TABLE OF CONTENTS

INTRODUCTION

This collection of exhibits consists mostly of pleadings, evidence, exhibits, and judges' opinions in legal cases, with the only exceptions being No. 15, a magazine article, and No. 12, complaints filed with the Massachusetts Board of Bar Overseers.

These materials are offered to show the chronic, nation-wide contempt which the defendants have shown for all judicial process. These materials clearly demonstrate that the defendants, according to written policy, will use any means legal or illegal to subvert and frustrate judicial process against them, and will willingly and knowingly abuse judicial process in order to attack their perceived "enemies". The victims of these attacks include lawyers, judges, witnesses, and party defendants.

The following is a brief characterization of each of the included documents.

1. Purpose of a Lawsuit. This exhibit includes two items. The first is a magazine article written by L. Ron Hubbard, the founder of Scientology, describing how to use a lawsuit to harass opponents (see page 53). The second is an internal Scientology document, now part of the court record in U.S. v. Mary Sue Hubbard, Cr.No. 78-401 (D.Ct.,D.C.). It states that the object of litigation with the I.R.S. is delay.

2. "Freedom of Speech Includes Freedom to Malign". This document, written by Jane Kember, includes a blunt description of how knowingly frivolous lawsuits can be used to drive publishers into submission. Kember states that since in the U.S. a person who loses a lawsuit is not required to pay the opponents costs, such lawsuits are an effective means of imposing unbearable financial burdens on publishers and thereby suppressing publication of materials on Scientology.

3. Allard Case. In this case a jury awarded a $300,000 verdict to a former Scientologist who, having left the cult, was framed and subjected to malicious prosecution by the Scientologists.

4. Cazares Case. Federal Judge Kent Sharman found that the Scientologists' lawsuit against the former Mayor of Clearwater, Florida was totally frivolous and ordered the Scientologists to pay his attorney's fees in the amount of $38,000. Judge Krentzman was upheld on appeal by the Fifth Circuit Court of Appeals.

5. Alberta Case. The Scientologists sued several former members for libel in Alberta, Canada. After the proceedings had gone on for some time, the Court concluded that "the entire conduct of the Plaintiffs is not one that should be countenanced by our courts" and gave the defendants the "rare and exceptional" remedy of a $60,500 award to cover their attorneys fees.

6. Conway and Siegelman Case. Court notes the existence of frequent libel suits by the Scientologists and comments on the appropriateness of awarding attorneys fees in frivolous cases.

7. Vaitsos Decision. Another Scientology libel case. The Court notes the Scientology tactic of suing the same defendant simultaneously in many remote jurisdictions.

8. Damman Testimony re: Perjury. Under oath, in a Danish court proceeding, which took place in March of 1981, Vibike Damman Describes how the Guardians Office instructs and orders Scientologists to lie in court.

9. McClean Case. The Scientologists sued former members John and Nancy McClean. In the course of proceedings they attempted to disqualify the McCleans attorney. The trial court refused to disqualify. The Scientologists appealed

to the Fifth Circuit Court of Appeals, which held that the appeal was frivolous and ordered the Scientologists to pay the McLean's costs and attorneys fees.

10. Readers Digest Case. The Scientologists attempted to enjoin the publication of a Readers Digest article in Denmark. The Court held that the suit was without merit and ordered the Scientologists to pay the Readers Digest Dkr. 2000.

11. Lawsuits Against Attorneys Michael Flynn and Thomas Hoffman. Attorneys Flynn and Hoffman represent plaintiffs who are suing the Scientologists. The Scientologists have sued the attorneys and their employees. This exhibit includes the cover sheets of the suits and two court orders dismissing these suits.

12. Frivolous Bar Complaints. The exhibit includes cover sheets of frivolous bar complaints against attorneys representing plaintiffs who are suing Scientology.

13. Church of Scientology v. Cooper. In this opinion, Federal Judge Hauk describes an incident in which a Scientologist was found wandering around in a security area in the Los Angeles Federal Courthouse.

14. Motion to Disqualify. Self-explanatory.

15. Article From "American Lawyer". Describes a number of covert operations against judges who were sitting on Scientology cases.

16. Investigations of Judges. The three parts of this exhibit describe Scientology operations to investigate the personal backgrounds and families of judges deliberating in Scientology cases. These exhibits are internal Scientology documents seized by the F.B.I. from their headquarters in

1977 and now part of the court record in U.S. v. Mary Sue Hubbard, supra.

17. Affidavit Regarding Infiltration. This Affidavit of Dennis Culligan describes the efforts of a Scientology lawyer to infiltrate the State's Attorneys office and his successful infiltration of the lawfirm representing Mayor Cazares, who was then being sued by the Scientologists.

18. Stipulation of Evidence. This lengthly document was the agreed basis for the conviction of nine of the Church's top leaders in Federal Court in Washington, D.C. It includes a variety of criminal actions committed by the Scientologists, including obstruction of justice.

19. Instructions on how to Lie. An internal Scientology document containing instructions on how to lie effectively.

20. Instructions on how to Steal Documents. This appalling document is self explanatory. It was seized in the F.B.I. raid. The second part of the exhibit shows full knowledge by Scientology officials of ongoing burglaries.

21. More Instructions. Self-explanatory.

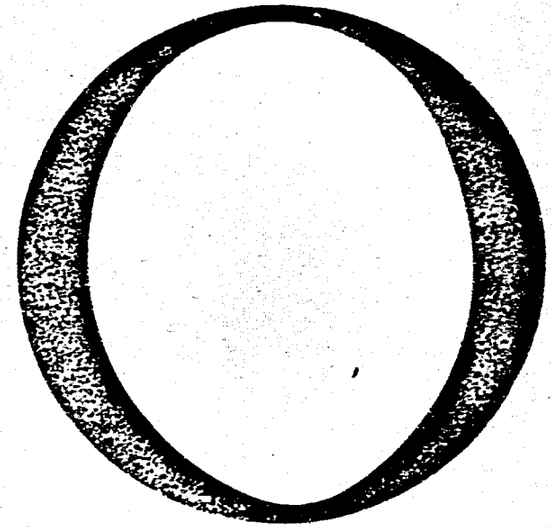
22. "Bulldozer Leak". This document describes an operation to frustrate service of legal process by fraudulent means. This document was seized in the F.B.I. raid.

23. Project Quaker. This document describes an operation to obstruct justice by concealing witnesses. Also taken in the F.B.I. raid.

24. Early Warning System. A scheme to frustrate legal process by fraudulent and criminal means. This document was also taken in the F.B.I. raid.

MAGAZINE ARTICLES ON

LEVEL



CHECKSHEET

BY L.RON HUBBARD

Dissemination of Material

The dissemination of materials of Scientology is a problem of comparable stature to the use of techniques on a preclear in an auditing session. Just as you would not process a preclear with heavy processes when all he could take might be ARC Straight Wire, thus you would not issue Scientology materials of considerable weight to people incapable of assimilating them.

The immediate result of the issuance of materials not intended for that audience is to produce a state of confusion in the minds of that audience regarding Scientology. Here we have no question of talking down to people. Here we have no question of 'watering' our material, but we do have a question of disseminating Scientology. If we do it properly, then Scientology will be very broadly known. If we do it improperly it will stop in its tracks, and be known, if at all, as a confusion.

When materials are issued above the acceptance level of an audience, a confusion results. A confusion is the antithesis of a flow. Any communication resulting in a confusion then brings about an eddy or tumbling of particles rather than their spread. And a confusion at length becomes a mystery.

Part ten of the Code of a Scientologist says: "I pledge myself to engage in no unseemly disputes with the uninformed on the subject of my profession." This is an immediate injunction not to start an eddy of confusion. The employment of Scientology to the greatest good of the greatest number of Dynamics does not include using it knowingly or unknowingly to confuse hearers.

An outline of the communication lines of Scientology follows:

1. The General public to the general public.
2. Scientologists to the general public.
3. Member HASI to member HASI.
4. Trained Scientologist to a member of the HASI.
5. Member of the HASI to a preclear.
6. Trained Scientologist to a preclear.
7. Trained Scientologist to a trained Scientologist.
8. HASI to membership.
9. HASI to trained Scientologist.
10. HASI to the general public

1. GENERAL PUBLIC TO THE GENERAL PUBLIC

There are several things we would like the general public to say to the general public about Scientology. The first of these is that we would like the general public, when it sees an individual or group problem, to be quite certain that the proper thing to do is for that individual or group to consult a Scientologist. For instance, if somebody is having headaches, we would like his friends to come to the obvious solution that this person should see a Scientologist or should join a group undergoing processing.

The next on this communication line is that Scientology does not pose any threat, that Scientologists are good citizens, and that they can be trusted with problems of a private and confidential nature, or with problems dangerous to other people, such as the problem of criminality. Another frame of mind we would like to see the public have and register is that people attacking Scientologists have something wrong with them (and if you could meet any such people personally you would see that this is no more than truth). As a subdivision of this, the actual substance of communication about what Scientology is, from the general public to the general public, should be that Scientology says that good health and immortality are attainable. That it is something compounded out of all Man knows of the subject of Man, and that people are living units operating bodies, rather than bodies, and that this living unit is the human soul. Given this much communication line, the general public can embroider enormously, and unless a person in the general public can express his opinions, and unless the subject gives him a chance to express his own opinions, and so let HIM be interestING, he will not talk about the subject. Thus the data in the general public should give individuals a chance to be interesting, by knowing no more and no less than the above. We are not interested in sensationalism personalities, or the complexity of Scientological methodology being discussed by the general public. As a subdivision of this, we do not want Scientology to be reported in the press, anywhere else than on the religious page of newspapers. It is destructive of word of mouth to permit the public presses to express their biassed and badly reported sensationalism. Therefore we should be very alert to sue for slander at the slightest chance so as to discourage the public presses from mentioning Scientology What the newspapers say is not word of mouth. As an example of this, how many minutes today have you spent in discussing current events? NEWSPAPER REPORTERS WRITING ARTICLES ON SCIENTOLOGY DO NOT EXPRESS SCIENTOLOGY. Scientologists should never let themselves be interviewed by the press. That's experience talking!

As a subdivision of general public to general public we have the problem of the professions which might consider Scientology to be antipathetic to them, amongst these would be psychologists and medical doctors as well as psychiatrists. These persons are entirely in error when they express the opinion that Scientologists are against

be against. Flour-pills or any incantation or system will produce 22 per cent. of the public, benefit. Therefore, any practice can always achieve 22 per cent. recovery in their patients. It is when we better this 22 per cent. that we are being efficient. We have no more quarrel with a psychologist than we would have with an Australian witch-doctor. We have no quarrel with a pychiatrist any more than we should quarrel with a barbarian because he had never heard of nuclear physics. And as for the medical doctor, we know very well that modern medical practice, having lately outgrown phlebotomy, has come of age to point where it can regulate structure in a most remarkable and admirable way. In Scientology we believe a medical doctor definitely has his role in a society just as an engineer has his role in civil government. We believe that a medical doctor should perform emergency operations such as those made necessary by accidents; that he should perform orthopaedics; that he should deliver babies; that he should have charge of the administration of drugs; that his use of antibiotics is beneficial; and that wherever he immediately and curatively addresses structure he is of use in a community. The only place we would limit a medical doctor is in the field of treatment of psychosomatic medicine, where he has admittedly and continuously failed, and the only thing we would ask a medical doctor to change about his practice is to stop taking money for things he knows he cannot cure, i.e., spiritual, mental, psychosomatic, and social ills.

With regard to psychologists, medical doctors, and psychiatrists, then, what would one say in talking with them? But again we have section 10 of the Code of the Scientologist. You wouldn't expect this psychologist, or phychiatrist, or medical doctor to get into an argument with you on how to get rats or find their way through mazes, how you would set a tibia, or what voltage you would put on an electric shock machine. Therefore, and equally, do not permit yourself to be put in the situation where you are discussing privately or in public, the methodologies of your wisdom. The attitude of a Scientologist toward people is these professions should be: "I have my techniques. It took me a long time to learn them just as it took you a long time to learn yours, and I am not going to try to make a minister out of you, and you are not going to try to make a medical doctor (psychiatrist, psychologist) out of me. I am an expert instructor only where it is intimately involved with the human spirit. I can produce my effects. You can produce yours. In view of the fact that you do not pretend to operate in the field of the human spirit, and I do not pretend to operate in the field of structure, I do not see how there can be any discussion. But things that I can't handle in structure when called upon I will be very happy to refer to you, and I shall expect that when matters of the spirit come into question you will have enough understanding of life, where we are all specialists, to refer them to me" A quiet explanation of this character will do a great deal to place you as a professional man in their realm of understanding of professional men.

Should anyone challenge you for having [illegible] secured a relief in a hospital or an institution from some malady which balked the efforts of the professional men in charge of it, and should you ever be "called upon the carpet" for having "interfered" with the progress of a case, you should be extremely dismayed, and act it, to find yourself in the presence of barbarians who do not believe in the power of prayer, in the will of God, or the promises of Jesus Christ. And you should point out that, whereas the body was in their keeping, they did not at any time care to take purview of the human soul. And if anything has occurred because the soul, in your province, then reacted upon the body, you believe that they are unwilling to admit the will of God in their treatment of human beings, and if this is the case you now, while you are being addressed by such people, discover yourself to be in a strange place where men pretending to be Christians doubt God, the Son of God, and the power of prayer. Your entire address to such people, in such a situation, publicly or privately, should be entirely overt, accusative, and not at any time apologetic. And you should immediately make it your business to place this matter before the proper authorities, that people are in charge of an institution here, are not Christians, and do not believe in God, and you should inform your accusers that you are going to do so.

Should you ever be arrested for practicing Scientology, treating people, make very sure, long before the time comes, that you have never used drugs or surgery, and that you have never prescribed a diet, or vitamins, and when that time might come, make very sure that you immediately and instantly, within two or three hours after your receipt of the warrant, have served upon the signer of that warrant, a personal civil suit for $100,000.00 damages for having caused the arrest of a Man of God going about his business in his proper profession, and for having brought about embarrassing publicity and molestation. Place the suit and WIRE THE HASI IMMEDIATELY. Make the whole interest during the entire time of such an unfortunate occurrence the fact that the signer of such a warrant, who would ordinarily be a medical doctor in charge of the medical department of some city, had dared fly in the teeth of religion. And use what is necessary of the earlier passage above to drive the point home. DO NOT simply fall back out of communication if you are attacked, but attack, much more forcefully and artfully and arduously. And if you are foolish enough to have an attorney who tells you not to sue, immediately dismiss him and get an attorney who will sue. Or, if no attorney will sue, simply have an HASI suit form filled out and present it yourself to the county clerk in the court of the area in which your case has come up.

IN ALL SUCH CASES OR ARREST FOR THE PRACTICE OF SCIENTOLOGY, THE HASI WILL SEND A REPRESENTATIVE AT ONCE, BUT DO NOT WAIT FOR HIS ARRIVAL TO PLACE THIS SUIT. THE SUIT MUST ALREADY HAVE BEEN FILED WHEN THE HASI ATTORNEY ARRIVES.

In other words, do not, at any moment leave this act unpunished, for, if you do you are harming all other Scientologists in the area. When you are attacked it is your responsibility then to secure from further attack not only yourself but all those who work with you. Cause blue flame to dance on the court house roof until everybody has apologized profusely for having dared to become so adventurous as to arrest a Scientologist who, as a minister of the church, was going about his regular duties. As far as the advances of attorneys go that you should not sue, that you should not attack, be aware of the fact that I, myself, in Wichita, Kansas, had the rather interesting experience of discovering that my attorney employed by me and paid by me, had been for some three months in the employ of the people who were attacking me, and that this attorney had collected some insignificant sum of money after I hired him, by going over to the enemy and acting upon their advices. This actually occurred, so beware of attorneys who tell you not to sue. And I call to your attention the situation of any besieged fortress. If that fortress does not make sallies, does not send forth patrols to attack and harass, and does not utilize itself to make the beseiging of it a highly dangerous occupation, that fortress may, and most often does, fall.

The DEFENSE of anything is UNTENABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate or a court of law. NEVER BE INTERESTED IN CHARGES. DO, yourself, much MORE CHARGING, and you will WIN. And the public, seeing that you won, will then have a communication line to the effect that Scientologists WIN. Don't ever let them have any other thought than that Scientology takes all of its objectives.

Another point directly in the interest of keeping the general public to the general public communication line in good odor: it is vitally important that a Scientologist put into action and overtly keep in action Article 4 of the Code: "I pledge myself to punish to the fullest extent of my power anyone misusing or degrading Scientology to harmful ends." The only way you can guarantee that Scientology will not be degraded or misused is to make sure that only those who are trained in it practice it. If you find somebody practicing Scientology who is not qualified, you should give them an opportunity to be formally trained, at their expense, so that they will not abuse and degrade the subject. And you would not take as any substitute for formal training any amount of study.

You would therefore delegate to members of the HASI who are not otherwise certified only those processes mentioned below, and would discourage them from using any other processes. More particularly, if you discovered that some group calling itself "precept processing" had set up and established a series of meetings in your area, that you would do all you could to make things interesting for them. In view of the fact that the HASI holds the copyrights for all such material, and that a scientific organization of material

can be copyrighted and is therefore own[illegible] the least that could be done to such an area is the placement of a suit against them for using materials of Scientology without authority. Only a member of the HASI or a member of one of the churches affiliated with the HASI has the authority to use this information. The purpose of the suit is to harass and discourage rather than to win.

The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.

A D.Scn. has the power to revoke a certificate below the level of D.Scn. but not a D.Scn. However, he can even recommend to the *CECS of the HASI that D.Scns. be revoked, and so any sincere Scientologist is capable of policing Scientology. This is again all in the interest of keeping the public with a good opinion of Scientology, since bad group processing and bad auditing are worse than bad publicity and are the worst thing that can happen to the general public to general public communication line.

The best thing that can happen to it is good auditing, good public presentation, and a sincere approach on the subject of Scientology itself. Remember, we are interested in ALL treatment being beneficial, whether it is Scientology or not. For bad treatment in any line lowers the public opinion of all treatment.

In addressing persons professionally interested in the ministry, we have another interesting problem in public presentation. We should not engage in religious discussions. In the first place, as Scientologists, we are gnostics, which is to say that we know what we know. People in the ministry ordinarily suppose that knowingness and knowledge are elsewhere resident than in themselves. They believe in belief and substitute belief for wisdom. This makes Scientology no less a religion, but makes it a religion with an older tradition and puts it on an intellectual plane.

Religious philosophy, then, as represented by Scientology, would be opposed in such a discussion to religious practice. We are all-denominational rather than non-denominational, and so we should be perfectly willing to include in our ranks a Moslem, or a Taoist, as well as any Protestant or Catholic, while people of the ministry in Western civilization, unless they are evangelists, are usually dedicated severely to some faction which in itself is in violent argument with many other similar factions. Thus these people are ready to argue and are practiced in argument, and there are more interpretations of one line of scripture than there are sunbeams in a day. Beyond explaining one's all-denominational character, explaining that one holds the Bible as a holy work, one should recognize that the clergy of Western Protestant churches defines a minister or the standing

*Committee for Examinations, Certification and Services.

TO: DG LEGAL US

DG FINANCE US

DG PR US

DG INFO US

DDG US

29 May 1975

RE: IRS STRATEGY

FROM: DG US

The overall IRS strategy, as established by CS-G is as follows:

1. To use any method at our disposal to win the battle and gain our non-profit status.

2. To buy all the time we can in terms of years as regards any final action by IRS. So we work to win, but ALSO to delay as time works on our side not theirs.

Please inform those of your staff involved with IRS of the above as it is the stable datum from which decisions will be made.

I would like from each of you a brief write-up of your current planning, adjusted as needed, that aligns our upcoming actions with the above strategy.

Love,

HENNING
Deputy Guardian US

LEGAL: Legal's basic strategy is holding out the carrot of California audit pending IRS Compliance re Similarly-Situated Orgs and the Hawaii Stipulated Judgment.

The Hawaii case is left open for an arena in which to go after the IRS re harassment.

Legal's draft of the Conspiracy Suit against Government, ARC, SBS, is scheduled to be ready to go to the Attorneys within a week. This suit names former IRS employees, but not at this/present the IRS, although the IRS will be informed pointedly of the suit's existence in such a way as there will be no doubt that the IRS can be added.

Legal's Targets on the IRS C of S of C Audit Program (GO 1645) are being pushed, as are the targets on GO 1627 (Legal Projects off of GO 1647).

Also the FOI action against IRS is proceeding and we have made our demand. IRS is expected to give up what they feel they must in about 2 weeks and we will then proceed to court to obtain withheld documents.

FINANCE: Finance is first out on the IRS C of S of C Audit Program and related Projects, building a rock-hard audit handling.

Finance is also assisting in the preparation of the Form 1023's (Application for Exemption.)

2. TO BUY ALL THE TIME WE CAN IN TERMS OF YEARS AS REGARDS ANY FINAL ACTION BY IRS. SO WE WORK TO WIN, BUT ALSO TO DELAY AS TIME WORKS ON OUR SIDE, NOT THEIRS.

Legal is the Bureau primarily involved in this part of the strategy. The IRS is co-operating in this regard, as their current effort to start California immediately relies on a threat to slow everything down. So our refusal to start California now has as its result, in the event of impasse, the implementation of the second part of the Strategy.

Legal is retaining the various means of adding great gobs of time to this cycle in the event the IRS ceases to produce results and exemptions. This is primarily accomplished by ceasing all communication and activity with IRS and returning to Court using the most time-consuming judicial routes.

