

TO: HIRING COMMITTEE

FROM: DAN RIZZO, DIVISION A

SUBJECT: APPLICANT BARRY SMITHERMAN

DATE: OCTOBER 28, 2002

On October 16, 2002, I met with applicant Smitherman. He is a very articulate and intelligent person. He attended Texas A & M with an accumulative GPA of 3.8. He went to UT for law school and had a B average. He also attended Graduate School at Harvard Business School and received an A- GPA.

Smitherman worked as a banker and public finance officer for all of his years after school ended. He said that he went to law school to become a trial attorney but ended up after law school in the bond division of a law firm and then decided to attend business school. He spent 16 years as an investment banker.

His qualifications for public speaking include "pitching" the bank's plans to council members and other politicians. He doesn't not appear timid while speaking to others.

I asked him why he would want to come here and work for minimal money after what he's done and earned. He said that he and his wife have saved their money during the 16 years of working. He said that he doesn't need the money. He asked himself, "What would I do for free" and came up with being a prosecutor. He said that he wanted to be an FBI agent all the time growing up.

Smitherman is doing consulting jobs until we make a decision on hiring him. He's trying to be as flexible as possible until the hiring committee meets.

He said that one of his biggest assets is taking a complicated subject and "boiling it down" to explain it to people who don't have any experience in an area. This is what he did in public finance.

Smitherman is opposed to the death penalty for religious reasons. He said that being pro-life doesn't "square with" the death penalty. I explained that being in favor of the death penalty is not required to work here.

Smitherman is interested in eventually getting into prosecuting white-collar crime.

Smitherman was fired from his last job at BankOne. He wrote an Op/Ed piece for the Chronicle where he gave suggestions for improving the bond rating for the City of Houston. Someone from the Mayor's Office called BankOne in Chicago where he worked and got him fired (see attached articles).

I spoke to John Tamagni at Lazard Freres in Houston. He is the manager of a Houston Public Finance Company. He worked with Smitherman "in the late 80's or early 90's". He said Barry opened their Houston office for them. He said Smitherman left under good circumstances for a better job. He described Smitherman as hard working, honest, and had "nothing but good things to say about him". He believed that Barry could be good in court since he would have to be somewhat combative in business situations. He said that he "has no reservations about his integrity". He said Smitherman is very presentable to groups and very articulate. He also said that he has no reason to think that Smitherman would be anything but ethical.

I spoke to Damon Smith at J.P. Morgan. He is a Vice President. He said that he's known Smitherman since the 80's. He talked Smitherman into coming over to J.P. Morgan. He described Smitherman as very bright and aggressive. He said Barry left for a better job at BankOne. He didn't want to lose Barry. He felt Smitherman was a person of high caliber and "could really see him becoming a DA". When I asked him why, he replied that Barry is very aggressive and has bulldog like qualities while always taking the high ground. He said that Barry is interested in politics and wasn't sure of the specifics behind his firing at BankOne. He said that everyone on Houston City Council knows him and that writing a piece about the City might not sit well for business with a large company.

I didn't try hard to talk to anyone at BankOne since there may be litigation over the firing (per Smitherman) and I doubt anyone would talk to me there.

I would rank Smitherman as a **VERY GOOD**.

I had Smitherman run for criminal history in Texas and Illinois. It all came back clear (attached).

We also checked his State Bar records (public) and found no disciplinary problems, although he is currently listed as INACTIVE since his CLE isn't current (also attached).