
7 February 1956	Excepted Appointment Staff Agent
13 August 1958	Resignation Staff Agent
19 August 1958	Contract Agent
13 March 1960	Contract terminated
14 March 1960	Excepted Appointment Staff Employee

6. On 13 August 1958, Mr. Phillips resigned from the Agency as a staff agent with the intention of opening a public relations firm in Havana, Cuba. In anticipation, however, of using him operationally in Cuba, WH Division requested that a contract be prepared for him as an independent contractor with compensation to be \$7200 per annum. The contract information checklist stated that Mr. Phillips would be engaged in PP activities "as assigned by the Chief of Station, Havana according to Station requirements". On 11 August 1958, the Chief, WH Division sent a cable to the Chief of Station, Havana stating that Mr. Phillips was leaving CIA to start his own firm in Havana and that "Headquarters arranging employment Mr. Phillips at \$7200 per year effective 15 August as contract agent to carry out such KUGAGE tasks as COS may assign. Payment details being pouched." On 16 September 1958, the Chief, WH Division sent another cable to the COS, Havana stating that based on talks with Ambassador Walter Donnelly in New York, Ambassador Donnelly stressed the need to supply a programming technician to Radio [redacted] as soon as possible. The cable further stated: "Since PCS officer with these talents due arrive [redacted] mid-October, current need is for Mr. Dave Phillips/TDY [redacted] possibly early as week of 22 September and to remain perhaps one month."

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7. The contract for Mr. Phillips, effective 19 August 1958, was amended to reflect additional compensation while serving outside Cuba. The amendment read, in part: "In full consideration for the purchase of such information and services you will be compensated in an amount calculated at the rate of \$7200 per annum except that for those periods of time during which you are performing services necessitating certain specialized professional skills on a full time basis outside the country of your present permanent assignment, you will be compensated at the rate of \$13,000 per annum." Travel and operational expenses were authorized as follows: "While performing those tasks for which you will be compensated at the rate of \$13,000 per annum, as set forth in paragraph one (1) above, you will be advanced or reimbursed funds for necessary expenses incurred in connection with such operational travel as may be directed or authorized by the Government. This may include per diem in lieu of subsistence in the course of such travel and while on temporary duty away from your permanent post of assignment overseas. In addition, you will be advanced or reimbursed funds for necessary operational expenses as specifically approved by the Government. Payment and accounting for the items set forth herein will be in conformance with applicable Government regulations."

8. The following information is supplied by Mr. Phillips concerning his Cuban assignment:

"In the summer of 1958 I resigned from the Agency with the intention of opening a public relations firm in Havana, Cuba. In discussing this the then-Chief, then-WII Division, Col. King asked me if I would work for the Agency in Cuba. Understanding that this referred to part-time work which would allow me to pursue my own endeavor, I agreed and a contract was drawn up and made effective 15 August 1958. This was in Washington. The Station in Havana was advised on 11 August prior to my departure on 13 August.

"After settling in and renting an office in Havana I was asked if I would travel on full-time Agency work. A cable on 16 September 1958--about one month after I arrived in Havana--requested that I prepare for a TDY to [redacted] of 'perhaps one month'. I replied that I would be ready to go 'anytime after 24 September'. My contract was amended to indicate that I might be called on for future travel outside Cuba. I did in fact go to [redacted] on 28 September.

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"This trip set a pattern which continued during my eighteen months in Cuba. I travelled several times on the project which began with the [redacted] trip--an area-wide television developmental project--remaining outside Cuba for long periods. This continued through late summer of 1959.

"Fidel Castro toppled Batista the last night of 1958. From that time I was devoting most of my time to the Agency. I ran, from my office, a country-wide press service. I handled several agents. In the summer of 1959 I was instructed by the Station to attend a meeting with a group of Cubans plotting against Fidel Castro. (See Memorandum for the Record of 6 August 1959.) The last sentence of my report on this meeting read: 'With the new death penalty in Cuba for anti-revolution activity, it is not hard to imagine that at least one member of this group might inform to the government.' That was prophetic. The Cubans in the meeting, with two exceptions, went to jail where several of them remain to this day. There was some indication that the meeting might have been bugged. I was advised of this while in the U. S. (still working on the television project) and the Station suggested there might be danger in my returning to Havana. I elected to return.

"By this time (late summer of 1959) Fidel Castro had eliminated 'public relations'. I had no clients, and no prospect of obtaining them. Despite this I stayed in Havana until March of 1960 doing nothing but Agency work. When I did return it was acknowledged that I would be coming back to staff status (my contract was amended again while I was still in Havana to pay for shipment of furniture). Immediately on arriving in the Washington area I began to work as a staffer on the Bay of Pigs operation.

"In summary: Despite intent on my part to have a private business, I began working for the Agency when I arrived in Havana, often in TDY status which was full-time Agency work. I never obtained a major client for my public relations firm. I was always on call and working on instructions from the Station until recalled for the Headquarters assignment. There was some risk in much of what I was tasked to do by the Station."

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9. Your determination is requested as to whether the period from August 1950 until 3 March 1954 and again for the period 19 August 1958 until 13 March 1960 can be considered as creditable service for retirement purposes for Mr. Phillips.

B. DeFelice
Deputy Director of Personnel

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