Much Love,

MM/gmh

[illegible]

BAD COPY

GUARDIAN ORDER

GO 165

To all

A/Gs
D/G Legals
PROs

RE: BOOKS & ENTHETA WRITTEN ABOUT SCIENTOLOGY BY SPs

In the UK, the following legal actions have been done on entheta books which have been written about Scientology.

1. Satans Slaves - this was a book all about Charles Manson and hippie cults in California. In several places, throughout the book, Charles Manson was mentioned as a former Scientologist (untrue) and it was alleged that he got his start with Scientology etc.

The publishers of the book were sued for libel - they did not serve a defence but instead asked for settlement. It was agreed that they would pay us £100 damages, together with the costs of the action. They also agreed to make an apology in open court and to discontinue publication and sales of the book.

2. A psychologist by the name of Dr. Christopher Evans was writing a book entitled "20th Century Cults". Legal started writing to him and his publishers and later his lawyers. No proceedings were started because the book had not been published. However, endless letters were sent to and fro over a period of about a year, during which time it was made clear to the publishers and their lawyers that if they published the book, they would have to fight a legal action, which would lose them money.

Finally the publishers lawyers wrote to us to say that there was no point in continuing the correspondence because the publishers had now decided not to publish the book. As of this date, the book has not been published.

3. C.H. Rolph (small time author and journalist), was commissioned by the NAAFI U.K. to write a book on the subject of the NAAFI conflict with Scientology, from their viewpoint. PRO got in touch with Rolph - Rolph came down to SH and there were a series of friendly letters. Rolph finally submitted his manuscript to PRO but, in spite of the friendly visits, it turned out that he was just a NAAFI hack and had written an attack.

Legal wrote to him and his lawyers, and pointed out that publication would be a contempt of court (because of other legal actions which we have against the NAAFI). The book has not been published.

4. "Scientology: what it is - what it does" by Rev. Morris Burrell was the first book published in the UK, solely on the subject of Scientology. Burrell had been in comm with PEC and a long series of letters had passed between them. But once again, the book when published turned out to be hostile. The front cover of the book contained the Scientology double triangle and our first thought was to beg. legal proceedings for infringement of trademark. However, on reading the book, it was discovered that Burrell had mentioned a number of libel actions in which CofS was engaged and had commented upon them.

information fall out
P451

BAD COPY

[illegible]

Thus, being a contempt of court, legal moved
the court for an order "that Norris C. Burrell do stand
committed to Her Majesty's Prison at Brixton and that the
publishers may be so committed for their several and respective
contempts".

improve the write-up – not just saying the

So, legal took them to Court, and the Judge found
that the book was a contempt of court. So the book was
withdrawn from publication without any copies having been
sold to the public.

8. The latest book is by Cyril Vosper called "The Mindbenders",
a stupid bit of matter. A preview of the book was sent out
by the publishers, and PRO was alerted by a phone call from
a TV station, who wanted a confrontation on TV with Cyril
Vosper. This gave the G.O. 24 hours to stop the book, the
TV confrontation and attendant bad publicity.

The book contained numerous quotes from Scientology
books and policy letters etc and contained some data which
Vosper had learned on the Solo Course. Legal proceedings
were brought on the basis of breach of copyright and breach
of confidential relationship (meaning putting in details of
the Solo Course). As time was short, B4 did a superb job of
getting data, PRO did a superb job of stalling TV, and Legal
went round to the Judge in the evening at his own home, to ask
for an injunction. (An injunction is a Court order stopping
a person from doing a particular act). In this case the
injunction was to prevent the book from being sold or
distributed. PRO went down to the TV station, to be ready
to appear, in case the injunction was not obtained. The
programme announcer had already made his introductions on
Cyril and his book, when the phone rang in the studio, and our
lawyer informed the producer that the injunction had been
obtained. The announcer was forced to apologize to the
viewers, and PRO handled the resultant tension after the
programme had not gone on, with a drunken Vosper and furious
producer.

The injunction was Ex parte (the other side was
not present when it was obtained) and 3 weeks later legal
went before the Court again for a contested hearing, to see
whether the injunction should be continued or not. Legal won
on both counts of copyright and breach of confidence. The
other side now have 14 days in which to appeal.

The point of relating these actions is to indicate
that the following countries have similar laws to Britain:

New Zealand

Australia

South Africa

Canada

There is no acceptable justification in these
countries for no action being taken against the publishers
or authors of anthata Books. The G.O. has to act fast,
effectively and with imagination. The skill required is in

1) Having the brains to see a possible course
of action, no matter how unlikely,

2) Having the necessary organisation to start
that action immediately and bring it to a
point of confrontation and decision
(the longer the delay, the greater the chance
of failure).

3) Legal U.K. seldom, if ever, assesses ... chances of winning before commencing ... Its ability lies in getting the action into court fast, without a Q&A on the chances of winning. No-one can accurately assess in advance the chances of winning or losing; this is a matter of individual lawyers, individual judges, how many are breaks the judge had that day, the particular circumstance of the particular case which strikes the Judge and good fortune. Good fortune never ... you in Court, unless you are in Court.

4) Legal U.K. has been in court more often in the past 3 years than the rest of the Scientology world ...

There is no acceptable justification countries for no action being taken against the publishers or authors of enthota Books. The G.O. has to act fast, effectively and with imagination. The skill required is in

1) Having the brains to see a possible course of action, no matter how unlikely.

2) Having the necessary organisation to start that action immediately and bring it to a point of confrontation and decision. (The longer the delay, the greater the chance of failure).

3) Legal U.K. seldom, if ever, assesses its chances of winning before commencing action. Its ability lies in getting the action into court fast, without a Q&A on the chances of winning. No-one can accurately assess in advance the chances of winning or losing, as this is a matter of individual lawyers, individual judges, how many arc breaks the judge had that day, the particular circumstance of the particular case which strikes the Judge as wrong and good fortune. Good fortune never strikes you in Court, unless you are in Court.

4) Legal U.K. has been in courts more often in the past 5 years than the rest of the Scientology world combined. They have won more cases and lost more cases than anywhere else. They lost cases they were sure they would win, and won cases they were sure they would lose. The losses did not hurt us, and the successes established an iron clad ethics presence, which has probably prevented more enthota than we will ever know about (B4 feedback guidelines confirm this).

5) Do not worry about whether you will win or lose, but direct all effort and concentration on the legal technicalities required to achieve a legal confrontation.

6) It is always technically possible - though sometimes difficult, to get into Court. The most difficult part is in forcing your legal team, especially outside lawyers, to get this done, in spite of their terror of losing. It requires intention, determination and forceful persistance to get this done. Not legal genius.

Re USA

In America, where Freedom of Speech includes freedom to malign with impunity, except for old ladies and crippled men, much more imagination is required. Because of the Constitution of America, and case law on libel, inclusive of recent Supreme Court decisions, it is impossible to prevent publication of libel. Attempts to prevent a book being published are called pre-publication censorship, and are extremely unpopular legally. However, where U.S. legal has been successful is prior to Court appearances and actual trial in effecting settlement.

The button used in effecting settlement is purely financial. In other words, it is more costly to continue the legal action than to settle in some fashion. Using this, legal U.S. usually moves for retraction of the libel and/or publication of a correction or Scientology viewpoint.

Therefore, it is imperative that legal US Dev-T his opponents and their lawyers with correspondence (a lawyer's letter costs approx $50), phone calls (time costs), interrogatories, depositions and whatever else legal can mock up.

One of the bright spots of US legal is that even if you lose you don't pay your opponent for his lawyers fees. Therefore the cost of any legal action is small by comparison with Commonwealth Countries, where the loser pays everything.

N.B.: Any legal action or entheta publications needs the close co-ordination of PR, Legal and B4. One should carry forward without being afraid of being labelled litigious. We want the reputation that we use the laws of

BAD COPY

the Country to uphold our legal and civil rights.

EUROPE

Legal terminals have only just been set up and although the laws are different from Commonwealth and US laws, there are actions which can be taken if they are researched and forced through.

Up to this point, the G.O. has been entirely swayed by our wog lawyers negative opinions but legal in Europe should note the message in this Guardian order.

The message is that in combatting enthets articles and books, legal should be agressive, fast, persistent and untiring.

Every skirmish should be treated like a major battle.

Jane Kember
Guardian World Wide

GUARDIAN ORDER

CONFIDENTIAL

GO 637
DCs/ACs
AC FRs
AC Info's
AC Leg's

20th February 1979

OBSERVATIONS ON THE COURSE OF ANY SCIENTOLOGY

In the course of any scientology

is similar

the statement, she would not have considered it as a statement against either her pecuniary or proprietary interest.

[15] Appellants intimate also that Marian's hearsay statement was of a type that ought to be admissible against her adopted children as her successors in interest. If a hearsay statement qualifies as a declaration against interest under Evidence Code section 1230, it becomes admissible against any party to the litigation to the extent that it is relevant to an issue presented. Perhaps appellants have in mind another section of the Evidence Code, to wit, Evidence Code section 1225. Section 1225 makes admissible against a party a statement of a party's predecessor in interest which tended to impugn the interest of the predecessor at the time the predecessor held title and made the statement. The basis for reliability of this hearsay exception is that statements of a declarant, made while he has title to property and which are in disparagement of that title, are statements against the interest of the declarant.

[16] But Evidence Code section 1225 is not applicable in the case at bench, since Marian's adopted children, John and Elizabeth, as parties to the litigation, are not asserting an interest or right to the trust property which is dependent upon the prior right to this property of Marian, the declarant. The adopted children are not successors in interest to the interest which Marian had in the trust property. The interest of Marian's children is derived from the will of Huntington, just as Marian's own interest was derived from the will of Huntington. The children take their interest through Huntington and not through their mother, Marian, whose interest was solely that of a life beneficiary.

The judgment appealed from is affirmed.

FILES, P. J., and HUFSTEDLER, J., concur.

Hearing denied; WRIGHT, C. J., and MOSK, J., not participate.

58 Cal.App.3d 439

L. Gene ALLARD, Plaintiff, Cross-Defendant and Respondent,

v.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, Defendant, Cross-Complainant and Appellant.

Civ. 45562.

Court of Appeal, Second District, Division 2.

May 18, 1976.

Hearing Denied July 15, 1976.

Plaintiff brought action against defendant church for malicious prosecution, and defendant brought cross complaint for conversion. The Superior Court, Los Angeles County, Parks Stillwell, J., entered judgment on verdict awarding plaintiff compensatory and punitive damages and, from a judgment for plaintiff and against defendant on cross complaint, defendant appealed. The Court of Appeal, Beach, J., held that defendant was not deprived of a fair trial on ground of prejudicial misconduct by plaintiff's trial counsel, that procedure and verdict below did not constitute a violation of defendant's First Amendment free exercise of religion, that question as to whether inferences could be drawn that defendant, through its agents, was carrying out its own policy of forum in its criminal actions against plaintiff was for jury, that trial court's voir dire of prospective jurors was not improper by reason of alleged failure to question jurors as to their religious prejudices or attitudes, that it was not prejudicial error to direct jury, on its assessment of malicious prosecution claim, to disregard evidence that plaintiff stole attorney client from defendant, that award of $500,000 compensatory damages was proper, and that plaintiff was entitled to punitive damages, and award of punitive damages would be reduced to $50,000 under circumstances.

Affirmed as modified.

* Retired Justice of the Court of Appeal sitting by assignment of the Chairman of the Judicial Council.

1. Appeal and Error ⇐930(1), 989

When the evidence on appeal is very conflicting, the Court of Appeal must resolve those facts supporting the successful party and disregard the facts to the contrary.

2. Trial ⇐131(1), 133.6(1)

Though several of individual statements and questions made by plaintiff's trial counsel were inappropriate, where there often were no objections by counsel for defendant when an objection and subsequent admonition would have cured any defect, or there was an objection and trial court judiciously admonished jury to disregard comment, there was no prejudicial conduct by plaintiff's trial counsel, and defendant was not deprived of a fair trial.

3. Estoppel ⇐63

A party whose reprehensible acts are the cause of harm to another and the reason for the lawsuit by the other cannot be heard to complain that its conduct is so bad that it should not be disclosed.

4. Religious Societies ⇐31(5)

Evidence of policy statements and other peripheral mention of practices of defendant church was admissible in action for malicious prosecution where members of church were allowed to track, use, lie to or destroy "enemies" and, if plaintiff was considered to be an enemy as of most, policy was relevant to credibility issues.

5. Constitutional Law ⇐84

Introduction of evidence of policy statements and other peripheral mention of practices of defendant church did not constitute a violation of defendant's First Amendment free exercise of religion in action for malicious prosecution where [illegible]

6. Malicious Prosecution ⇐71(5)

[illegible]

a safe and whether references could be drawn that defendant, through its agents, was pursuing one of its policy of harassment in its action against plaintiff were questions of fact for jury in action for malicious prosecution.

7. Jury ⇐131(6)

Trial court's thorough questioning of prospective jurors as to whether they had any belief or feeling toward any of the parties that might be regarded as bias or prejudice for or against any of the parties was not improper in action against church for malicious prosecution, nor did it preclude counsel from questioning prospective jurors as to their religious precepts or attitudes, where questioning served purpose of voir dire, which was to select a fair and impartial jury, not to educate jurors or to determine exercise of peremptory challenges.

8. Appeal and Error ⇐1064.2

It was not prejudicial error to direct jury in its assessment of punitive [illegible] action claim against defendant church to disregard evidence that plaintiff prepared by stole members' checks from defendant.

9. Appeal and Error ⇐1013(6)

[illegible] action for malicious prosecution [illegible] fact no disparate defendant's [illegible] dismissed by district attorney of criminal case against plaintiff [illegible] not exist where discharge [illegible] all [illegible] plaintiff [illegible] his favor by [illegible] that court [illegible]

10. Libel and Slander ⇐33

[illegible]

11. Malicious Prosecution ⇐36

[illegible]

be presumed from a charge that is libelous per se, i. e., that a person committed the crime of theft.

12. Appeal and Error ⇐205

Refusal to allow, in connection with issue of damages in action for malicious prosecution, introduction of evidence on defendant's prior reputation was not error, much less prejudicial error, in absence of an offer of proof from defendant regarding such reputation.

13. Malicious Prosecution ⇐69

Presumed damage to plaintiff's reputation from an unfounded charge of theft leveled by defendant, along with imprisonment for 21 days, and mental and emotional anguish that must have followed were such as to justify a jury finding of $50,000 in compensatory damages in action for malicious prosecution.

14. Malicious Prosecution ⇐68

The jury in an action for malicious prosecution must have found knowledge of falsity or reckless disregard for the truth in order to award punitive damages.

15. Malicious Prosecution ⇐42

"Fair game" policy which was initiated by founder and chief official of defendant church and which operated to authorize members of chuch to treat "enemies" in such a manner as led to filing of criminal theft charge against plaintiff was sufficient to establish ratification necessary for an award of punitive damages.

16. Malicious Prosecution ⇐69

Disparity between compensatory damages of $50,000 and punitive damages of $250,000 suggested that jury may have been so enraged by defendant's conduct toward plaintiff that award of punitive damages in action for malicious prosecution may have been more the result of feelings of animosity, rather than a dispassionate determination of an amount necessary to assess defendant in order to deter it from similar conduct in the future, accordingly, award for punitive damages would be reduced to $50,000.

17. Appeal and Error ⇐215(1)

Claim that trial court instruction on probable cause in action for malicious prosecution was prejudicially erroneous could not be raised for first time on appeal.

18. Malicious Prosecution ⇐64(2)

While jurors in an action for malicious prosecution may consider that magistrate at preliminary hearing in previous criminal matter found probable cause for defendant's bringing charge against plaintiff, that should be in no way conclusive of jurors' own determination of probable cause.

Morgan, Wenzel & McNicholas by Gerald E. Agnew, Jr., Charles B. O'Reilly, Los Angeles, for plaintiff, cross-defendant and respondent.

Murchison, Cumming, Baker & Velpmen by Michael B. Lawler, Los Angeles, Tobias C. Tolzmann, Honolulu, Hawaii, Joel Kreiner, Los Angeles, for defendant, cross-complainant and appellant.

BEACH, Associate Justice.

L. Gene Allard sued the Church of Scientology for malicous prosecution. Defendant cross-complained for conversion. A jury verdict and judgment were entered for Allard on the complaint for $50,000 in compensatory damages and $250,000 in punitive damages. Judgment was entered for Allard and against the Church of Scientology on the cross-complaint. Defendant-cross complainant appeals from the judgment.

FACTS:

[1] The evidence in the instant case is very conflicting. We relate those facts supporting the successful party and disregard the contrary showing. (Nevarez v. City of Santa Monica, 6 Cal.3d 920, 925, 926, 101 Cal.Rptr. 568, 496 P.2d 1808.)

In March 1969, L. Gene Allard became involved with the Church of Scientology in Texas. He joined sections in Los Angeles

and was sent to San Diego for training. While there, he signed a billion-year contract agreeing to do anything to help Scientology and to help clear the planet of the "reactive people." During this period he learned about written policy directives that were the "policy" of the Church, emanating from L. Ron Hubbard, the founder of the Church of Scientology.[1] After training on the ship, respondent was assigned to the Advanced Organization in Los Angeles, where he became the director of disbursements. He later became the Flag Banking Officer.

1444 Alan Boughton, Flag Banking Officer International, was respondent's superior. Only respondent and Boughton knew the combination to the safe kept in respondent's office. Respondent handled foreign currency, American cash, and various travelers' checks as part of his job.

In May or June, 1969, respondent told Boughton that he wanted to leave the Church. Boughton asked him to reconsider. Respondent wrote a memo and later a note; he spoke to the various executive officers. They told him that the only way he could get out of Sea Org was to go through "auditing" and to get direct permission from L. Ron Hubbard. Respondent wrote to Hubbard. A chaplain of the Church came to see him. Lawrence Krieger, the highest ranking justice official of the Church in California, told respondent that if he left without permission, he would be fair game and "You know we'll come and find you and we'll bring you back, and we'll deal with you in whatever way is necessary."

On the night of June 7 or early morning of June 8, 1969, respondent went to his office at the Church of Scientology and took several documents from the safe. These documents were taken by him to the Internal Revenue Service in Kansas City; he used them to allege improper changes in the records of the Church. He denies that any Swiss francs were in the safe that night or that he took such Swiss francs. Furthermore, respondent denies the allegation that he stole various travelers' checks from the safe. He admitted that some travelers' checks had his signature as an endorsement, but maintains that he deposited those checks into an open account of the Church of Scientology. There is independent evidence that tends to corroborate that statement. Respondent, having borrowed his roommate's car, drove to the airport and flew to Kansas City, where he turned over the documents to the Internal Revenue Service.

Respondent was arrested in Florida upon a charge of grand theft. Boughton had called the Los Angeles Police Department to report that $23,000 in Swiss francs was missing. Respondent was arrested in Florida; he waived extradition and was in jail for 21 days. Eventually, the charge was dismissed. The deputy district attorney in Los Angeles recommended a dismissal in the interests of justice.[2]

CONTENTIONS ON APPEAL.

1. Respondent's trial counsel engaged in flagrant misconduct throughout the proceedings below and thereby deprived appellant of a fair trial.

2. The verdict below was reached as a result of (a) counsel's ascription to appellant of a religious belief and practices it did not have and (b) the distortion and disparagement of its religious character, and was not based upon the merit of this case. To allow a judgment thereby achieved to stand would constitute a violation of appellant's free exercise of religion.

1 One such policy, to be enforced against "enemies" or "suppressive persons" was that formerly called "fair game." That person "Could be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed." (Ex. 6, p. 1.)

2 Leonard J. Shaffer, the deputy district attorney, testified outside the presence of the jury that members of the Church were evasive in answering his questions. He testified that the reason for the dismissal was not due to recommendation of the district attorney but was that of a police department official and not a legal one.

3. Respondent failed to prove that appellant maliciously prosecuted him and therefore the judgment notwithstanding the verdict should have been granted.

4. The refusal of the trial court to ask or permit voir dire questions of prospective jurors pertaining to their religious prejudices or attitudes deprived appellant of a fair trial.

5. It was prejudicial error to direct the jury, in its assessment of the malicious prosecution claim, to disregard evidence that respondent stole appellant's Australian and American Express travelers' checks.

6. The order of the trial court in denying to appellant discovery of the factual basis for the obtaining of a dismissal by the district attorney of the criminal case *People v. Allard* was an abuse of discretion and a new trial should be granted and proper discovery permitted.

7. Respondent presented insufficient evidence to support the award of $50,000 in compensatory damages which must have been awarded because of prejudice against appellant.

8. Respondent failed to establish corporate direction or ratification and also failed to establish knowing falsity and is therefore not entitled to any punitive damages.

9. Even if the award of punitive damages was proper in this case, the size of the instant reward, which would deprive appellant Church of more than 40% of its net worth, is grossly excessive on the facts of this case.

10. There was lack of proper instruction regarding probable cause.[3]

DISCUSSION:

1. *There was no prejudicial misconduct by respondent's trial counsel, and appellant was not deprived of a fair trial.*

Appellant claims that it was denied a fair trial through the statements, questionings, and introduction of certain evidence by respondent's trial counsel. *Lore v. Wolf*, 226 Cal.App.2d 378, 38 Cal.Rptr. 183, is cited as authority.

[2] We have reviewed the entire record and find appellant's contentions to be without merit. Several of counsel's individual statements and questions were inappropriate. However, there often were no objections by counsel for appellant where an objection and subsequent admonition would have cured any defect; or there was an objection, and the trial court judiciously admonished the jury to disregard the comment. Except for these minor and infrequent aberrations, the record reveals an exceptionally well-conducted and dispassionate trial based on the evidence presented.

As in *Stevens v. Parke, Davis & Co.*, 9 Cal.3d 51, 72, 107 Cal.Rptr. 45, 507 P.2d 653, a motion for a new trial was made, based in part upon the alleged misconduct of opposing counsel at trial. What was said in *Stevens* applies to the instant case. "'A trial judge is in a better position than an appellate court to determine whether a verdict resulted wholly, or in part, from the asserted misconduct of counsel and his conclusion in the matter will not be disturbed unless, under all the circumstances, it is plainly wrong.' [Citation.] From our review of the instant record, we agree with the trial judge's assessment of the conduct of plaintiff's counsel and for the reasons stated above, we are of the opinion that defendant has failed to demonstrate prejudicial misconduct on the part of such counsel. (*Stevens v. Parke, Davis & Co., supra*, 9 Cal.3d at p. 72, 107 Cal.Rptr. at p. 58, 507 P.2d at p. 666.)

2. *The procedure and verdict below does not constitute a violation of appellant's First Amendment free exercise of religion.*

Appellant contends that various references to practices of the Church of Scientology were not supported by the evidence, were not legally relevant, and were unduly prejudicial. The claim is made that the

3 This issue is raised for the first time in appellant's reply brief

trial became one of determining the validity of a religion rather than the commission of a tort.

The references to which appellant now objects were to such practices as "E-meters," tin cans used as E-meters, the creation of religious doctrine purportedly to "get" dissidents, and insinuations that the Church of Scientology was a great money making business rather than a religion.

[3–5] The principal issue in this trial was one of credibility. If one believed defendant's witnesses, then there was indeed conversion by respondent. However, the opposite result, that reached by the jury, would naturally follow if one believed the evidence introduced by respondent. Appellant repeatedly argues that the introduction of the policy statements of the Church was prejudicial error. However, those policy statements went directly to the issue of credibility. Scientologists were allowed to trick, sue, lie to, or destroy "enemies." (Exhibit I.) If, as he claims, respondent was considered to be an enemy, that policy was indeed relevant to the issues of this case. That evidence well supports the jury's implied conclusion that respondent had not taken the property of the Church, that he had merely attempted to leave the Church with the documents for the Internal Revenue Service, and that those witnesses who were Scientologists or had been Scientologists were following the policy of the Church and lying to, suing and attempting to destroy respondent. Evidence of such policy statements were damaging to appellant, but they were entirely relevant. They were not prejudicial. A party whose reprehensible acts are the cause of harm to another and the reason for the lawsuit by the other cannot be heard to complain that its conduct is so bad that it should not be disclosed. The relevance of appellant's conduct far outweighs any claimed prejudice.[4]

We find the introduction of evidence of the policy statements and other peripheral mention of practices of the Church of Scientology not to be error. In the few instances where mention of religious practices may have been slightly less permanent than the policy statements regarding fair game, they were nonetheless relevant and there was no prejudice to appellant by the introduction of such evidence.

3. The trial court properly denied the motion for judgment notwithstanding the verdict

Appellant claimed that it had probable cause to file suit against respondent. The claim is made that even if Alan Boughton did take the checks from the safe, knowledge of that act should not be imputed to appellant Church.

[6] Based on the policy statements of appellant that were introduced in evidence, a jury could infer that Boughton was within the scope of his employment when he stole the frames from the safe or lied about respondent's alleged theft. Inferences can be drawn that the Church, through its agents, was carrying out its own policy of fair game in its actions against respondent. Given that view of the evidence, which as a reviewing court we must accept, there is substantial evidence proving that appellant maliciously prosecuted respondent. Therefore, the trial court did not err in denying the motion for the judgment notwithstanding the verdict.

4. The trial court performed proper voir dire of prospective jurors.

Appellant claims that the trial court refused to ask or permit voir dire questions of prospective jurors pertaining to their religious prejudices or attitudes. The record does not so indicate. Each juror was asked if he or she had any bias or feeling toward any of the parties that might be regarded as a bias or prejudice for or

[4] The trial court gave appellant almost the entire trial within which to produce evidence that the fair game policy had been rejected

Appellant failed to object and therefore permitted the [illegible]

on of evidence of
other peripheral
the Church of
or. In the few
of religious prac-
tly less germane
regarding fair
ess relevant and
appellant by the
ce.

erly denied the 1448
withstanding the

it had probable
espondent. The
Alan Boughton
the safe, knowl-
t be imputed to

tements of
ced in evidence,
ghton was with-
yment when he
afe or lied about
Inferences can
h, through its
own policy of
inst respondent.
dence, which as
accept, there is
that appellant
ondent. There-
err in denying
t notwithstand-

formed proper
ers.

the trial court
t dire questions
aining to their
ides. The rec-
ach juror was
hef or feeling
might be re-
for or

the trial court
ion of Exhibit

against any of them. Each juror was also asked if he or she had ever heard of the Church of Scientology. If the juror answered affirmatively, he or she was further questioned as to the extent of knowledge regarding Scientology and whether such knowledge would hinder the rendering of an impartial decision. One juror was excused when she explained that her husband is a clergyman and that she knows a couple that was split over the Church of Scientology.

[7] The trial court's thorough questioning served the purpose of voir dire, which is to select a fair and impartial jury, not to educate the jurors or to determine the exercise of peremptory challenges. (*Rousseau v. West Coast House Movers*, 256 Cal.App.2d 878, 882, 64 Cal.Rptr. 655.)

5. It was not prejudicial error to direct the jury, in its assessment of the malicious prosecution claim, to disregard evidence that respondent stole appellant's Australian and American Express travelers' checks.

1449 [8] Appellant submits that evidence of respondent's purported theft of the Australian and American Express travelers' checks should have been admitted as to the issue of malicious prosecution as well as the cross-complaint as to conversion. If there were any error in this regard, it could not possibly be prejudicial since the jury found for respondent on the cross-complaint. It is evident that the jury did not believe that respondent stole the travelers' checks, therefore, there could be no prejudice to appellant by the court's ruling.

6. Appellant suffered no prejudice by the trial court's denial of discovery of the factual basis for obtaining of the dismissal by the district attorney.

Prior to trial, appellant apparently sought to discover the reasons underlying the dismissal of the criminal charges against respondent. This was relevant to the instant case since one of the elements of a cause of action for malicious prosecution is that the criminal prosecution against the plaintiff shall have been favorably terminated. (*Jaffe v. Stone*, 18 Cal.2d 146, 114 P.2d 335.)

[9] Whether or not the lower court was justified in making such an order, the denial of discovery along these lines could not be prejudicial. During the trial, counsel for all parties stipulated that the criminal proceedings against Allard were terminated *in his favor* by a dismissal by a judge of that court upon the recommendation of the district attorney.

In addition, there was a hearing outside the presence of the jury in which the trial court inquired of the deputy district attorney as to the reasons for the dismissal. It was apparent at that time that the prospective witnesses for the Church of Scientology were considered to be evasive. There was no prejudice to appellant since the deputy district attorney was available at trial. Earlier knowledge of the information produced would not have helped defendant. We find no prejudicial error in the denial of this discovery motion.

7. The award of $50,000 compensatory damages was proper.

Appellant contends that based upon the evidence presented at trial, the compensatory damage award is excessive. In addition, appellant contends that the trial court erred in not allowing appellant to introduce evidence of respondent's prior bad reputation.

There was some discussion at trial as to 1450
whether respondent was going to claim damaged reputation as part of general damages. The trial court's initial reaction was to allow evidence only of distress or emotional disturbance; in return for no evidence of damaged reputation, appellant would not be able to introduce evidence of prior bad reputation. The court, however, relying on the case of *Clay v. Lagoss*, 143 Cal.App.2d 441, 299 P.2d 1025, held that libel of damage to reputation is not admissible. Therefore, respondent was allowed to claim damage to reputation without allowing appellant to introduce evidence of his prior bad reputation.

[10-12] In matters of slander that are libelous per se, for example the charging of a crime, general damages have been presumed as a matter of law. (*Douglas v. Janis*, 43 Cal.App.3d 931, 940, 118 Cal.Rptr. 280[4], citing *Clay v. Lagoss*, *supra*, 143 Cal.App.2d at p. 448, 299 P.2d 1025. Compare *Gertz v. Welch*, 418 U.S. 323, 94 S.Ct. 2997, 41 L.Ed.2d 789.)[5] Damages in malicious prosecution actions are similar to those in defamation. Therefore, damage to one's reputation can be presumed from a charge, such as that in the instant case that a person committed the crime of theft. In any event, as the trial court in the instant case noted, there was no offer of proof regarding respondent's prior bad reputation; any refusal to allow possible evidence on that subject has not been shown to be error, much less prejudicial error.

Appellant further contends that the amount of compensatory damages awarded was excessive and that the jury was improperly instructed regarding compensatory damages. The following modified version of BAJI 14.00 and 14.13 was given:

"If, under the court's instructions, you find that plaintiff is entitled to a verdict against defendant, you must then award plaintiff damages in an amount that will reasonably compensate him for each of the following elements of loss or harm, which [sic] in this case are presumed to flow from the defendant's conduct without any proof of such harm or loss: damage to reputation, humiliation and emotional distress.

"No definite standard or method of calculation is prescribed by law to fix reasonable compensation for these presumed elements of damage. Nor is the opinion of any witness required as to the amount of such reasonable compensation. Furthermore, the argument of counsel as to the amount of damages is not evidence of reasonable compensation. In making an award for damage to reputation, humiliation and emotional distress, you shall exercise your authority with calm and reasonable judgment, and the damages you find shall be just and reasonable."

The following instruction was requested by defendant and was rejected by the trial court:

"The amount of compensatory damages should compensate plaintiff for actual injury suffered. The law will not put the plaintiff in a better position than he would be in had the wrong not been done." Accompanying the request for that motion is a citation to *Staub v. Muller*, 7 Cal.2d 221, 60 P.2d 283, and *Basin Oil Co. of Cal. v. Baash-Ross Tool Co.*, 125 Cal.App.2d 578, 271 P.2d 122.

The Supreme Court has recognized that "Damages potentially recoverable in a malicious prosecution action are substantial. They include out-of-pocket expenditures, such as attorney's and other legal fees . . .; business losses . . .; general harm to reputation, social standing and credit . . .; mental and bodily harm . . .; and exemplary damages where malice is shown . . . ." (*Babb v. Superior Court*, 3 Cal.3d 841, 848, fn. 4, 92 Cal.Rptr. 179, 183, 479 P.2d 379, 383.) While these damages are compensable, it is the determination of the damages by the jury with which we are concerned. Appellant seems to contend that the jury must have actual evidence of the damages suffered and the monetary amount thereof.

5. The Supreme Court held in *Gertz v. Welch*, *supra*, 418 U.S. 323, 340, 94 S.Ct. 2997, 3011, 41 L.Ed.2d 789, an action for defamation, that "the States may not permit recovery of presumed or punitive damages, *at least when liability is not based on a showing of knowledge of falsity or reckless disregard for the truth.*" (Emphasis added.) The instant case is distinguishable from *Gertz*. Initially, the interests protected [by] suit for malicious prosecution include pursuit of the judicial system itself. A party should not be able to claim First Amendment protection maliciously to prosecute another person. Secondly, the jury in the instant case must have found "knowledge of falsity or reckless disregard for the truth" in order to award punitive damages herein. Therefore, even under *Gertz*, a finding of [illegible]

[13] "[T]he determination of the jury on the issue of damages is conclusive on appeal unless the amount thereof is so grossly excessive that it can be reasonably imputed solely to passion or prejudice in the jury. [Citations.]" (*Douglas v. Janis, supra*, 43 Cal.App.3d at p. 940, 118 Cal. Rptr. at p. 286.) The presumed damage to respondent's reputation from an unfounded charge of theft, along with imprisonment for twenty-one days, and the mental and emotional anguish that must have followed are such that we cannot say that the jury's finding of $50,000 in compensatory damages is unjustified. That amount does not alone demonstrate that it was the result of passion and prejudice.

8. Respondent is entitled to punitive damages.

[14] Appellant cites the general rule that although an employer may be held liable for an employee's tort under the doctrine of respondeat superior, ordinarily he cannot be made to pay punitive damages where he neither authorized nor ratified the act. (4 Witkin, Summary of Calif. Law, 8th Ed., § 855, p. 3147.)[6] Appellant claims that the Church of Scientology, which is the corporate defendant herein, never either authorized or ratified the malicious prosecution.

[15] The finding of authorization may be based on many grounds in the instant case. For example, the fair game policy itself was initiated by L. Ron Hubbard, the founder and chief official in the Church. (Exhibit 1.) It was an official authorization to treat "enemies" in the manner in which respondent herein was treated by the Church of Scientology.

Furthermore, all the officials of the Church to whom respondent relayed his desire to leave were important managerial employees of the corporation. (See 4 Witkin, Summary of Calif.Law, 8th Ed., *supra*, § 857, p. 3148.)

The trier of fact certainly could have found authorization by the corporation of the act involved herein.

9. The award of punitive damages.

[16] Any party whose tenets include lying and cheating in order to attack its "enemies" deserves the results of the risk which such conduct entails. On the other hand, this conduct may have so enraged the jury that the award of punitive damages may have been more the result of feelings of animosity, rather than a dispassionate determination of an amount necessary to assess defendant in order to deter it from similar conduct in the future. In our view the disparity between the compensatory damages ($50,000) and the punitive damages ($250,000) suggests that animosity was the deciding factor. Our reading of the decisional authority compels us to conclude that we should reduce the punitive damages. We find $50,000 to be a reasonable amount to which the punitive damages should be reduced. We perceive this duty, and have so modified the punitive damages award not with any belief that a reviewing court more ably may perform it.[7] Simply stated the decisional authority seems to indicate that the reviewing court should examine punitive damages and where necessary modify the amount in or

6 We again note that *Gertz v. Welch, supra*, precludes the award of punitive damages in defamation actions "at least when liability is not based on a showing of knowledge of *falsity* or reckless disregard for the *truth*." The facts of the instant case fall within that categorization, so a finding of punitive damages was proper. Moreover, as we noted above, an egregious case of malicious prosecution subjects the judicial system itself to abuse, thereby interfering with the constitutional rights of all litigants. Punitive damages may therefore be more easily justified in cases of malicious prosecution than in cases of defamation. The societal interests competing with First Amendment considerations are more compelling in the former case.

7. See dissent in *Cunningham v. Simpson*, 1 Cal.3d 361, 81 Cal.Rptr. 855, 461 P.2d 39

der to do justice. (*Cunningham v. Simpson*, 1 Cal.3d 301, 81 Cal.Rptr. 855, 461 P.2d 39; *Forte v. Nolfi*, 25 Cal.App.3d 656, 102 Cal.Rptr. 455; *Shroeder v. Auto Driveaway Company*, 11 Cal.3d 908, 114 Cal.Rptr. 622, 523 P.2d 662; *Livesey v. Stock*, 208 Cal. 315, 322, 281 P. 70.)

10. *Instruction on probable cause.*

Appellant requested an instruction stating: "Where it is proven that a judge has had a preliminary hearing and determined that the facts and evidence show probable cause to believe the plaintiff guilty of the offense charged therefore, ordering the plaintiff to answer a criminal complaint, this is *prima facie* evidence of the existence of probable cause." The trial court gave the following instruction: "The fact that plaintiff was held to answer the charge of grand theft after a preliminary hearing is evidence tending to show that the initiator of the charge had probable cause. This fact is to be considered by you along with all the other evidence tending to show probable cause or the lack thereof." [8]

[17, 18] Appellant claimed for the first time in his reply brief that the trial court's lack of proper instruction regarding probable cause was prejudicial error. Since this issue was raised for the first time in appellant's reply brief, we decline to review the issue. [9]

[18a] The judgment is modified by reducing the award of punitive damages only, from $250,000 to the sum of $50,000. As modified the judgment is in all other respects affirmed.

Costs on appeal are awarded to respondent Allard.

ROTH, P. J. and FLEMING, J., concur.

8 This instruction was given on the court's own motion.

9 We note that given the circumstances of the instant case, the juror could have easily been misled by the requested instruction. If the evidence showed that the agents and employees of appellant were living then the preliminary hearing at which they also testified would not be valid. While the jurors may of course consider that the magistrate at the preliminary hearing found probable cause, it should be in no way conclusive in the jury's determination of probable cause.

Margaret BAXTER and Theodore Baxter, Petitioners,

v.

The SUPERIOR COURT of California, COUNTY OF LOS ANGELES, Respondent;

C. Hunter SHELDON, M.D., et al., Real Parties in Interest.

Civ. 48182.

Court of Appeal, Second District, Division 2.

May 19, 1970.

Hearing Granted July 21, 1970

Medical malpractice action was brought on behalf of minor child and his parents sought damages for expenses incurred as a result of alleged malpractice and for loss of consortium. Parents sought writ of mandate after the trial court sustained demurrers to their causes of action for loss of consortium. The Court of Appeal, Roth, P. J., held that cause of action could not be asserted by parents for loss of support, comfort, protection, society and pleasure of their minor child.

Alternative writ discharged; petition denied.

1. Parent and Child ⇐7(1)

Cause of action could not be asserted by parents for loss of support, comfort, protection, society and pleasure of their minor child.

2. Parent and Child ⇐1, 7(1)

Neither parent nor child has cause of action for loss of consortium because of wrongful injury of the other.

Ronald L. M. Goldman and Michael K. McKibbin, Newport Beach, for petitioners.

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Plaintiff,

vs.

GABRIEL CAZARES,

Defendant.

Case No. 76-86 Civ. T-K

FILED
TAMPA, FLA.
OCT 20 1978
WESLEY R. THIES
CLERK

ORDER

The Court has for consideration the question of the award of attorneys' fees in this action, which was grounded in part in 42 U.S.C. 1983.

In general, an award of attorneys' fees may be made against a party who has proceeded in bad faith. Christiansburg Garment Co. v. E.E.O.C., 98 S.Ct. 694, 699 (1978). Defendant, the prevailing party herein, does not allege in terms the presence of bad faith.

In actions grounded in 42 U.S.C. 1983, however, the award of attorneys' fees is governed also by 42 U.S.C. 1988, which states in pertinent part:

> In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

The Court's discretion is limited, however, to the extent that prevailing defendant can recover only if plaintiff's claim was "frivolous, unreasonable, or groundless, or . . . plaintiff continued to litigate after it clearly became so." Lopez v. Aransas Cty. Independent School District, 570 F.2d 541, 545 (5th Cir. 1978), citing Christianburg Garment Co. v. E.E.O.C., supra at 701.

270

The first question that must be decided is whether this standard can be applied to the entire pleadings herein, or whether it may apply only to the 1983 allegations. The terms of the statute quoted above would not preclude an award for the entire case, and at least one court has found that the provision applies to the entire case where plaintiff joins claims some of which qualify for fees under 42 U.S.C. 1988, and which ordinarily would be tried in one proceeding. Southeast Legal Defense Group v. Adams, 436 F.Supp. 891, 894 (D.Ore.1977). The Court concludes that attorneys' fees may be awarded for the entire case, if otherwise appropriate.

The Court proceeds to the question whether plaintiff's claim was "frivolous, unreasonable, or groundless." This case arose under unusual circumstances. The Fort Harrison Hotel in Clearwater, Florida, was acquired in October 1975 by Southern Land and Development and Leasing Corp., about which little was known. Personnel of the corporation asserted that United Churches of Florida, Inc., a multi-denominational organization, would use the hotel. When it was learned finally that plaintiff Church of Scientology would in fact be the principal user of the hotel, defendant Gabriel Cazares, then Mayor of Clearwater, criticized plaintiff's activities. Such criticism, and subsequent actions taken to initiate investigations of plaintiff's activities, formed the basis of plaintiff's complaint.

The Court believes that said complaint was frivolous, unreasonable, and groundless. The groundlessness of plaintiff's complaint is demonstrated by the lack of evidentiary support for plaintiff's claims and the circumstances in which they arose. The statements and actions complained of took

S 71

place at a time when an organization about which little was known was seeking to acquire, and in fact acquiring, a major city landmark, and doing so in a manner that aroused a general public interest. In the public debate over the propriety of plaintiff's actions, and their potential effect, plaintiff saw fit to initiate this action. The record now reveals that there was no basis for this action, but it was initiated nevertheless in an apparent effort to influence the source of criticism rather than respond to the criticism in debate. Plaintiff admitted to being a "public figure" and had no cause to complain of mere public discussion of its activities. The Court finds that the suit was frivolous and groundless, and that its initiation under the circumstances was unreasonable.

Much has been said by both plaintiff and defendant about the Church of Scientology's "fair game" policy, and material introduced into the record could support the conclusion that it is plaintiff's policy to be the sole source of information about itself, and to attempt to quell dissenting views offered by its opponents, who may be labeled "Suppressive Persons," by the harassing use of the legal process. The Court makes no findings in this regard, as it is sufficient to hold that plaintiff's complaint was unreasonable, frivolous and groundless.

The Court is not given pause by the fact that plaintiff sought to voluntarily dismiss the complaint and that defendant opposed the motion. The dismissal sought was without prejudice, and the action could have been initiated at a later time had the Court granted the motion. The Court believes that defendant was entitled to pursue the matter to his vindication, as he did.

In accordance with the foregoing, the Court concludes that an award of attorneys' fees as part of the costs is appropriate. Defendant is directed to submit within ten (10) days affidavits or other evidence it wishes the Court to consider in determining the amount of fees to be awarded. Plaintiff shall have ten (10) days thereafter to make whatever objections it wishes to make. The attention of the parties is directed to Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-719 (5th Cir.1974).

The Court also has for consideration the motion for substitution of counsel for plaintiff. It appears that plaintiff has consented, and the Court is of the opinion that the motion should be, and it is hereby, granted.

In view of the Court's disposition of the above, defendant's motion to strike affidavit is denied as moot.

IT IS SO ORDERED at Tampa, Florida this 20 day of October, 1978.

BEN KRENTZMAN
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Plaintiff,

vs.

GABRIEL CAZARES,

Defendant.

Case No. 76-86 Civ. T-K

ORDER

Order granting defendant's motion for summary judgment was entered herein August 15, 1978, notice of appeal from judgment thereon was filed September 13, 1978.

The Court received and considered memoranda on defendant's application for the award of attorney fees, and on October 20, 1978, entered an order which allowed attorney fees to defendant and directed the parties to submit affidavits or other evidence as to the amount thereof, calling attention to the case of Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974).

The parties stipulated for retention of the record on appeal in the District Court for use in preparing appellate briefs and the Court entered an order directing that that be done.

On March 14, 1979, the Court conducted a hearing as to the amount of attorney fees to be allowed. The proceedings were reported and are available for transcription if required.

At hearing the Court considered and made findings with regard to each of the criteria suggested in Johnson, supra. For the reasons given at hearing and as indicated thereat, the Court found and finds that an award of $36,021.75 is fair and reasonable, and should be paid by plaintiff to defendant

for the benefit of counsel for defendant for their services herein.

At hearing counsel for plaintiff indicated their desire to appeal the award of attorney fees and the amount fixed for the same, together with the matter for which notice of appeal has already been filed and moved for supersedeas bond.

Upon consideration, the Court fixed supersedeas bond in the sum of $38,000 to be secured by corporate surety or by the deposit of cash or negotiable securities in form to be approved by the Clerk of the Court, and allowed 10 days for the posting of same.

In the event notice of appeal is filed as to the supplemental action herein, the Clerk of the Court is directed to include any transcript of the proceedings on March 14, 1979 filed herein, together with a copy of this order.

In view of the provisions of this order and of the matters and facts herein set out, the stay in transmittal of record on appeal heretofore ordered is no longer necessary, and the Clerk is directed to forward the complete record as soon as possible.

IT IS SO ORDERED at Tampa, Florida this 19 day of March, 1979.

BEN KRENTZMAN
UNITED STATES DISTRICT JUDGE

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL DISTRICT OF EDMONTON

No. 9583

BETWEEN:

CHURCH OF SCIENTOLOGY MISSION OF EDMONTON, CHURCH OF SCIENTOLOGY MISSION OF CALGARY, AND CHURCH OF SCIENTOLOGY MISSION OF OLD STRATHCONA,

Plaintiffs

- and -

EVELYN HAMDON, LES JACKMAN, LORNA LEVETT, BETTY McCOY, BRENDON MOORE, WILLIAM REID, NEOL TAYLOR, and DAVID WALLACE,

Defendants

ORAL JUDGMENT

of The Honourable Mr. Justice Agrios

THE COURT: I am cognizant of the well established rule that one must be extremely cautious in departing from the general rule that costs to be awarded to a successful litigant are to be taxed as between party and party on the basis of an authoritative and well recognized tariff.

Having reviewed the history of these proceedings, I am of the view that the case at bar is

the rare and exceptional case in which costs should be awarded on a solicitor/client basis rather than on a party/party basis.

Counsel for the Plaintiffs has referred to two recent decisions of our Court, firstly by Chief Justice Sinclair in McCarthy vs Board of Trustees of Calgary Roman Catholic Separate School District No. 1, and secondly by Mr. Justice Kirby, in Mobil Oil Canada v Canadian Superior Oil.

The general principles are recited in both decisions. Both of these cases went to trial and it was held that the difficulty and complexity of the proceedings is not of itself a reason for departing from the general rule. However, in the case at bar, the issue will never be tried. It is apparent that throughout the proceedings the Defendants and not the Plaintiffs were endeavouring to have the trial heard.

I need not repeat the entire and rather remarkable history of this case. The record submitted by counsel for the Defendants speaks for itself. The contempt of court, the failure to comply with innumerable court orders, the need to formally settle minutes of appeal; the entire conduct of the Plaintiffs is not one that should be countenanced by our courts.

In my view, the proceedings and the action of the Plaintiffs amounted to a clear abuse of process and accordingly, I award costs on a solicitor/client basis to the Defendants in the sum of $60,500 plus additional costs of this Applicant to be calculated in the same fashion as

the prior account submitted by the Defendants' solicitors to their clients.

Counsel for the Plaintiffs in a very pursuasive manner suggested it would be more appropriate to award cost on a party/party basis using a multiple of column five of schedule C of our Rules of Court. I can not, with respect, agree with this submission.

I did suggest that on the basis on a number of Ontario cases set out in the Defendants counsels' brief, and particularly as noted in the case of McGee vs the Ottawa Separate School Board, that there may be a distinction as to solicitor/client costs where there is evidence that they are being paid by a third party. It is not clear to me that such a distinction is appropriate in Alberta, however, counsel for the Plaintiff indicated in his view any such distinction would not apply in this case.

DELIVERED at Edmonton, Alberta,
the 6th day of October, A.D. 1980.

Mr. D.A. McGillivray
For the Plaintiffs,

Mr. C.D. Evans
Mr. K.E. Staroszik, and
Mr. H. Joffe
For the Defendants.

D. Johnson
kw/2

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

CHURCH OF SCIENTOLOGY MISSION OF EDMONTON, CHURCH OF SCIENTOLOGY MISSION OF CALGARY, and CHURCH OF SCIENTOLOGY MISSION OF OLD STRATHCONA

Respondents
(Plaintiffs)

- and -

EVELYN HAMDON, LES JACKMAN, LORNA LEVETT, BETTY McCOY, BRENDON MOORE, WILLIAM REID, NEIL TAYLOR and DAVID WALLACE

Applicants
(Defendants)

BEFORE THE HONOURABLE MR. JUSTICE J. AGRIOS IN COURT ON OCTOBER 6TH, 1980 AND IN PRIVATE CHAMBERS ON OCTOBER 21ST, 1980.

At the Court House, in the City of Edmonton, in the Province of Alberta, on Monday, the 6th day of October, 1980 and on Tuesday, the 21st day of October, 1980.

ORDER

UPON THE APPLICATION of the Applicants (Defendants) for an Order to determine the quantum of costs in this action; AND UPON HEARING counsel for the Applicants (Defendants); AND UPON HEARING counsel for the Respondents (Plaintiffs);

IT IS HEREBY ORDERED THAT

1. The Court has jurisdiction to hear the application.

2. The Applicants (Defendants) are not entitled to call viva voce evidence.

3. The Applicants (Defendants) are entitled to the costs of this action as determined on the scale of solicitor/client.

4. The solicitor and client costs for the Defendants LORNA LEVETT, BETTY McCOY, BRENDON MOORE, WILLIAM REID, NEIL TAYLOR, DAVID WALLACE and LES JACKMAN are in the sum of $60,500.00.

AND UPON IT APPEARING that the Defendant LES JACKMAN had settled his pro rata share of the application for costs prior to the said hearings, solicitor/client costs in the sum of $60,500.00 are reduced by 1/7th and are hereby set in favour of the Defendants LORNA LEVETT, BETTY McCOY, BRENDON MOORE, WILLIAM REID, NEIL TAYLOR and DAVID WALLACE in the lump sum of $51,857.15.

5. The Applicants (Defendants) shall have the costs of this application calculated on a solicitor/client basis.

M.A. GRADOWSKI (SEAL)
Clerk of the Court of Queen's Bench of Alberta

Approved as being the Order granted

Solicitors for the Respondents
(Plaintiffs)

Entered this 27 day of October, 1980.

Clerk of the Court

ACTION NO. 95393 OCTOBER A.D. 1980

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

B E T W E E N :

CHURCH OF SCIENTOLOGY MISSION OF EDMONTON, CHURCH OF SCIENTOLOGY MISSION OF CALGARY, AND CHURCH OF SCIENTOLOGY MISSION OF OLD STRATHCONA

Plaintiffs
(Applicants)

- and -

EVELYN HAMDON, LES JACKMAN, LORNA LEVETT, BETTY McCOY, BRENDON MOORE WILLIAM REID, NEIL TAYLOR and DAVID WALLACE

Defendants
(Respondents)

O R D E R

MESSRS. WALSH YOUNG
Barristers and Solicitors
1500 Guinness House
Calgary, Alberta
T2P 0C8

File No. 5728

COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

CHURCH OF SCIENTOLOGY OF CALIFORNIA and FOUNDING CHURCH OF SCIENTOLOGY OF WASHINGTON, D.C.,

Plaintiffs,

-against-

JAMES SIEGELMAN, FLO CONWAY, J.B. LIPPINCOTT COMPANY and MORRIS DEUTSCH,

Defendants.

- -x

79 Civ. 1166 (GLG)

O P I N I O N

#47455

A P P E A R A N C E S :

COHN, GLICKSTEIN, LURIE,
OSTRIN & LUBELL, ESQS.
Attorneys for Plaintiffs
1370 Avenue of the Americas
New York, N.Y. 10019
By: Jonathan W. Lubell, Esq.
Audrey J. Isaacs, Esq.
Of Counsel

ROSNER & ROSNER, ESQS.
Attorneys for Defendant, Deutsch
6 East 43rd Street
New York, N.Y. 10017
By: Jonathan Rosner, Esq.
Of Counsel

G O E T T E L, D. J.:

In this libel action brought by two branches of the Church of Scientology, defendant Morris Deutsch has moved to reargue many of the issues decided by the Court in its opinion of August 27, 1979. Church of Scientology of California v. Siegelman, 475 F. Supp. 950 (S.D.N.Y. 1979).

The facts of this action are set forth in detail in the August 27th decision. Defendant Deutsch now asserts that the Court erred in failing to dismiss the action as against him. In essence he argues that because the statements allegedly made by him were directed at the Scientology movement in general, and not at either of the instant plaintiffs, neither of these plaintiffs was defamed or, consequently, damaged.

In order to make out a cause of action for libel a plaintiff must establish that the alleged defamatory remark was directed at some specific individual or group and not merely at an "indeterminate class." Gross v. Cantor, 270 N.Y. 93, 96, 200 N.E. 592, 593 (1936); Schutzman & Schutzman v. News Syndicate Co., 60 Misc. 2d 827, 304 N.Y.S.2d 167 (Sup. Ct. 1969). Where the defamatory remark is found to be directed at a "small" group as a whole, however, it has been held that suit may be brought by any member of that group. Neiman-Marcus v. Lait, 13 F.R.D. 311, 315 (S.D.N.Y. 1952). See Arcand v. Evening Call Publishing Co., 567 F.2d 1163, 1164-65 (1st Cir. 1977).

The defendant asserts that the alleged defamatory remarks refer to the overall, worldwide Scientology movement, of which there are more than five million members (over three million members in the United States) and numerous organizational instrumentalities. Accordingly, as the group allegedly defamed is extremely large, the defendant claims that no individual within that group can sue absent proof that that individual was a specific target of the defamatory language. See Neiman-Marcus v. Lait, supra.

Conversely, the plaintiff asserts that the alleged defamatory language relates to the very limited group of Churches of Scientology in the United States. As there are only twenty-two such churches within that group, the plaintiffs claim that all members of the group can sue. See Gross v. Cantor, supra.

Where the truth lies in this matter is somewhat unclear. The Court believes, after having closely examined the alleged defamatory language in the complaint, that the plaintiff will have difficulty proving that the language relates to the limited group of Churches of Scientology. Nevertheless, we cannot say at this time, as a matter of law, that they will not be able to do so, and thus show that the alleged defamation related to these plaintiffs. See Fetler v. Houghton Mifflin Co., 364 F.2d 650 (2d Cir. 1966). See also Mitchell v. Bindrim, 92 Cal. App. 3d 61, 155 Cal. Rptr. 29 (1979), cert. denied, 48 U.S.L.W. 3370 (U.S. Dec. 3, 1979). Accordingly, the defendant's motion to reargue as to this point is denied.

In its August 27th opinion the Court expressed its doubts as to the ability of the plaintiffs to prove the existence of the "actual malice" on the part of the defendant that is necessary in order to establish his liability. Church of Scientology of California v. Siegelman, supra, 475 F. Supp. at 955. The Court has now expressed its doubts as to the ability of the plaintiffs to demonstrate that the alleged defamatory remarks made were directed at them rather than at some far larger group. Nevertheless, as to both issues discovery has not as yet been completed,[1/] and the Court believes it would be premature to reach any final determination on these issues. However, in view of the importance of preventing potentially frivolous suits where first amendment rights are concerned, and in view of the continuing appropriateness of summary judgment (though apparently limited by the Supreme Court's recent decision in Hutchinson v. Proximire, 99 S.Ct. 2675, 2680 n.9 (1979)) as a means through which to resolve many such cases, see Nader v. De Toledano, F.2d (D.C. Cir., July 31, 1979), the Court makes its determination as to the instant motion, as it did as to the defendant's previous motion,

---

1/ Discovery in this action has, it appears, been proceeding at a less than rapid pace, with frequent disputes arising between the parties.

without prejudice to renewal upon completion of discovery.[2/]

Finally, the defendant has asserted that the Court also erred in dismissing his counterclaims that alleged violations of 42 U.S.C. § 1985(3). In this regard, and contrary to the defendant's assertions, the Court has previously considered and rejected as insufficient for section 1985 purposes, the overbroad class, which has been characterized as consisting of members, former members, and persons disseminating information about, the Church of Scientology, but which in essence is made up of persons who are critics of the Church. Church of Scientology of California v. Siegelman, supra, 475 F. Supp. at 957 n.19. Having been presented with no compelling reason why this result should be modified or reversed, the Court reaffirms its conclusion that this "vague and amorphous class was not formed on the basis of any invidious criteria," id., 475 F. Supp. 957 and, accordingly, that the defendant's counterclaims brought under section 1985 must be dismissed.

The defendant Deutsch's motion for reargument is, at this time, denied in all respects.

SO ORDERED:

Dated: New York, N.Y.,
December 19, 1979.

Gerard L. Goettel

U.S.D.J.

2/ In this regard the Court reaffirms its statement in Church of Scientology of California v. Siegelman, supra, 475 F. Supp. at 956 n.16, that "should it be ultimately determined that this suit was brought without cause, or for the purpose of harassment, the Court will not hesitate to order the imposition of counsel fees upon the plaintiff. See Nemeroff v. Abelson, 469 F. Supp. 630 (S.D.N.Y. 1979)."

CHURCH OF SCIENTOLOGY OF CALIFORNIA and Founding Church of Scientology of Washington, D. C., Plaintiffs,

v.

James SIEGELMAN, Fla Conway, J. B. Lippincott Company and Morris Dootch, Defendants.

No. 77 Civ. 1166 (GLG).

United States District Court, S. D. New York.

Aug. 31, 1977.

Religious organization brought defamation suit against authors, publisher, and a former member of the organization, and defendants counterclaimed for prima facie tort, abuse of process, and conspiracy to deprive defendants of their constitutional rights. The District Court, Goettel, J., held that: (1) statements which were made by defendant authors and which were replete with opinion and conclusions about methods and practices used by religious organization and the effect such methods and practices had, accounts of what authors had been told during the course of their investigation, and some unflattering factual statements did not go beyond what one would expect to find in a frank discussion of a controversial religious organization, which was a public figure, and thus such statements could not be the basis for religious organization's defamation action; (2) fact issue existed as to whether defamatory statements of fact made by former member of religious organization were made with actual malice, precluding summary judgment as to that defendant; and (3) counterclaim sufficiently alleged cause of action against plaintiff religious society for prima facie tort; however, defendants' counterclaim failed to allege cause of action for abuse of process and conspiracy to deprive defendants of their constitutional rights.

Order accordingly.

1. Constitutional Law ⇐84

Testing in court the truth or falsity of religious beliefs is barred by the First Amendment; courts must remain neutral in matters of religious doctrine and practice, avoid involvement in affairs of any religious organization or group, and resist the making of any type of ecclesiastical determination. U.S.C.A.Const. Amend. 1.

2. Constitutional Law ⇐84

Where alleged defamation relates to secular matters and where issues can be resolved by neutral principles of law, the First Amendment does not bar a defamation suit brought by a religious organization. U.S.C.A.Const. Amend. 1.

3. Constitutional Law ⇐84

The First Amendment did not bar defamation suit brought by religious organization, since the allegedly defamatory remarks did not, on their face, relate to the validity of religious beliefs or practices, but dealt with the allegedly debilitating physical and psychological effects certain actions by the religious organization had upon its members. U.S.C.A.Const. Amend. 1.

4. Libel and Slander ⇐48

Religious organization was not precluded from bringing defamation suit merely because it was an association and not an individual.

5. Libel and Slander ⇐48(1)

Plaintiffs that were component parts of a large worldwide religious movement which claimed to have over 5 million adherents, which had taken affirmative steps to attract public attention, and which had actively sought new members and financial contributions from the general public were "public figures," and were thus required to prove that defendants made statements knowing them to be false, or with reckless disregard as to whether they were false or not, in order to recover in their defamation suit.

See publication Words and Phrases for other judicial constructions and definitions.

6. Federal Civil Procedure ⇐2515

In defamation suit brought by religious organization against coauthors of a book, publisher of the book, and a former member of the organization, fact issue existed as to whether the allegedly defamatory remarks were made with actual malice.

7. Libel and Slander ⇐123(1)

In defamation action, whether a particular statement itself could constitute a fact or an opinion is a question of law to be determined by the court.

8. Libel and Slander ⇐6(1)

Statements which were made by defendant authors and which were replete with opinions and conclusions about methods and practices used by religious organization and the effect such methods and practices had, accounts of what authors had been told during the course of their investigation, and some unflattering factual statements all did not go beyond what one would expect to find in a frank discussion of a controversial religious organization, which was a public figure, and thus such statements could not be the basis for religious organization's defamation action.

9. Federal Civil Procedure ⇐2515

In defamation action brought by religious organization, fact issue existed as to whether defamatory statements of fact made by former member of religious organization were made with actual malice, precluding summary judgment as to that defendant.

10. Conspiracy ⇐18

Process ⇐171

Torts ⇐28(1)

Counterclaim filed by authors and publisher named defendants in defamation action sufficiently alleged cause of action against plaintiff religious organization for prima facie tort; however, defendants' counterclaim failed to allege cause of action for abuse of process and conspiracy to deprive defendants of their constitutional rights.

Cohn, Glickstein, Lurie, Ostrin & Lubell, New York City, for plaintiffs by Jonathan W. Lubell and Audrey J. Isaacs, New York City, of counsel.

Clark, Wulf, Levine & Peratis, New York City, for defendants Siegelman and Conway by Melvin L. Wulf, New York City, of counsel.

Lester, Schwab, Katz & Dwyer, New York City, for defendant Lippincott by Patrick A. Lynon, New York City, of counsel.

Rosner & Rosner, New York City, for defendant Deutsch by Jonathan Rosner, New York City, of counsel.

OPINION

GOETTEL, District Judge:

In this latest libel action brought by the plaintiffs, two branches of the litigious Church of Scientology,[1] motions have been made by the various defendants to dismiss the complaint for failure to state a claim upon which relief may be granted, Fed.R.Civ.P. 12(b)(6), for judgment on the pleadings, Fed.R.Civ.P. 12(c), and for summary judgment, Fed.R.Civ.P. 56. The plaintiffs have cross-moved to dismiss the counterclaims raised against them.[2]

The defendants Siegelman and Conway are the co-authors of the book *Snapping: America's Epidemic of Sudden Personality Change*, which was published by defendant J. B. Lippincott Company in 1978. In this book the authors attempt to explore what they describe as the "phenomenon [of] sudden and drastic alterations of personality," investigating in the process the effects on personality of the techniques used by many of the current religious "cults" and mass-marketed self help therapies. Included among the many groups studied and commented upon was the

1. A lexis scan provided this Court of reported decisions in the United States courts in which the Church of Scientology was a party revealed the existence of thirty such cases. See Exhibit C, Motion of Defendant Deutsch to Dismiss Complaint, for Judgment on the Pleadings, or for Summary Judgment Dismissing the Complaint.

Church of Scientology.[1] The plaintiffs now contend that included among the passages in the book relating to the Church of Scientology were a number of *highly* defamatory comments. . .

Following publication of *Snapping*, and as a result of the interest generated by it, and the topic generally, the defendant Siegelman, along with the defendant Reutsch, a former member of the Church of Scientology, appeared as guests on the syndicated television program "The David Susskind Show."[2] The plaintiffs allege that during the course of the program both of these defendants, in response to certain questions posed, made defamatory comments about the Church.[3] The plaintiffs additionally assert that further defamatory remarks were made by Siegelman and Conway in an interview which was published in *People* magazine.

The plaintiffs in the instant action, the Church of Scientology of California, which is registered in California as a non-profit, religious corporation, and the Founding Church of Scientology of Washington, D.C., which is registered in Washington, D.C., as a non-profit, religious corporation, are part of the world-wide Scientology religion of which the plaintiffs assert there are more than five million members, over three million of them in the United States. Numerous local churches of Scientology are located throughout the United States and in numerous foreign countries.[4] The plaintiffs assert that their individual churches have been seriously injured by the defendants' alleged defamatory statements, and that as a result their ability to function as a non-profit organization has been seriously impaired. The plaintiffs now seek damages against all of the defendants.

The defendants have alleged a number of grounds upon which the complaint should be dismissed. They first assert, characterizing this action as one concerning statements of religious practice and beliefs, and citing to a long line of Supreme Court cases, that this suit is barred by the free exercise and establishment clauses of the First Amendment.[5]

[1] It is well established that "testing in court the truth or falsity of religious beliefs is barred by the First Amendment." *Founding Church of Scientology v. United States*, 133 U.S.App.D.C. 229, 243, 409 F.2d 1146, 1156 (D.C.Cir.1969). *See United States v. Ballard*, 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148 (1944). Courts must remain neutral in matters of religious doctrine and practice, *Epperson v. Arkansas*, 393 U.S. 97, 89 S.Ct. 266, 21 L.Ed.2d 228 (1968), avoid involvement in the affairs of any religious organization or group, *Walz v. Walter*, 397 U.S. 664, 97 S.Ct. 2090, 90 L.Ed.2d 714 (1977), *Everson v. Board of Education*, 330 U.S. 1, 67 S.Ct. 504, 91 L.Ed. 711 (1947), and refuse the making of any type of ecclesiastical determination, *Presbyterian Church in the United States v. Hull Memorial Presbyterian Church*, 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969), *see Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976). As has been noted, the First Amendment rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere." *McCollum v. Board of Education*, 333 U.S. 203, 212, 68 S.Ct. 461, 465, 92 L.Ed. 649 (1948).

[2] The defendants assert that this doctrine of non-entanglement with religion bars the bringing of a libel action by a religious denomination, such as the Church

1. Although the text of *Snapping* covers two-hundred and fifteen pages, only seven and one-half of them deal specifically with the Church of Scientology.

2. Although Mr. Susskind took part in the discussion, neither he, nor any of the television entities, were named as defendants in this action.

3. Apparently all of these local churches are separately incorporated in a state in which they conduct their activities.

4. The First Amendment states that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ." U.S.Const. Amend. I.

of Scientology,[6] when the alleged libel relates to the validity of religious beliefs and practices. The Court agrees that where validity of religious beliefs are at issue involvement by the judiciary would be inappropriate. *See Cimijotti v. Paulsen*, 230 F.Supp. 89 (N.D.Iowa, 1964). It does not follow from this, however, that simply because a religious organization is a party to an action that that action should be immediately categorized as a theological dispute. Where the alleged defamation relates to secular matters, and where the issues can be resolved by neutral principals of law, no First Amendment bar exists. As was stated by the Supreme Court in a somewhat different context, "civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property. . . . Presbyterian Church in the *United States v. Mull Memorial Presbyterian Church*, 393 U.S. at 449, 89 S.Ct. at 606.

[5] In the instant action the alleged defamatory remarks do not, on their face, relate to the validity of religious beliefs or practices. Rather, those statements deal with the alleged debilitating physical and psychological effect certain actions by the Church of Scientology have upon its members. While the Court will be vigilant to avoid any entanglement with theological questions should they arise, it finds no such questions are presented. Accordingly, the Court finds that the free exercise and establishment clauses to the First Amendment are no bar to this action.

[6] Having determined that this action is not precluded by the free exercise and establishment clauses, the Court must next turn to more traditional defamation concerns and determine whether the plaintiff churches constitute public figures within the doctrine of *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964).[7]

In *New York Times* it was held that a public official could not recover in defamation absent proof that the defendant made the statement knowing it to be false, or with reckless disregard as to whether it was false or not. This standard of proof has been extended so as to apply to public figures as well as public officials. *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 87 S.Ct. 1975, 18 L.Ed.2d 1094 (1967). Thereafter, the Supreme Court, in *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345, 94 S.Ct. 2997, 3009, 41 L.Ed.2d 789 (1974), attempted to define the ways in which a person could become a public figure:

"For the most part those who attain this status have assumed roles of especial

S.Ct. 1557, 43 L.Ed.2d 778 (1976), corporations have also been allowed to maintain such actions. *See, e. g., Friends of Animals, Inc. v. Associated Fur Manufacturers*, 46 N.Y.2d 1065, 416 N.Y.S.2d 790, 390 N.E.2d 288 (1979); *Cole Fischer Rogow, Inc. v. Carl Ally, Inc.*, 39 A.D.2d 423, 336 N.Y.S.2d 556 (1st Dep't. 1968). In *Cole Fischer Rogow, Inc., supra* at 427, 336 N.Y.S.2d at 562, it was held that for a corporation to recover in defamation it was necessary that:

"the language used must tend directly to injure plaintiff in its business, profession or trade, and must 'impute to the plaintiff some quality which would be detrimental, or the absence of some quality which is essential to the successful carrying on of his office, profession or trade.'"

Thus, if the plaintiffs, after having established the liability of any or all of the defendants, can meet the *Cole Fischer* test and show direct injury, they would then be entitled to compensation for damages.

6. In *Founding Church of Scientology v. United States*, 138 U.S.App.D.C. 388, 409 F.2d 1146 (D.C.Cir.1969), the court held, in view of the plaintiff's having made out a *prima facie* case that Scientology was a religion, and of the defendant's decision not to contest such a characterization, that for the purposes of that action the Church of Scientology was to be treated as a religion entitled to the protection of the free exercise clause. None of the defendants in the instant action have, as of this time, challenged the plaintiffs' description of themselves as religious institutions.

7. The defendants have also asserted that, since the plaintiffs are religious associations and not individuals, their rights to compensation for damages is non-existent, and that therefore the action should be dismissed. The Court, however, finds no merit to this claim for, while it is true that the great majority of defamation cases have been brought by individuals to protect their reputation, see, *e. g., Herbert v. Lando*, — U.S. —, 99 S.Ct. 1635, 60 L.Ed.2d 115 (1979); *Time, Inc. v. Firestone*, 424 U.S. 448, 96

prominence in the affairs of society. Some occupy positions of such persuasive power and influence that they are deemed public figures for all purposes. More commonly, those classed as public figures have thrust themselves to the *forefront* of particular public controversies in order to influence the resolution of the issues involved."

[5] Applying this standard to the facts of the instant action, the Court finds the plaintiffs, the Church of Scientology of California, and the Founding Church of Scientology of Washington, D.C., to be public figures. The plaintiffs are component parts of a large world-wide religious movement which claims to have over five million adherents. Unlike the plaintiff in *Time, Inc. v. Firestone*, 424 U.S. 448, 96 S.Ct. 958, 47 L.Ed.2d 154 (1976),[9] the instant plaintiffs have taken affirmative steps to attract public attention, and actively seek new members and financial contributions from the general public.[10] *See Jones v. Gannett*, 40 N.Y.2d 415, 386 N.Y.S.2d 871, 353 N.E.2d 824 (1976). As was found in regards to another religious institution (the Gospel Spreading Church) this Court believes the Church of Scientology to be "[a]n established church with substantial congregations . . . [which] seeks to play an influential role in ordering society." *Gospel Spreading Church v. Johnson Publishing Co.*, 147 U.S.App.D.C. 207, 208, 454 F.2d 1260, 1261 (D.C.Cir.1971). The Church of Scientology has thrust itself onto the public arena, and accordingly should be held to the stringent *New York Times* burden of proof in attempting to make out its case for defamation. *See Church of Scientology of California v. Cazares*, 455 F.Supp. 420 (M.D.Fla. 1978); *Church of Scientology of California v. Dell Publishing Co., Inc.*, 382 F.Supp. 767 (N.D.Cal.1973).[11] *See also Friends of Animals, Inc. v. Associated Fur Manufacturers, Inc.*, 46 N.Y.2d 1065, 416 N.Y.S.2d 790, 390 N.E.2d 298 (1979).

[6] Holding the plaintiffs to the *New York Times* burden of proof, however, does not resolve the issue before the Court. The defendants Deutsch and Lippincott[12] (defendants Siegelman and Conway have not joined in this motion) assert that the plaintiffs cannot satisfy the requirement of showing actual malice, and that therefore summary judgment should be granted. They further state that such summary disposition is particularly appropriate, and in fact may be "the 'rule' and not the exception." *Guitar v. Westinghouse Electric Corp.*, 396 F.Supp. 1042, 1053 (S.D.N.Y. 1975), in defamation actions, and is necessary so as to prevent the litigation from having any potentially chilling effect on the exercise of free speech. *See Bon Air Hotel v. Time, Inc.*, 426 F.2d 858, 864 (5th Cir. 1970); *Oliver v. Village Voice, Inc.*, 417 F.Supp. 235 (S.D.N.Y.1976).

The Court is similarly concerned over the damaging effect a frivolous suit could have upon the exercise of First Amendment rights. The propriety of granting summary judgment where actual malice has been alleged, however, has been cast into great doubt by the Supreme Court's recent pronouncement in *Hutchinson v. Proxmire*, ___ U.S. ___, 99 S.Ct. 2675, 61 L.Ed.2d 411 (1979). In its decision the Court noted

9. In *Firestone* it was held that a prominent socialite involved in a heavily publicized (with extensive media coverage) divorce action was not a public figure since such publicity had been involuntarily obtained as a result of the plaintiff being "compelled to go to court by the State in order to obtain legal release from the bonds of matrimony." *Id.* at 454, 96 S.Ct. at 965.

10. The plaintiffs, in order to attract both contributors and new adherents to their religion, utilize street-side solicitations, distribute large amounts of printed matter, and send unrequested literature through the mails.

11. In *Dell Publishing Co.* the court, although not directly addressing the public figure issue, applied the *New York Times* actual malice standard in determining the motion before it.

12. The plaintiffs assert that as a result of defects in the defendant Lippincott's moving papers, such papers should not be treated as ones for summary judgment (but simply as additions to the papers moving to dismiss the complaint.) In view of the Court's disposition of this motion, however, there is no need to reach this question.

It has been held that in order to be liable for a *prima facie* tort a party must be found guilty of having inflicted intentional harm, resulting in damages, without legal excuse or justification, by an act or series of acts which would otherwise be lawful. *Sommer v. Kaufman*, 59 A.D.2d 843, 399 N.Y.S.2d 7 (1st Dept., 1977). In the instant action, the defendants allege that the plaintiffs, acting with malice and without excuse or justification, brought this lawsuit solely for the purpose of punishing the defendants for their expression of adverse opinions about Scientology, and that as a result they have suffered monetary damages. Proof of such intentional infliction and resulting damage would establish a *prima facie* tort, *Rager v. McCloskey*, 305 N.Y. 75, 111 N.E.2d 214 (1953), and would thereupon shift the burden to the plaintiffs who would have to prove that such conduct was privileged. While the facts before the Court at this stage of the litigation are sparse, it is certainly not clear, contrary to the plaintiffs' claim, that the defendants will not be able to meet their burden of proof. Accordingly, the motion to dismiss this counterclaim is denied.

The defendants' second counterclaim alleges "abuse of process" by the plaintiffs. Abuse of process has been defined as the "misuse or perversion of regularly issued legal process for a purpose not justified by the nature of the process." *Board of Education of Farmingdale v. Farmingdale Classroom Teachers Assoc.*, 38 N.Y.2d 397, 400, 380 N.Y.S.2d 635, 639, 343 N.E.2d 278, 280 (1975).[17] The defendants allege that the plaintiffs so abused process when they served each defendant with a summons and complaint for the sole purpose of harassing, discouraging and intimidating them from further criticizing Scientology. Upon close examination, however, the Court believes that while such allegations may succeed in a suit for malicious prosecution (brought *after* a successful termination of this litigation), they are insufficient to sustain a cause of action for abuse of process. *Hoppenstein v. Zemek*, 62 A.D.2d 979, 403 N.Y.S.2d 542 (2d Dep't. 1978) (the mere institution of a civil action by summons and complaint is not legally considered such process as is capable of being abused and thereby does not afford a basis for a cause of action for abuse of process). The plaintiffs' motion to dismiss the defendants' counterclaims for abuse of process is granted.

The defendants' final counterclaims allege that the plaintiffs, along with other not-for-profit corporations and organizations affiliated with the Church of Scientology, have engaged in a conspiracy to deprive a class of individuals, of whom the defendants were a part, (described generally as consisting of critics of the Church of Scientology),[18] of their constitutionally-protected rights in violation of 42 U.S.C. § 1985(3). The plaintiffs have moved to dismiss, asserting that such class was not formed on the basis of any invidious criteria, and thus that the defendants cannot satisfy the prerequisites for maintaining a section 1985 action. *Griffen v. Breckenridge*, 403 U.S. 88, 91 S.Ct. 1790, 29 L.Ed.2d 338 (1971); *Jacobson v. Organized Crime and Racketeering, etc.*, 544 F.2d 657 (2d Cir.), *cert. denied*, 403 U.S. 955, 97 S.Ct. 3599, 51 L.Ed.2d 804 (1977). Although the Court finds this to be a close issue, we conclude that this vague and amorpheus alleged class was not formed on the basis of any invidious criteria. *See Rodgers v. Watson*, 582 F.2d 815 (4th Cir. 1978) (critics of city commissioners not a valid class); *Harrison v. Brooks*, 519 F.2d 1358 (1st Cir. 1975) (residential property owners who own adjacent residential land illegally crossed by industrial access driveways not a valid class); *Kimble v. D. J. McDuffy, Inc.*, 445

17. In this regard it has been noted that even a pure spite motive is insufficient to show abuse of process where process is used only to accomplish the result for which it was created. See Prosser, *Law of Torts*, § 121 (4th ed. 1971).

18. Defendant Deutsch characterized the class as consisting of members and former members, and persons disseminating information about, the Church of Scientology.

defamatory, factual statements.[16] None of these statements go beyond what one would expect to find in a frank discussion of a controversial religious movement, which is a public figure, and thus none of these statements may be the basis for an action in defamation.

Similarly, the alleged utterances in counts eighteen and twenty-seven cannot survive judicial scrutiny. After examining the defamatory language attributed to Siegelman in count eighteen the Court finds it to be a statement of opinion, albeit a rather negative one, by the defendant about the plaintiff, and thus not actionable. As to the alleged defamation contained in count twenty-seven the Court once again finds the statements to be a mix of opinion and unflattering, but non-defamatory, factual statements, none of which is actionable.

[9] Turning finally to the alleged defamatory remarks made by defendant Deutsch on the Russkind show, the Court finds that questions exist which preclude disposition at this time. The statements attributed to Deutsch are, unlike the ones attributed to the other defendants, defamatory statements of fact. Deutsch asserts as a defense both that he believes the statements to be true, and that, in any event, they were all made without actual malice. He also asserts that the statements alleged were not addressed to these plaintiffs but rather to Scientology in general, and thus that these plaintiffs were neither defamed nor damaged. Finally, he claims that the utterances in the complaint were so edited and placed out of context as to be thoroughly misleading. These defenses, however, raise questions of fact which cannot be decided at this time. *See Proxmire v. Hutchinson*, — U.S. —, 99 S.Ct. 2675, 61 L.Ed.2d 411.

Accordingly, the motion to dismiss of defendants Siegelman and Conway, and the motion to dismiss of defendant Lippincott, both hereby granted. The motion of defendant Deutsch is, at this time, denied.[17]

[10] Having thus disposed of the defendants' motions, the Court next turns its attention to the plaintiffs' motion to dismiss the counterclaims for *prima facie* tort, abuse of process, and conspiracy to deprive the defendants of their constitutional rights,[18] which have been alleged against them.

> ... are replete with allegations of psychological perpetration, economic exploitation, and personal and legal harassment of former members and journalists who speak out against the cult.
>
> *Id.* See, e. g., ¶ 10(C) of the complaint:
>
> "But for the casual customer choosing among a vast assortment of currently available techniques for self-betterment, the Scientology procedure is well-known, attractive, and inexpensive to begin. The auditing process takes place in private sessions between subject and auditor, in which the subject's emotional responses are registered on a device called an E-meter, a kind of crude lie detector. The subject holds the terminals of the E-meter in his hands, and the rise or fall of electrical conductivity in response to the perspiration emitted from the palms is explained as a measure of emotional response to the auditor's course of questioning. The average response registers in the normal range on the meter, with abnormal indicating an overreaction, "uptightness," or sign of trauma on the part of the subject.
>
> The goal of auditing is to bring all the individual's responses within the range of normal on the E-meter. Using a technique that bears only superficial resemblance to the popular method of biological regulation known as biofeedback, the individual watches the E-meter and follows precise instructions given by the auditor to learn how to reduce his emotional response to the auditor's questions about past and painful experiences. When the individual has mastered this ability, he becomes eligible for admission to the elite club of Scientology clears."

Although the Court feels constrained, in view of the *Proxmire* footnote, to deny the motion of defendant Deutsch at this time, should it be ultimately determined that this suit was brought without cause, or for the purpose of harassment, the Court will not hesitate to order the imposition of counsel fees upon the plaintiff. *See Nemeroff v. Abelson*, 469 F.Supp. 630 (S.D.N.Y.1979).

17. The defendant Deutsch had initially also alleged a counterclaim based upon 42 U.S.C. § 1983. Upon the plaintiff's bringing of the instant motion, however, the defendant chose, quite correctly in view of the facts of this case, to consent to the dismissal of this claim.

its doubt as to the validity of the "so-called 'rule' that summary judgment is more appropriately granted in defamation actions than in other types of suits, and stated that "[t]he proof of 'actual malice' calls a defendant's state of mind into question, *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964), and does not readily lend itself to summary disposition."

The plaintiffs have alleged that the defamatory remarks were made with actual malice and that therefore the *New York Times* standard can be met. While the supporting material submitted as to this point is far from convincing, the plaintiffs have managed to place the defendants' state of mind into question, and, in view of the Supreme Court's statement in *Poller*, *infra*, the Court does not believe it appropriate to grant summary judgment at this time. This determination is made, however, without prejudice to any future motion being made after additional discovery has been conducted.[12]

[7] Finally, the defendants argue that even if the Court does not accept their theoretical arguments as to the free establishment and exercise clauses, or as to the lack of actual malice, it must still dismiss the complaint because the alleged defamatory statements either are not libelous, or constitute expression of opinion. In this regard it has been held that "[u]nder the First Amendment there is no such thing as a false idea." *Gertz v. Robert Welch*, 418 U.S. at 339, 94 S.Ct. at 3007, and thus an opinion, "[h]owever pernicious" cannot be the basis for an action in defamation. *See Buckley v. Littell*, 539 F.2d 882, 889 (2d Cir. 1976). Whether a particular statement is held to constitute a fact or an opinion is "a question of law," *Rinaldi v. Holt, Rinehart & Winston, Inc.*, 42 N.Y.2d 369, 381, 397 N.Y.S.2d 943, 950, 366 N.E.2d 1299, 1306 (1977), to be determined by the Court. *See Letter Carriers v. Austin*, 418 U.S. 264, 94 S.Ct. 2770, 41 L.Ed.2d 745 (1974).

The plaintiffs have alleged in their complaint the utterance of twenty-three defamatory statements by the various defendants: ten by Siegelman, Conway and Lippincott arising from the publication of *Snapping*, and contained in count ten; one by Siegelman, contained in count eighteen, and eight by Deutsch, contained in count nineteen, arising from the Sneakind interview; and four by Siegelman and Conway arising from the People magazine interview, and contained in count twenty-seven. After careful examination of these statements the Court finds that many of them are clearly either non-libelous, or statements of opinion, and thereby may not be the basis for an action in defamation.

[8] Turning first to the allegations against Siegelman, Conway and Lippincott contained in count ten, the Court can find nothing in those statements capable of rising to the level of a malicious false utterance necessary for recovery in defamation. These statements are replete with opinions and conclusions about the methods and practices used by the Church of Scientology and the effect such methods and practices have,[13] recounts of what the authors had been told during the course of their investigation,[14] and some unflattering, though not

of Scientology is a tour de force of science fiction.

14. *See, e. g.*, ¶ 10(E) of the complaint:

"It may also be true of the most powerful religious cults in operation today: The tales that have come out of Scientology are nearly impossible to believe in relation to a religious movement that has accumulated great credibility and respect around the world in less than twenty-five years. It has also gathered an estimated 3.5 million followers. Nevertheless, the reports we have seen and heard in the course of our research, both in the media and in personal interviews with former Scientology high-

12. *See, e. g.*, ¶ 10(d) of the complaint:

"In our opinion, however, Scientology does not lead people beyond faith to absolute certainty—it leads them to levels of increasingly unrealistic hallucination. The crude technology of auditing is a direct insult to human feeling and on the individual's ability to distinguish between what he is actually experiencing and what he is only imagining. The bizarre folklore

13. *See, e. g.*, ¶ 10(B) of the complaint:

"Scientology is a system of beliefs and practices that is unique in the history of religion. Its founder, L. Ron Hubbard, was a prolific author of science fiction novels and stories. Scientology's cosmology, its theory of the origin of man and his universe, is a fantastic tale of extraterrestrial beings, spaceships, and intergalactic wars. Its practices are equally bizarre. Scientology's central practice is 'auditing,' a process in which a trained Scientologist, using a device called an 'E-meter,' helps a person to 'clear' himself of 'engrams,' which are mental pictures of painful or traumatic experiences. Scientology's ultimate goal is to 'clear the planet,' to rid the world of insanity, criminality, and war. Scientology's methods for achieving this goal are as unique as its beliefs. Scientology has developed a complex and highly structured hierarchy of courses and auditing sessions, which members must undergo in order to progress from one level of 'spiritual enlightenment' to the next. Each level is more costly than the last, and the cost of reaching the highest levels is measured in tens of thousands of dollars. Scientology has developed a unique terminology, which members must learn in order to understand the teachings of Hubbard and to communicate with other members. Scientology has developed a unique system of ethics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of discipline, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of rewards, which members may earn by following the teachings of Hubbard and by progressing through the levels of the Church. Scientology has developed a unique system of punishments, which members may incur by violating the teachings of Hubbard or by failing to progress through the levels of the Church. Scientology has developed a unique system of records, which members must maintain in order to track their progress through the levels of the Church. Scientology has developed a unique system of communications, which members must use in order to communicate with other members. Scientology has developed a unique system of organization, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of finance, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of public relations, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of legal defense, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of intelligence, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of security, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of training, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of education, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of health care, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of social welfare, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of environmental protection, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of international relations, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of space exploration, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of time travel, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of parallel universes, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of alternate realities, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of virtual reality, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of artificial intelligence, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of robotics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of nanotechnology, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biotechnology, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of genetic engineering, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of cloning, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of stem cell research, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of gene therapy, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of regenerative medicine, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of tissue engineering, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomaterials, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of nanomedicine, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical engineering, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical informatics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical imaging, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical optics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical physics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical chemistry, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical biology, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical mathematics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical statistics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical computing, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical engineering, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical informatics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical imaging, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical optics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical physics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical chemistry, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical biology, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical mathematics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical statistics, which members must follow in order to remain in good standing with the Church. Scientology has developed a unique system of biomedical computing, which members must follow in order to remain in good standing with the Church.

F.Supp. 269 (E.D.La.1975) (oil industry workers who had made any prior claim for personal injuries not a valid class).[28] In addition, the defendants have not even made a minimal showing that the two plaintiffs, as opposed to the world-wide Scientology movement in general, have conspired with each other for the purpose of depriving the putative class of their constitutional rights. Accordingly, the plaintiffs' motion to dismiss the defendants' counterclaim based upon 42 U.S.C. § 1985(3) is hereby granted.

Conclusion

The action against defendants Siegelman, Conway and Lippincott is hereby dismissed. The motion of defendant Deutsch is denied, without prejudice, however, to a subsequent motion upon completion of additional discovery. The plaintiffs' motion to dismiss all counterclaims is denied in part and granted in part.

The Clerk will enter judgment dismissing the action against defendants, Siegelman, Conway, and Lippincott.

SO ORDERED.

28. For cases which have found a valid class for § 1985 purposes, see *Glasson v. City of Louisville*, 518 F.2d 899 (6th Cir.), cert. denied, 423 U.S. 930, 96 S.Ct. 280, 46 L.Ed.2d 258 (1975), *Westberry v. Gilman Paper Co.*, 507 F.2d 206 (5th Cir. 1975), *vacated as moot*, 507 F.2d 215 (5th Cir. 1975); *Seltzer v. Berkowitz*, 459 F.Supp. 347 (E.D.N.Y.1978), *Bradley v. Clegg*, 403 F.Supp. 830 (E.D.Wis.1975)

Tommie W. TAYLOR and Larry C. Peyton, Plaintiffs,

v.

TELETYPE CORPORATION Defendant,

James H. Bibbs, Ike Bolden, Virginia Burke, Bowman Burns, Jr., Fred Donley, Ray Jackson, Ray Kennard, Will Simmons, William Walker, James Walters, Jr., Cato Conley, Joseph Harris, Earl Jones, and Godfrey Hill, Intervenors.

No. LR-C-77-65.

United States District Court, E. D. Arkansas, W. D.

Aug. 29, 1979.

Plaintiffs brought employment discrimination suit, alleging discrimination in employment based on race. The District Court, Arnold, J., held that: (1) plaintiffs made prima facie case with respect to black employees demoted between February 28, 1974, and the end of 1976 but failed to make a prima facie case with respect to demotions in 1977, 1978, and 1979; (2) employer rebutted certain employee's prima facie case with respect to first demotion but not second demotion and subsequent layoff; (3) evidence established that certain employee's demotion was based at least in part on his race; (4) employer rebutted prima facie case with respect to other employee's demotion, and (5) employer rebutted prima facie case of discrimination with respect to employee who was terminated for excessive absences.

Ordered accordingly.

1. Civil Rights ⇐44(1)

In employment discrimination suit, plaintiffs made prima facie case with re-

counsel. It is difficult to understand [illegible] allegations because we are not advised [illegible] support the inferences on the state [illegible] Moreover, in this posture we can find in the record no evidence, almost to the point of incomprehension, and the claims are ambiguously stated. As to the hearsay claim, if that is what it is, the Government contends that the appellant's detention in a civil case in Maryland allowed that appellant recalled little about his alleged course of study in Mexico as to strongly indicate that he never attended all the courses at the university that his allegedly forged credentials set forth (Tr. 687-696). It appears that his prior testimony by way of deposition, and if so it would be admissible as a recognized exception to the hearsay rule.

Upon compliance with requirements which are designated to guarantee an adequate opportunity of cross-examination, evidence may be received in the pending case in the form of a written transcript or an oral report of a witness's previous testimony. This testimony may have been given by deposition or at a trial, either in a separate case or proceeding, or in a former hearing of the same proceeding.

Mot. to Suppress on Evidence, 9 [illegible] at 11-12 (Feb. 1975).

The content of this deposition, insofar as it is relevant to the record in this case, appears in the transcript at 687-696. Among other [illegible] startling deficiencies in memory, it indicates that Mature did not remember the specific [illegible] which he had received that [illegible] examinations, [illegible] the names of certain [illegible] Tr. 690-711).

[5] Insofar as appellant may be claiming that inadequate representation by [illegible] counsel caused that the [illegible] to make [illegible] Mature [illegible] However, [illegible] being examined, the trial court could [illegible] questions [illegible] possible claim of inadmissible hearsay, is [illegible] At the hearing appellant [illegible] opportunity to clarify the [illegible] upon.

Appellant also contends that the prosecutor misrepresented to the court in the bond hearing that Officer Vance had recanted his affidavit in connection with the alleged wiretapping (Tr. June 16, 1970, at 9-10). The status of this issue as a new or old one is not readily apparent, but the court may consider it with the wiretapping and the intimidation issues, to which it also relates. See Appellant's Brief at 37-38.

Finally, as to Mature's claim that he was discriminated against by the court not hearing his claim while it did hear Vecchiarello's, this remand for a joint hearing with Vecchiarello is a complete answer to this claim.

The case is remanded to the district court for disposition consistent with this opinion.

Order accordingly.

The FOUNDING CHURCH OF SCIENTOLOGY OF WASHINGTON, D. C., Appellant,

v.

Bonnard Bauer VERLAG et al.

No. 74-1789.

United States Court of Appeals, District of Columbia Circuit.

Argued Oct. 22, 1975.

Decided June 1, 1976.

[illegible] appeals from the Superior Court [illegible] Washington, [illegible] Judge, [illegible] Church of Scientology [illegible] The [illegible] District Court for the District of Columbia [illegible]

have been brought in a foreign jurisdiction rather than in the United States but a foreign jurisdiction cannot necessarily be considered a reasonable and convenient forum in which to litigate the rights of the parties to be determined.

9. Courts ⇐⇒260.1

Where libels allegedly defamed plaintiff and distribution of magazine were residents of the United States, where plaintiff sought damages for libelous publication by the District of Columbia, and where printing of defendant's magazine was not prompted by its action, tenets or nature, it was error for trial court to decline jurisdiction on basis of *forum non conveniens* merely because other magazine in question had been written and published in West Germany.

10. Courts ⇐⇒260.1

Trial judge has great, but not unlimited, discretion to apply doctrine of *forum non conveniens* where there has been no weighing of relative advantages of each forum by only a consideration of the drawbacks in cases that the doctrine may be abused.

Appeal from the United States District Court for the District of Columbia

*Editor's Note: Subsequent proceedings, see 433 F.2d 1133.

1. The Founding Church of Scientology of Washington, D. C., a nonprofit organization organized under the laws of the District of Columbia, which engages in religious, educational and charitable work of scientology in the United States, Australia, England and elsewhere, and which is referred to as the Church of Scientology, the Church of Scientology's Flag Service Organization and other affiliated organizations of Scientology in other areas in the United States and throughout the world, and [illegible] of the above.

2. [illegible]

Samuel H. Seymour, Washington, D. C., for appellant. Earl C. Dudley, Jr., Arlington, Va., was on the brief for appellant.

Irving E. Nathan, Washington, D. C., with whom Edgar H. Brenner and Werner Kronstein, Washington, D. C., were on the brief for appellee German Language Publications, Inc.

Before McGOWAN and MacKINNON, Circuit Judges, and McMILLAN,* United States District Judge for the Western District of North Carolina.

Opinion for the court filed by Circuit Judge MacKINNON.

MacKINNON, Circuit Judge:

In this diversity action the Founding Church of Scientology of Washington, D. C. and (2) the author, editor, publisher, and distributor of an allegedly defamatory article which appeared in the July 1971 edition of the German language magazine *Neue Revue* and (3) an official of the West German Federal criminal investigative authority who allegedly acted in the preparation of that publication.[2] The trial court dismissed the suit as to the appellees on the ground [illegible] defense under the Constitution to [illegible] "libel proof" status and (2) that as to the District of Columbia was barred under the doctrine of *forum non conveniens*.[3] Appellant [illegible] the decision of the trial court as to the West German [illegible] and as to the District of Columbia [illegible] of its action. We affirm the dismissal of the action as to the appellees [illegible] and the [illegible] remand.

3. D.C. Code § 13-423 (1973).

4. Virtually identical [illegible]

of jurisdiction and venue applicable. The Court of Appeals, MacKinnon, Circuit Judge, held that distributor which had sales of $25,000 in ten-month period with the District of Columbia, representing one percent of the gross revenues of the distributor for that ten-month period, had sufficient contacts with the District to permit assertion of long-arm jurisdiction over it; and that court erred in dismissing, on forum non conveniens grounds, action where both plaintiff and defendant were residents of the United States and where plaintiff sought damages for libelous publication in the District of Columbia, even though the article was written and published in West Germany and even though certain West German residents could possibly be added as defendants in the action.

Reversed.

1. Courts ⇐12(2)

In order for court to properly assert personal jurisdiction over a nonresident defendant, service of process upon the nonresident must be authorized by statute and be within the limits set by the due process clause of the constitution. U.S.C.A.Const. Amend. 14.

2. Courts ⇐12(.1)

Connection with the District of Columbia sufficient to authorize assertion of personal jurisdiction over nonresident defendant could be developed under the District's long-arm statute only if the defendant purposefully established minimal contacts with the District such that the maintenance of the suit did not offend traditional notions of fair play and substantial justice. D.C.Code 1973, § 13-423 and Code Md.1957, art. 75, § 96(a)(1), Code Va.1950, § 8-81.2(a)(4).

3. Courts ⇐12(.1)

In order to show the requisite minimum contacts necessary for assertion of long-arm jurisdiction over a defendant on the basis of having derived substantial income from goods used or consumed in the jurisdiction, court must look both at the absolute amount of revenues and the percentage of total revenues represented by sales in the forum jurisdiction. D.C.Code 1973, § 13-423(a)(4).

4. Courts ⇐12(.2)

Distributor which had its principal office in city of New York which received German language magazines from West Germany and forwarded them by common carrier to another distributor in the District of Columbia, which had sales of [illegible] with such sales representing approximately one percent of its gross revenues for the ten-month period had, on the basis of income derived from the District, sufficient connection with the District so that District could assert long-arm jurisdiction over the distributor with respect to alleged libelous magazine articles. D.C.Code 1973, § 13-423(a)(4).

5. Courts ⇐12(.2)

Nonresident which received in the District of Columbia magazines ordered by agent of their immediate recipients and which did not engage in solicitation or other activities in the District of Columbia could not assert collection of such magazines by recipients or receipt of magazines by the recipients as basis for asserting long-arm jurisdiction over nonresident. D.C.Code 1973, § 13-423(a)(1).

6. Courts ⇐12(.1)

Statutory reference to the District of Columbia courts' [illegible] statute does not include federal courts in the District of Columbia. D.C.Code 1973, § 13-423.

7. Courts ⇐207(.1)

[illegible]

8. Courts ⇐207(.1)

[illegible]

Translation

Shorthand Report of hearing of witnesses

in

The Eastern Division of the Danish High Court, Division 14,

Wednesday, March 11, Thursday March 12, Friday, March 13, and Monday, March 16, 1981.

Jakob Andersen - Scientology

503/1978 (7044)
Mr. Jørgen Jacobsen, Attorney

Mr. Jakob Andersen, Reporter

v.

Mr. Per Olof Jørgensen, Mr. Robert ("Bob") Mettler, Mr. Peter Jensen and the Church of Scientology Denmark

cf. 330/1976 (6538)

Mr. Jakob Andersen

v.

The Church of Scientology Denmark represented by Mr. Carl Helat, Priest, Mr. Allan Juvonen, Priest, Mr. Carl Helat, Priest and Mr. Peter Jensen, Priest

cf. 393/1979 (6638)

The Church of Scientology Denmark

v.

Mr. Jakob Andersen

cf. 396/1979 (6739)

Mr. Jakob Andersen

Walter H. Bowart

cf. 416/1979 (6977)

Mr. Jakob Andersen

v.

The Church of Scientology Denmark, Mr. Peter Jensen, Priest and Mr. [illegible] Hansen, Editor

prepared by authorized court stenographer Mr. Bjørn Einersen

Testimony of Ms. Vibeke Damman, Oslo

PRESIDING JUDGE: You have been summoned to appear in this court to give evidence on the request of the plaintiff. You must know that you are liable to tell the truth in court, and that you give evidence on oath.

JACOBSEN: In which period have you been in Scientology?

DAMMAN: I started in October, 1973 and ended in November, 1979.

JACOBSEN: In which period have you been with Guardian's Office?

DAMMAN: From the middle of 1978 until November 1979.

JACOBSEN: In which capacity? What was your position?

DAMANN: I started as something called project organizer. It is an event which is arranged by scientologists in various parts of the world, and at that time it was arranged in Copenhagen. It was my job to see to it that it went well.

LEIFER: Couldn't we have it made clear ...

JACOBSEN: I would like not to be interrupted by Mr. Leifer.

LEIFER: Yes, but ...

PRESIDING JUDGE: Your opponent has asked that you do not interrupt this testimony.

LEIFER: Well but there have been incorrect statements already.

PRESIDING JUDGE: That may be, but during the cross-examination you will get the opportunity to ask questions about it.

JACOBSEN: What did you end as? In which position did you end?

DAMMAN: I became head of the bureau which is called Social Coordinat I was there until May, 1978 when I became Director of Rehabilitation within the same bureau.

ERIK JENSEN Now I have to interrupt. I could not hear the witness.

JACOBSEN: Were you "Assistant Guardian"

DAMMAN: No. Yes, that is Assistant Guardian for Social Coordination.

PRESIDING JUDGE: I understood that you had been there from 1973 till 1979. When was it that you got that position?

DAMMAN: When I became head of the bureau called Social Coordination, from December, 1976 until May, 1978 when I became Director of Rehabilitation within the same bureau. I had that position until November, 19

LEIFER: I would like to say that what I was interested in having clarified was where Mrs. Damman worked, because as far as I know she did not work at time of the conversation in question with Mr. Jørgens at Jernbanegade 6, and she had no connection with Mr. Jørgensen.

PRESIDING JUDGE: Well, but....

LEIFER: Then it is not very important if she has no connection with him.

JACOBSEN: Time is running. It takes five minutes and then I am not allowed to examine my witnesses.

LEIFER: We must stick to what is important and relevant..

JACOBSEN: You should have thought about that when you examined your witness.

PRESIDING JUDGE: That's enough now.

JACOBSEN: And about time. I would like to ask you: What is the function of Guardian's Office.

DAMMAN: To take care of all outside public, i.e. people who are not already in the Scientology organization. That public is people who are against scientology, it is the press, well, lawsuits - like this one it is all, how do you put it, "charitable" work in quotes.

LEIFER: Why quotes?

PRESIDING JUDGE: Mr. Leifer, you really must stop now.

DAMMAN: I will get back to that.

JACOBSEN: I would like to ask you: Was it Guardian's Office special job to fight enemies of Scientology?

DAMMAN: Yes, it is especially that they deal with.

JACOBSEN: What's the channel of command? Who is at the head of Guardian's Office? At the end of your time there?

DAMMAN: The Guardian's Office where I worked?

JACOBSEN: In Copenhagen.

DAMMAN: In Copenhagen it is Bob Metzler.

JACOBSEN: Who was his immediate superior?

DAMMAN: Jane Kember.

JACOBSEN: Is it so that the Guardian's Office Denmark cannot do [illegible] important, e.g. bring an action, without the approval of the Guardian Office World Wide in England?

DAMMAN: Yes.

JACOBSEN: Does that mean that all actions which are brought in this country are brought in accordance with instructions from or conference with Guardian's Office World Wide?

LEIFER: Sorry, but that is a leading question.

JACOBSEN: I am getting very tired of listening to Mr. Leifer's interruptions.

LEIFER: And I am tired of listening to the way you ask questions.

PRESIDING JUDGE: Please leave that to me. There is no reason at all to believe that any problems will arise. It is the party's own witness.

DAMMAN: I don't mind answering. It is correct that any lawsuit which takes place in Copenhagen is first programmed from the Guardian Office and then it is sent to the Guardian's Office World Wide for approval revision, and then it is sent back here to be carried out.

JACOBSEN: Are decisions made elsewhere sometimes - not only decisions I mean, but the very decision that anything is to be done at all - without anything being said about it from Denmark?

DAMMAN: Sorry, I did not understand the question.

JACOBSEN: Well, it may not be very easy. There has been a libel action against Professor Schulsinger. Do you know anything about it?

DAMMAN: Yes, I have written about it too.

ERIK JENSEN: Now I cannot hear again. Would Mrs. Damman please speak directly to the judge.

JACOBSEN: Tell briefly about who made the decision to bring an action for libel against Professor Schulsinger.

DAMMAN: That decision was made at the Guardian's Office World Wide in England.

ERIK JENSEN: Good, thank you.

PRESIDING JUDGE: We can avoid this confusion if you speak as loud as possible - and if the other side keeps quiet.

DAMMAN: Yes that would be nice.

JACOBSEN: How do you know that?

DAMMAN: I saw the program when it came from the Guardian Office World Wide. It was written at World Wide before it came to Denmark. It came to the place where I worked the Guardian's Office Europe, and then the order was that it was to be carried out at the Guardian's Office Denmark. The suggestion for the program has probably been made from Denmark, but approved in England and cannot be carried out in Denmark without approval i.e. in England.

JACOBSEN: What do you mean by "the program"?

DAMMAN: A program is written where you proceed step by step. There are many thing to be done when an action is to be brought.

First you have got to find proof and then the whole action is planned in phases in advance before it is carried out, before summons and complaint is issued, or whatever it may be. For instance, in the Schulsinger case the group involved is to - it was the Citizens Commission on Human Rights - that group must receive instructions and training in what they are going to say when they appear in court, etc. All these things are written down in various phases, e.g. Item 1: Get hold of Ingelise Koppernaert. Item 2: Tell her what to say in court. Item 3....

JACOBSEN: Does that in fact mean that a program is prepared for how the scientologists are to explain in court?

DAMMAN: Yes.

JACOBSEN: A program is made?

DAMMAN: Yes.

JACOBSEN: Is it so that the scientologists are encouraged to say something other than the truth? I can hardly believe that.

DAMMAN: Yes.

LEIFER: Now I must point out one thing. Earlier today a witness was told that the witness should observe the duty as a witness. This witness should be aware that in all probability the Church will make her responsible for what she says here as perjury.

PRESIDING JUDGE: You know your duty as a witness. I assume that you have fully realized the situation in advance.

LEIFER: I conducted the case against Schulsinger and won it.

JACOBSEN: So Mr. Leifer has the floor more than I do.

PRESIDING JUDGE: I am doing my best. But on the other hand, I think that it should be granted that Mr. Leifer was right at this time to interrupt and point out that he on his part would warn the witness - in the same manner you warned his witness earlier today. There must be an adequate balance.

JACOBSEN: Yes, it could have been said from the beginning.

You say that you know that instructions have been given that if necessary the scientologists are to lie in court, and you hold to that under oath?

DAMMAN: Yes.

JACOBSEN: Where have you seen it?

DAMMAN: I have seen it because at one time I was involved in writing out the program the legal department were sent for approval. Phase by phase is written what witnesses, if any, in a lawsuit which was in Holland were to explain in court, and it included outright lies. I knew that at the time I was writing it out.

LEIFER: Excuse me, Holland....

PRESIDING JUDGE: Now you stop.

LEIFER: But it was against Schulsinger.

PRESIDING JUDGE: Mr. Leifer, we have always been on good terms with each other. You are the oldest attorney in this city and enjoy great respect.

LEIFER: That is correct, but I was the one who conducted the case against Schulsinger, and it had nothing to do with Holland.

PRESIDING JUDGE: That may be so, but we must have peace now. Otherwise I will not be able to preside in a manner which all can be satisfied with.

JACOBSEN: Have you personally received or carried out orders from the world headquarters?

DAMMAN: Yes.

JACOBSEN: Have you ever received orders to the effect that attempts should be made to annoy a person or institution?

DAMMAN: Yes.

JACOBSEN: Could you give some examples?

DAMMAN: Yes. The National Society for the Welfare of the Mentally Ill (Lands foreningen for Sindslidendes Vel, LSV). As head of the Social Coordination bureau I ran or directed i.a. the group which was called The Citizens Commission on Human Rights. Its object is to annoy psychiatrists. So its declared aim is to have human rights introduced for psychiatric patients, but with regard to the National Society for the Welfare of the Mentally Ill we also got instructions to see to it that LSV was annoyed as much as possible by the things we could come up with.

ERIK JENSEN: Excuse me, what is LSV?

JACOBSEN: The National Society for the Welfare of the Mentally Ill. It has been said several times.

DAMMAN: There were instructions from England that we should take care to go after that society as much as we could. We appeared at meetings and tried to confuse the meetings and were to take care that anything we got to know about the society which could be interpreted "negatively was spread to the press etc. in an attempt to sort of putting them in a bad light.

JACOBSEN: Can you mention any examples of a person?

DAMMAN: Within the LSV or generally?

JACOBSEN: Yes, I asked you if you had received orders to try to annoy any person or institution.

DAMMAN: Yes, Mr. Finn Jørgensen, psychiatrist at the Sankt [illegible] for mentally ill.

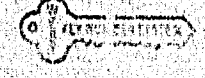
JACOBSEN: Any other examples?

DAMMAN: No that I can recall right now.

opposite conclusion. Congress has obviously been aware of the interplay between these various open records acts, and in the instances not noted it specifically indicated when the exemptions of one act should not apply to disclosures mandated by another. We therefore decline inferentially to limit the scope of 5 U.S.C. § 552(b)(3) since Congress has not specifically indicated an intent to do so.

Accordingly, we reverse the district court's summary judgment in favor of Painter, and remand with instructions to consider the applicability of the Privacy Act exemption (k)(5), 5 U.S.C. § 552a(k)(5), to the material sought by Painter or to which the government claimed the Privacy Act exemption applied.

REVERSED in part and REMANDED with instructions.



CHURCH OF SCIENTOLOGY OF CALIFORNIA, a Non-Profit Corporation, under the laws of California, Plaintiff-Appellant,

v.

John McLEAN and Nancy McLean, Defendants-Appellees.

No. 79-1620

Summary Calendar.*

United States Court of Appeals, Fifth Circuit.

April 18, 1980.

In a slander suit, plaintiff moved to disqualify one of defendant's two attorneys. The United States District Court for the Middle District of Florida, Wm. Terrell Hodges, J., denied the motion and plaintiff appealed. The Court of Appeals, Alvin B. Rubin, Circuit Judge, held that: (1) the attorney's consulting with the plaintiff about a pending matter did not bar his representing the defendant, in this case where there was no evidence that any issue in the case was ever discussed with the attorney or that he had any confidential information about it, and (2) the appeal was frivolous and the defendant was entitled to damages caused by the appeal, including a reasonable attorney's fee, and double costs.

Affirmed.

1. Attorney and Client ⇐=21

Lawyer need not disqualify himself in matter concerning former client unless terminated employment had been substantial relationship or unless he had received some privileged information.

2. Attorney and Client ⇐=32

To warrant disqualification of counsel there must be showing of reasonable possibility that some specifically identifiable impropriety actually will occur and likelihood of such suspicion must be weighed against interest in retaining counsel of one's choice. ABA Code of Professional Responsibility, Canon 9.

3. Attorney and Client ⇐=21

Defendant's in slander suit was not required to disqualify himself because plaintiff had previously consulted with him about a pending matter where there was no evidence that any issue in slander case was

---

3. We note that in a recent case, *Terkel v. Kelly*, 599 F.2d 214 (7th Cir. 1979), the Seventh Circuit reached the same result we have arrived at here. That court said:

> Although the Freedom of Information Act does not contain a comparable exemption to Privacy Act exemption (k)(5), we agree with the lower court that the two statutes must be read together, and that the Freedom of Information Act cannot compel the disclosure of information that the Privacy Act clearly contemplates to be exempt.

599 F.2d at 216. Our holding, however, is not extended to cover all material exempt from disclosure under the provisions of the Privacy Act, but only those "specifically exempted from disclosure by statute" under 5 U.S.C. § 552(b)(3).

* Fed.R.App.P. 34(a); 5th Cir. R. 18.

ever discussed with counselor that he had any confidential information about it.

1. Federal Civil Procedure ⇐2767

Where appeal from district court's refusal to disqualify opposing counsel was frivolous, appellees were entitled to damages caused by appeal, including reasonable attorney's fee and double costs. F.R.A.P. Rule 38, 28 U.S.C.A.

Allen L. Jacobi, North Miami, Fla., for plaintiff-appellant.

Baskin & Sears, Robert K. Hayden, Clearwater, Fla., for defendants-appellees.

Appeal from the United States District Court for the Middle District of Florida.

Before GEE, RUBIN and POLITZ, Circuit Judges.

ALVIN B. RUBIN, Circuit Judge:

The Church of Scientology of California filed a slander suit against John and Nancy McLean, citizens of Canada and ex-Scientologists. The McLeans are represented by Robert Hayden, a partner in the law firm of Baskin & Sears. Elliot Berman is associated with that law firm and plans to assist Hayden in defending the suit. Before Berman joined that firm, the church had consulted with him about a zoning matter. It has filed a motion to disqualify Berman and the law firm in this suit on the basis that "topics were discussed [with Berman] which are substantially related to the cause of action before the court." The trial judge denied the motion as it related to Hayden and the law firm, and reserved ruling on the motion as it pertained to Berman. Later, he also denied the motion as to Berman. This appeal is from that order. Apparently, therefore, pertains only to the ruling concerning Berman.

Whether an order refusing to disqualify counsel is appealable is an issue now before this court en banc. *Wilson P. Abraham Construction Corp. v. Armco Steel Corp.*, No. 79-2307, hearing en banc ordered (5th Cir. Oct. 22, 1979). However, we assume for the moment that there is jurisdiction because, whether or not the appeal applies only to Berman, it is groundless and there is no reason further to delay this case.

[2] The church has not offered a scintilla of evidence that any issue in this case was ever discussed with Mr. Berman or that he has any confidential information about it. While lawyers are expected to avoid even the appearance of impropriety, they are not required to straitjacket their partners to avoid baseless charges. A lawyer need not disqualify himself in a matter concerning a former client unless "by terminated employment had some substantial relationship to the pending suit or a client he has received some privileged information." *See Freeman's, Inc. v. Freeman's Restaurants, Inc.*, 606 F.2d 102, 103-3 (5th Cir. 1979). *Cf. Woods v. Covington County Bank*, 537 F.2d 804, 813 (5th Cir. 1976) (former governmental attorney is not disqualified from civilian employment in a matter for which he had substantial responsibility in government in absence of reasonable possibility of impropriety.) The church's brief to this court asserts that, during the course of Mr. Berman's consultation with its representative, information was given to Mr. Berman so that he could assess the problem with which the [church] was faced and certain advice given by Mr. Berman in reference to those problems. After the consultation Mr. Berman billed the Church of Scientology of California and received compensation therefrom.

During this consultation topics were discussed which substantially related to the subject matter of the instant litigation and related to the Clearwater City Commission, including the Ex-Mayor, Gabriel Cazares, who appears on the Defendant's List of Witnesses as is also the case with one Donald Schultz, the County Property Appraiser. The same hostilities which are the essence of the case sub judice were the very problems which the plaintiff [church] was seeking [in] reference to the zoning problems involving the property which they wished to purchase.

There is no evidence in the record concerning these allegations, nor even the proffer of evidence by affidavit or deposition. The one affidavit filed on behalf of the church, by Phillip Park, recites that he is a minister in the church; that he consulted Mr. Berman for "35 hours concerning "the interpretation of the City of Clearwater Zoning Code as would relate to the requirement (sic) of a building for administrative offices by" the church; that Mr. Park apprised Mr. Berman of "certain difficulties" the church had been having in the community "as related to the City Commission, certain people in the Scientology Church, to include the ex-mayor Gabriel Cazares, the Property Appraiser Ronald Schultz, City Commissioner Richard Verney." It concludes that "such matters were substantially related to the matter at issue in the case subjudice," and that some of these named individuals have been called as witnesses for the defendant. We are left to discern as best we can how this relates to the slander suit, but we are unable to perceive the connection.

[3] The rule of disqualification is not mechanically applied in this Circuit. *Brennan's, Inc. v. Brennan's Restaurants, Inc.*, *supra*, 590 F.2d at 173–174. To warrant disqualification under Canon 9 of the Code of Professional Responsibility there must be a showing of a "reasonable possibility that some specifically identifiable impropriety occurred and the likelihood of public suspicion must be weighed against the interest in retaining counsel of one's choice." *Id.* at 171.

An attorney's conduct need not be governed by standards that can by imputed only to the most cynical members of the public. A lawyer need not "yield to every ill-grained charge of conflict of interest, regardless of the merit, so long as there is a member of the public who [says that he] believes it." *Woods v. Covington County Bank*, *supra*, 537 F.2d at 813.

[4] This is a slander suit. In the complaint, the church lists certain statements by the McLeans as defamatory: "Scientology seeks to enslave people," "to build up a religious empire," "to become involved politically," and similar statements. Mr. Berman was consulted on a zoning matter. Though Mr. Park disclosed to Mr. Berman that he was an agent of the church, there is no evidence that he disclosed any information about the church, its property or even the occasion that the consultation was about. As is apparent from the complaint, the church was much in the news in Clearwater. The general disclosure that several community leaders were not favorably disposed toward the church was, according to Mr. Berman's affidavit, already common knowledge upon which he commented to Mr. Park. For him to now previously learn civilians to the community reaction, or knowledge of that reaction is not privileged information; nor is it obviously information which would be used against the church in the slander suit.

It is clear that the subject matter of the [illegible] is not substantially related to Berman's instant representation of the McLeans. Moreover, the church has not made a showing that there is a reasonable possibility of improper professional conduct arising from Mr. Berman's participation in this case, or that the likelihood of public suspicion outweighs the "social interests" served by the continued participation in this case of counsel of the defendants' choice. *See Woods v. Covington City Bank*, *supra*, 537 F.2d at 812 n.12.

[5] In our considered judgment the appeal is not only without merit but frivolous. The trial court shall award damages to the appellees caused by the appeal. The damages are to include a reasonable attorney's fee. Appellees shall also be awarded double costs. Fed.R.App.P. 38.

The denial of the motion is AFFIRMED.

8651

E. Mohr Mersing

OFFICE COPY OF THE SHERIFF'S COURT's RECORDS

for

THE CITY OF COPENHAGEN COURT

Received
June 17, 1980

On the 2nd June at 13.15 o'clock in the afternoon the Sheriff's Court was formed by Judge Leif Sørensen at the Court House.

Case Forb. 78-389-043660 - prohibitive injunction case was heard:

Court Stamps

The Scientology Church of Denmark

1) Det Bedste fra Reader's Digest A/S

and

2) Mr. Mogens Nielsen, Editor, responsible under the press law.

For the plaintiffs appeared Mr. Bent Falk-Rønne, Attorney, who produced the application of 7th May, 1980 with exhibits 1a-1d.

For the defendants appeared Mr. Erik Mohr Mersing, Attorney, who produced exibits A-Å.

The attorneys stated the case.

Mr. Falk-Rønne changes the claim to be as follows:

"Det Bedste fra Reader's Digest ApS" and Mr. Mogens Nielsen, Editor responsible under the press law, shall be prohibited from publishing or circulating the following statements contained in Eugene H. Methvin's article: "Scientology. Anatomy of a Frightening Cult."

1. "His churches have paid him a certain percentage of their gross profits ususally 10 percent and have one more riches hidden in bank accounts in i.a. Switzerland, all this is controlled by Ron Hubbard and his wife."

2. " The Scientology priest carefully notes all intimate confidences i.a. sexual or criminal activities or problems in marriages and families. According to the church's own documents and to affidavits from "defectors", such notes are filed with a view to extorting a member (or a member's family) who may raise problems by threatening to defect, go to the authorities or start hostile propaganda."

Mr. Mensing claims that the injunction shall not be allowed to be proceeded with, primarily according to section 647(2) and alternatively in pursuance of section 648(3) of the Danish Administration of Justice Act.

Eugene H. Methvin explains - duly admonished - that he is senior editor at Reader's Digest in Washington D.C. where he has been employed since 1960. His fields are i.a. criminality and extremist organizations etc. He has for several years collected material about the Scientology movement and since 1st December 1979 he has worked whole-time on the article in the May issue of Reader's Digest. The article is based on material from the Scientology movement and on material from legal actions and court inquiries. The information in the article has been examined and checked 100%. This also applies to the statements for which a prohibitive injunction is claimed. These statements are based on Scientology material, court inquiries and information from defected members. He has not directly talked to persons who have said that they paid money to Switzerland, but he has talked to an official representative from the Scientology-movement in Switzerland who neither confirmed or denied that 10 percent of the gross profits were paid into accounts in Switzerland. This conversation took place in February 1980. The information about extorsion comes from many sources i.a Scientology documents and information from a former priest in the movement, Miss MacLean. The witness is certain that this form pressure also takes place in Denmark as the churches always obey orders from Ron Hubbard.

As a witness appeared David Otis Fuller jr., who duly admonished - tates that he is a member of The New York Bar, and that he is employed by Readers's Digest Legal Department. Before it was published he read Methvin's article and found that, according to existing law in New York, it was legal to publish the article.

Mr. Mersing, Attorney, substantiated exhibits A-A and pleaded the case. In support of his claim for dismissal in pursuance of section 647(2) of the Administration of Justice Act he stated that the statements concerned are based on actual facts and are this true, that the statements do not in particular aim at Danish conditions and therefore are not onlawful in relation to the plaintiffs, that the statements are not in fact unlawful since the press has a particularly wide freedom of expression with regard to religious and political movements, and that besides the article is an expression of legal retalitation, cf. exhibit 2.

In support of his claim for dismissal in pursuance of section 648(2) of the Administration of Justice Act, Mr. Mersing stated that in all circumstances it must be presumed that the provisions of the Criminal Code give the plaintiffs sufficient legal protection.

Finally Mr. Mersing has claimed that the plaintiffs are ordered to pay costs and in this connection he has informed that the defendant's expenses in connection with the calling of witnesses amounts to 50 - 100,000 Dkr.

The case was stayed for continued procedure on Monday the 9th June, 1980 at 1 o'clock in the afternoon.

The Sheriff's Court was adjourned
Leif Sørensen

o 0 o

On the 9th June, 1980 at 1 o'clock in the afternoon the Sheriff's Court was formed by Judge Leif Sørensen at the Court House.

The following Prohibitive Injunction case was heard:

The Scientology Church of Denmark

v.

1) Det Bedste fra Reader's Digest

and

2) Mr. Mogens Nielsen, Editor, responsible under the press law.

(last heard on June 2, 1980, page 3(9).

For the plaintiffs appeared Mr. Bent Falk-Rønne, Attorney, who produced exhibits 2-lo.

For the defendants appeared Mr. Mersing, Attorney, who produced Exhibit A-1 and B-1.

As a witness appeared Mr. Per Schiøtz, who duly admonished - explains that he has been a priest in the Scientology Church for the past lo years, 9 of which was spent in Denmark. For about 1 year he has been priest in USA and various other countries. He gives spiritual guidance for about 7 hours a day and he has administered such guidance in about 12,ooo instances. Notes are taken of what people tell him. This is first of all done in order that the supervisor can check that the priest has given the spiritual guidance correctly. The notes are filed in a locked safe to which only the supervisor and 5 priests of the church know the code. The witness has never disclosed things confided to him, and he knows for certain that this does not take place in the church. Nor is there any extorsion, force or pressure towards members of the church or other persons.

Mr. Falk-Rønne, Attorney, proved the exhibits 1 - lo and pleaded the case. In support of his claim for the injunction, he stated that the statements for which injunction is claimed attack on the plaintiff's honour as they contain i.a. accusations of criminal offences. The accusations affect the Scientology Church as a whole, and the Danish Scientology Church must be entitled to legal protection against such accusations. He found that it was proved that the statements concerned

are incorrect, and that the conditions for an injunction to be issued were fulfilled. Furthermore he did not find that the general rules of the criminal legislation give sufficient legal protection to the plaintiffs. He finally found that an injunction should be issued without any security being placed as the defendant would not suffer any loss in this connection and that no compensations for costs should be awarded in connection with the hearing of the case.

Eugene H. Methvin stated - again duly admonished - that exhibits M,N and O come from the District Court in Washington D.C. Judge Ritschie released these and other documents in the fall of 1979. The exhibits have been procured by the F.B.I.

Reply and Rejoinder were exchanged between the attorneys. During this exchange Mr. Hansing stated that Methvin's article would be brought in the August issue of Det Bedste.

At 15.15 o'clock the following Order was issued:

O R D E R

It is not found that in the evidence produced there is proof that the statements for which an injunction is claimed to prohibit publication and circulation are true or untrue.

In deciding the case the basis must, however, be that the statements which have already been published in several other countries, that is i.a. in the U.S.A., West Germany, France and Norway do not in particular aim at Danish conditions. With respect hereto the court does not find that it has been verified that a publication of the statements in this country is unlawful in relation to the plaintiffs.

Irrespective that it could be assumed that a publication or circulation of the statements would be against the plaintiffs' rights on account of their general nature, it must otherwise be assumed that the punishment which the general rules of the law provide for for such an offence give sufficient protection to the plaintiff, cf. section 648(2) of the Administration of Justice Act.

It is therefore not found that the application for a prohibitive injunction shall be proceeded with and not against security placed by the plaintiff either in accordance with section 6 "(1) of the Administration of Justice Act.

It is found that the claim made by the defendant's attorney for an award of costs should under the circumstances be admitted to the extent stated below.

THE DECISION OF THE COURT IS:

The injunction claimed shall not be proceeded with.

The plaintiffs, the Scientology Church of Denmark are ordered within 14 days from this Order to pay costs of Dkr 2,000.- to the 2 defendants "Det Bedste fra Reader's Digest ApS" and Mr. Mogens Nielsen, Editor.

Leif Sørensen

Mr. Falk-Rønne, Attorney reserved the right to appeal the order to the Eastern Division of the Danish High Court.

The Court adjourned

Leif Sørensen

THIS IS TO CERTIFY the correctness of the Office Copy. The City of Copenhagen's Sherriff's Court this 11th day of June, 1980.

By order

(signature)

FEB 2 [illegible]
LORETTA [illegible]
CLERK
BY Cheryl Strong

Case No. A202573
IK
C

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

Church of Scientology of Nevada, a non-profit corporation, on behalf of itself and its members; and Charles Orr, President, Church of Scientology of Nevada,

Plaintiffs,

vs.

Michael Flynn,

Defendant.

COMPLAINT

Plaintiffs complain of Defendant and allege as follows:

PARTIES

1. The Plaintiff, the Church of Scientology of Nevada, is a non-profit corporation organized pursuant to the provisions of Sections 81.290 through 81.340 of the Nevada Revised Statutes, whose principal office is in Las Vegas, Nevada, whose members practice and adhere to the religious beliefs, tenets and principles of the religion of Scientology. The Church brings this action on behalf of itself and all of its members.

2. The Plaintiff, Charles Orr and other members of the Church of Scientology of Nevada are residents of the State of Nevada and members in good standing of the Church of Scientology of Nevada.

3. The Plaintiff and its members practice the religion of Scientology. Scientology is an applied religious philosophy which seeks, through the use of pastoral counseling procedures,

United States District Court

FOR THE

DISTRICT OF NEVADA-LAS VEGAS

C

CHURCH OF SCIENTOLOGY OF NEVADA, etc., et al.

vs.

LA VENDA VAN SCHAICK, et al.,

CIVIL ACTION FILE NO.

Civil-LV 80-10 HEC

JUDGMENT

This action came on for ~~trial~~ decision before the Court, Honorable Harry E. Claiborne, United States District Judge, presiding, and the issues having been duly ~~tried~~ decided and a decision having been duly rendered,

It is Ordered and Adjudged that the Motion to Dismiss, filed on behalf of the Defendants Van Schaick, Flynn, Hoffman and Walters, and each of them, is granted;

IT IS FURTHER ORDERED and ADJUDGED that the within action is dismissed with prejudice as to all Defendants;

IT IS FURTHER ORDERED and ADJUDGED that the Clerk of the Court shall enter Judgment of Dismissal;

IT IS FURTHER ORDERED and ADJUDGED that, in light of the above, the following Motions submitted to the Court concurrently herewith are deemed moot and hence not decided:

a). The Motion to Compel Appearance and Answer to Questions and for Sanctions re. Witness Tonja Burden, as characterized by this Court in its Minute Order dated March 27, 1980;

b). The Motion for Change of Venue, filed on behalf of Defendants;

c). The Motion for a Protective Order, filed on behalf of Defendants Van Schaick, Flynn and Hoffman.

Dated at Las Vegas, Nevada, this 28th day of April, 1980.

ENTERED

APR 29 1980

CLERK U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY [illegible] DEPUTY

CAROL C. FITZGERALD
Clerk of Court

By: [signature]
Lorraine Murphy
Deputy Clerk

SEAL

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
No. 40906

CHURCH OF SCIENTOLOGY OF BOSTON, INC., ON ITS OWN BEHALF AND ON BEHALF OF ITS MEMBERS; ROBERT JOHNSON; AND JANE DOE,

PLAINTIFFS,

v.

MICHAEL J. FLYNN, LUCY GARRITANO, STEVEN GARRITANO, JAMES GERVAIS, AND PETER GRAVES,

DEFENDANTS.

COMPLAINT

INTRODUCTION

1. This suit arises out of the unlawful taking of membership lists, financial records, and other property owned by the plaintiff, Church of Scientology of Boston, Inc., a non-profit religious organization incorporated under the laws of Massachusetts. The documents and other property at issue were taken from the plaintiff Church without authority, by several of the defendants acting in concert. None of the materials have been returned to their lawful owner, the plaintiff Church.

The Church of Scientology of Boston

448 Beacon Street, Boston, Massachusetts 02115 Phone: (617) 266-9500, Telex: 94-0297

1/15/80

HAND DELIVERED

GENERAL COUNSEL
MASSACHUSETTS BAR OF OVERSEERS

January 15, 1980

RECEIVED
OFFICE OF THE
BAR COUNSEL

JAN 16 1980

RE: Michael J. Flynn, Esq.
1 Fanuiel Hall
Boston, Mass.

12

Dear Sir,

Please accept the following as an official complaint to the Massachusetts Bar Association concerning the conduct of one Michael Flynn in connection with the case of LaVenda Van Schaick vs The Church of Scientology of California, United States District Court for the District of Massachusetts, Docket Number 79-2491-G.

Based upon information received from individuals and other Churches Michael Flynn has embarked upon a hate-campaign calculated and announced to destroy all Churches of Scientology everywhere. His campaign centers around an entirely frivolous suit against various sister Churches of Scientology and individual Scientologists, in which Michael Flynn seeks to enjoin the practice of the religion of Scientology - an injunction no court could possibly grant so long as our American Constitution stands.

Specific acts complaint of, under the Code of Professional Responsibility follow:

1. INITIATION OF THE SUIT - Per DR 7-102 A) In his representation of a client a lawyer shall not 1.File Suit, assert a position, conduct a defense, delay a trial or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another. Prior to filing the suit, Michael Flynn met with Church counsel and made the following statements, "that the best way to destroy Scientology was financially" That the material he had was "explosive

THE CHURCH OF SCIENTOLOGY OF BOSTON
448 Beacon Street, Boston, Massachusetts 02115 Phone: (617) 266-9500, Telex: 94-0297

General Counsel
Massachusetts Bar of Overseers

RE: Michael J. Flynn, Esq.
Thomas Hoffman, Esq.
Thomas Greene, Esq.
12 Union Wharf
Boston, Mass.

19 November 1980

Dear Sir:

The following is a complaint to the Massachusetts Board of Bar Overseers concerning the conduct of Michael J. Flynn, Thomas Hoffman, and Thomas Greene in connection with multifarious litigation which they have brought against the Church of Scientology of Boston and its sister Churches. Such litigation now pending in the Boston area includes: Van Schaick v. Church of Scientology of California et al. (D. Mass. Docket No. 79-2491-G); Troy v. Church of Scientology of Boston et al. (Mass. Sup. Crt. Docket No. 41073); Hansen v. Church of Scientology of Boston et al. (Mass. Sup. Crt. Docket No. 41074); Church of Scientology of Boston Inc. v. Michael Flynn et al. (Mass. Sup. Crt. Docket No.40906); Stiffler v. Church of Scientology of Boston et al.

In January of 1980, I informed this Board that the lead attorney on these cases, Michael J. Flynn, had embarked on a hate campaign with the avowed purpose of destroying all the Churches of Scientology everywhere. At that time I complained of his conduct in initiating a lawsuit in clear violation of the First Amendment to the Constitution, solely to put financial pressure on the Churches of Scientology. See letter to General Counsel of January 15, 1980, attached hereto as exhibit A. I also complained that Flynn had violated Canon 3 by aiding his brother, a non-lawyer, in the practice of law and defrauding the public.

In response, Mr. Flynn filed approximately four feet of documents

Accordingly, we hold that Appellee did justifiably rely on the Government's conduct, which we have held was unjustifiable. We emphasize that our holding of estoppel under these circumstances is limited to the situation where (a) a procedural not a substantive requirement is involved and (b) an internal procedure manual or guide or some other source of objective standards of conduct exists and supports an inference of misconduct by a Government employee. *Cf. Hansen v. Harris, supra.*

Accordingly the court will issue an appropriate Order reversing the Secretary's denial of divorced mother's benefits and judgment will be entered for the plaintiff. Further this case will be remanded to the Secretary for determination of back benefits.

The Clerk is directed to send certified copies of this Memorandum Opinion to all counsel of record.

propriate where the district judge's impartiality *might* be questionable, even though the plaintiffs' motion for recusal was erroneous in its allegations.

Motion granted.

1. Judges ⇐51(3)

Factual allegations contained in affidavit in support of motion for recusal must be taken as true and court has no power or authority to contest in any way whatsoever the necessary acceptance of truthfulness of facts alleged, even though court may be aware of facts which would indicate clearly the falsity of any such allegations. 28 U.S.C.A. §§ 144, 455(a).

2. Judges ⇐51(1)

Recusal was appropriate where trial judge's impartiality might be questionable, even though plaintiffs' motion for recusal was erroneous in its allegations. 28 U.S.C.A. §§ 144, 455(a).

Kaplan & Randolph by Mark Vincent Kaplan, Los Angeles, Cal., for plaintiff.

Morgan, Wentzel & McNicholas by Darryl Dmytriw, Los Angeles, Cal., for defendant.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, a corporation, Plaintiff,

v.

Paulette COOPER, Defendant.

No. CV 78-2053-AAH(PX).

United States District Court, D. C. California.

June 18, 1980.

DECISION AND ORDER GRANTING PLAINTIFF'S AFFIDAVIT FOR DISQUALIFICATION AND REASSIGNMENT OF CASE AND NOTICE TO COUNSEL

HAUK, District Judge.

On a motion for recusal, the District Court, Hauk, J., held that recusal was appropriate where the district judge's impartiality *might* be questionable, even though the plaintiffs' motion for recusal was erroneous in its allegations.

This matter has now come on for hearing in the above-entitled Court on Monday, June 16, 1980, at 1:00 p. m. upon plaintiff's Motion for Recusal, pursuant to 28 U.S.C.

§ 144 [1]; 28 U.S.C. § 455(a) [2] and Canon 3 C of the Code of Judicial Conduct [3]; the Affidavits of Muriel Yasaky,[4] and Rebecca Chambers,[5] and the Certificate of Good

1. § 144. Bias or prejudice of judge

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

2. § 455. Disqualification of justice, judge, or magistrate

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

3. C. *Disqualification*

(1) A judge shall disqualify himself in a proceeding in which his . . . impartiality might reasonably be questioned. . . .

4. STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Muriel Yasaky, do hereby depose and say: On July 19, 1979, I was present on the premises of the United States District Court, Central District of California, located in Los Angeles.

I was working in a voluntary capacity for the Church of Scientology. My function as a volunteer was to perform various duties necessary to the smooth running of the Church related litigation which was ongoing at the time. I was serving in a logistic liaison capacity.

At about 10:15 a. m. I was entering the elevator at the Spring Street side of the court house building. I was accosted by a man who yelled "Who are you?" and then he yelled, "Do you work here?"

He then grabbed me by the arm and forcefully pulled me out of the elevator.

I asked him to identify himself and he did so. He identified himself as Judge Hauk.

Judge Hauk ordered me over to the Guard's table and escorted me there.

I did not have any identification with me, so Judge Hauk ordered the Guard to accompany me to the witness room where my purse was located to obtain the identification.

During the whole period of time that I observed Judge Hauk's behavior, he was very irate. He angrily recounted something about posters and stickers being put up. Apparently the posters had something about Marshals assassinating government witnesses. Judge Hauk referred to this and said he was sick of it. He asked me while at the Guard Table if I was with Scientology. I answered affirmatively. He asked me how long I'd been with Scientology. I answered fifteen years. He asked if I were a member of "this Guardian Office." I answered negatively.

While his anger was directed at me personally, he repeatedly questioned me on my connection to Scientology and intermittently made reference to the posters. Judge Hauk informed the Guard that if, while taking me to check my identification, I gave the guard any trouble to, "slap her in irons and bring her to me."

As soon as the Judge left, the Marshal walked me back to check my identification and we amicably settled the situation.

/s/ Muriel Yasaky
Muriel Yasaky

Subscribed and sworn to before me, this 14th day of May, 1980.

[seal]

/s/ Ben Mustard
Notary Public

5. MARK VINCENT KAPLAN

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Faith of Mark Vincent Kaplan, Esq.,[6] filed May 16, 1980, together with points and authorities; and arguments of counsel; and the Court having considered all the afore-

NO. CV 78 2053
AFFIDAVIT OF DISQUALIFICATION OF HONORABLE A. ANDREW HAUK

STATE OF CALIFORNIA)
) ss.:
COUNTY OF LOS ANGELES)

I. Rebecca Chambers, being duly sworn, deposes and says:

1. She is the duly authorized officer of the Plaintiff in the above-entitled action.

2. The Plaintiff herein believes and avers that the judge before whom this action has been transferred and is now pending, Honorable A. ANDREW HAUK, has a personal bias and prejudice against the said Plaintiff, CHURCH OF SCIENTOLOGY OF CALIFORNIA.

3. The facts and reasons for the belief that such personal bias and prejudice does in fact exist are as hereinafter set forth in the Affidavit on file of MS. MURIEL YASSKY and the foregoing Memorandum of Points and Authorities, and I hereby affirm that all the information contained therein is true and correct to the best of my knowledge and forms the basis of my belief in the existence and extent of the bias of the Honorable A. ANDREW HAUK.

Dated: May 15, 1980

/s/ Rebecca Chambers
REBECCA CHAMBERS, CHURCH OF SCIENTOLOGY OF CALIFORNIA

Subscribed and sworn to before me this 15th day of May, 1980.

(seal)

/s/ Ben Mustard
NOTARY PUBLIC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHURCH OF SCIENTOLOGY OF CALIFORNIA, a corporation, Plaintiff, vs. PAULETTE COOPER, Defendant

NO. CV 78 2053 F (PX)

CERTIFICATE OF GOOD FAITH

MARK VINCENT KAPLAN certifies:

1. That I am counsel of record for the Defendant CHURCH OF SCIENTOLOGY OF CALIFORNIA in this cause;

2. That as such I am familiar with the Affidavit of MURIEL YASSKY, made and filed to attain the recusal of the Honorable ANDREW A. HAUK under 28 U.S.C. § 144.

3. That I am familiar with the contents of said Affidavit and the reasons it is made and filed in this cause and states that said Affidavit is and was made in good faith and I have sought to examine all the participants with *regard* to these allegations *set forth* in Affidavit of Muriel Yassky and that I have found that examination and investigation fully support the veracity of said allegations and find them to be true to the best of my information and belief based on these interviews and examinations.

4. That this Certificate is made in support of the Affidavit for Recusal and is made to fulfill the express requirements of 28 U.S.C. § 144.

Note 6 continued on next page.

said now makes its Order and Decision granting said Motion for Recusal.

FINDINGS AND CONCLUSIONS

[1] Since they are based upon 28 U.S.C. §§ 144 and 455 and Code of Judicial Conduct, Canon 3 C, we are required to examine plaintiff's Affidavits and Certificate to determine if they meet the tests required by the United States Code and said Canon, namely, those of (1) timeliness and (2) legal sufficiency. If they do, then the factual allegations contained in the Affidavit *must* be taken as true and the Court has no power or authority to contest in any way whatsoever the necessary acceptance of truthfulness of the facts alleged, even though the Court may be aware of facts which would indicate clearly the falsity of any such allegations. *Berger v. United States*, 255 U.S. 22, 33, 41 S.Ct. 230, 65 L.Ed. 481 (1921); *Botts v. United States*, 413 F.2d 41 (9th Cir. 1969); *United States v. Tropiano*, 418 F.2d 1069 (2d Cir. 1969); *Lyons v. United States*, 325 F.2d 370 (9th Cir. 1963), *cert. den.* 377 U.S. 969, 84 S.Ct. 1650, 12 L.Ed.2d 738 (1964). *See also: United States v. Zarowitz*, 326 F.Supp. 90, 91 (C.D.Cal.1971), *United States v. Zarilli*, 328 F.Supp. 706, 707 (C.D.Cal.1971), *Spires et al. v. Hearst*, 420 F.Supp. 304, 306-307 (C.D.Cal.1976), *State of California et al. v. Kleppe*, 431 F.Supp. 1344 (C.D.Cal.1977), and *Hayes v. National Football League et al.*, 463 F.Supp. 1174 (C.D.Cal.1979) *Cf.: Mavis v. Commercial Carriers, Inc.*, 408 F.Supp. 55, 58 (C.D.Cal.1975).

While perhaps not essential, it does seem to us appropriate, that we should now affirm that the Judge herein does not have, nor did he ever have, any personal bias or prejudice in the slightest degree for or against any of the parties to the case, cause and proceeding herein, and more particularly, does not now have and never did have any such personal bias or prejudice in the slightest degree against the Church of Scientology, plaintiff herein. Nor has the Judge ever knowingly or unknowingly given any cause for allegations of any such alleged personal bias or prejudice, or belief therein or suspicion thereof.

At the outset it might be argued with some possible justification that the plaintiff's Affidavits and Certificate are not "timely" within the meaning of 28 U.S.C. § 144, since they were not filed until May 16, 1980, whereas the action herein was transferred to this Court from the Hon. Warren J. Ferguson on December 27, 1979. However, it should be noted that this Court's Clerk received from plaintiff's counsel, Mark Vincent Kaplan, Esq., a letter addressed to the Court dated February 4, 1980,[7] requesting the Court to recuse itself

Note 6—Continued

Dated:

LAW OFFICES OF MARK VINCENT KAPLAN

By: /s/ Mark Vincent Kaplan
MARK VINCENT KAPLAN

7. February 4, 1980

The Honorable A. Andrew Hauk
Judge of the United States
District Court
312 N. Spring Street
Los Angeles, California 90012

Re: Church of Scientology of California v. Paulette Cooper
Case No. CV 78-2053-F (Px)

Dear Judge Hauk:

Please be advised that I am the attorney of record for the Church of Scientology of California in the above-referenced matter. As the file in this matter will clearly reflect, I was substituted as counsel of record on or about the date of October 15, 1979. Within the last two weeks, it has come to the attention of my client and myself, that a bias exists on behalf of the Court in this matter. As will hereinafter be more fully set forth, the result of this bias compels me to request that this Honorable Court disqualify itself on the basis of the alleged bias regarding the Church of Scientology of California.

I am writing this letter on an informal basis and should the Court so desire, I will proceed, if necessary, with a formal affidavit and certificate of good faith pursuant to 28 U.S.C. § 144 and § 455, as hereinafter indicated

from the matter herein. The Clerk's response to this request was made in a letter from Law Clerk Brian A. Sun to Mr. Kaplan, dated February 11, 1980,[8] indicating to

Finally, I wish to state that although my attention was first addressed to the factual criteria which give rise to this letter within the last few weeks, I have awaited sufficient documentation from my client for the purposes of documenting the events which are alleged to have occurred.

As we are all aware, the transfer of this case before this Honorable Court from the Court of Judge Ferguson was a result of the elevation of Judge Ferguson to the Ninth Circuit Court of Appeals. I pursue this matter with the Court at this time inasmuch as there have been no substantive proceedings regarding the subject case addressed to this Court to date.

The factual incidents which have given rise to the opinion of my client, in which counsel joins, are as follows:

1. On or about July 19, 1979, one Muriel Yassky, a member of the Church of Scientology, was present at the United States District Court building for the Central District of California. Ms. Yassky was standing outside the elevators on the fourth floor when, it is alleged, that Your Honor ordered Ms. Yassky out of the elevator and proceeded to direct Ms. Yassky to the guard's table for the purpose of identifying herself and her purposes for being in the Courthouse building. It is further alleged that Your Honor requested Ms. Yassky to identify whether she was with Scientology and/or with "this guardian office", referring to the office of the Church of Scientology.

2. Evidently, at the time of the incident, posters had been placed upon Courthouse property indicating, in substance, that marshals were responsible for the killing of government witnesses. Ms. Yassky indicated that from the manner in which Your Honor focused upon her presence and her affiliation with Scientology, that Your Honor seemed to equate the responsibility for the posting of these anti-government slogans with members of the Church of Scientology. From the data available to the undersigned, there is no reason why the presence of anti-government posters in the Courthouse should any way have been automatically equated with the presence of Scientologists in the Courthouse. I am prepared, if necessary, to supply affidavits from the principals involved in this matter to substantiate the relevant factual allegations.

The undersigned joins in the good faith belief of my client that the facts of the subject incident indicate that there exists on behalf of the Court, a bias towards members of Scientology as well as Scientology as an organization. I would be prepared, if necessary, to file a formal affidavit and certificate of good faith placing before the Court our request for disqualification in the above-referenced matter pursuant to 28 U.S.C. § 455, 28 U.S.C. § 144, Canon 3 C of the Code of Judicial Conduct as amended to date.

Finally, I respectfully request that this Court reassign the above-referenced matter to a different Court in accordance with local Rule 2 as well as other applicable rules and orders of this Court.

The exercise of your sound discretion will be greatly appreciated and I remain ready to proceed should the Court so desire.

Sincerely,
LAW OFFICES OF KAPLAN
AND RANDOLPH
MARK V. KAPLAN

MVK/la

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
UNITED STATES COURTHOUSE
LOS ANGELES, CALIFORNIA 90013

CHAMBERS OF
A. ANDREW HAUK
UNITED STATES DISTRICT JUDGE

February 11, 1980

Mark V. Kaplan, Esq.
Law Offices of Kaplan and Randolph
11620 Wilshire Boulevard
Sixth Floor
Los Angeles, California 90025

Dear Mr. Kaplan,

In response to your letter of February 4, 1980, you should be advised that Local Rule 1.8 of the Rules of the United

Mr. Kaplan that this Court would not act upon his letter because his *ex-parte* communication with the Court was inconsistent with and in violation of Local Rule 1.8 of the Rules of the United States District Court, Central District of California.

While the Court, therefore, has some doubt about the validity of measuring "timeliness" by the five week interval which elapsed between the date of transfer of this case from Judge Ferguson and Mr. Kaplan's February 4, 1980, letter, rather than by the five month interval between Judge Ferguson's transfer and the filing of the within Motion, the Court nevertheless finds that the herein Affidavits and Certificate were timely, and Mr. Kaplan's letter-writing efforts to bring this Motion to the attention of the Court, while not made in accordance with the Local Rules and accepted practice, were apparently made in good faith and sufficiently set forth legal "timeliness."

Now, the next question is whether or not the Affidavit and Certificate are "legally sufficient" within the meaning of the same statutory sections and Canon. Certainly they appear to be and the Court so finds. They are in proper form; they assert alleged facts and not just conclusions of law; and so, in line with the cases the Court has previously cited, they are legally sufficient. The only question left is whether facts are alleged which require the Judge to disqualify or recuse himself under 28 U.S.C. § 455(a) and Code of Judicial Conduct, Canon 3 C.

As stated earlier, the Court recognizes that the factual allegations contained in the Affidavit *must* be taken as true and the Court has no power or authority to contest in any way whatsoever the necessary acceptance of truthfulness of the facts alleged, even though the Court may be aware of facts which would indicate clearly the falsity of any such allegations. In that regard, and for the record, the Court strongly takes issue with the alleged facts asserted in the Affidavits of Muriel Yasky and Rebecca Chambers, and the Certificate of Good Faith of Mark Vincent Kaplan, Esq.

The so-called "elevator incident" referred to in plaintiff's moving papers did not occur exactly as alleged. On July 19, 1979, upon Judge Hauk's driving into the Courthouse garage, Federal Protective Service Contract Guard Officer Jennifer Jackman, guarding the entrance to the Main Street Garage, told Judge Hauk that a number of stickers had been found pasted to the front door of the building, the sentry box on the Spring Street Parking level, and elsewhere, labelling the United States Marshals as assassins. She reported to Judge Hauk that she had also heard about an episode of a lady found wandering in a Judge's private hallway.

Acting in his capacity as Vice Chairman of the Security Committee, and Acting Chairman in Judge Firth's absence, and carrying out the duties delegated to him by the mandatory and unanimous Order of all

States District Court, Central District of California, entitled "Correspondence and Communications with the Judge," clearly states that attorneys "should refrain from writing letters to the Judge" of an ex parte nature or "otherwise communicating with the Judge unless opposing counsel is present." Judge Hauk follows a policy which adheres to the aforesaid rule and would expect your request to be submitted in the proper written form and notice given to all parties involved. At that time, your recusal request will be addressed by the Court.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,
/s/ Brian A. Sun
Brian A. Sun
Law Clerk to
Judge A. Andrew Hauk

of the Judges of this Federal District Court, Judge Hauk proceeded to inquire further into these reports. He checked with the United States Marshal's Office who reported that they had heard of the same incidents and told him that copies of the label were in the Federal Protective Service Office on the Main Street level. Judge Hauk proceeded there and saw one of the labels, green background with black printing, and the legend: [9]

"U. S. Marshals Are
Assassinating
Governments Witness."

Judge Hauk then went out into the Main Street lobby area to discuss with the Federal Protective Service Contract Guard there, Walter H. Bonner, whether or not he (Bonner) had seen any unusual or improper activities with respect to the pasting of the labels, the use, or misuse, of the Main Street garage and Spring Street parking area by any unauthorized persons, or any other activities indicating any breach of security in the Courtrooms or Courthouse. At that time, Judge Hauk noticed, standing between himself and the officer, near the officer's desk, and in the space immediately adjacent to the elevators, a young lady, apparently endeavoring to eavesdrop upon Judge Hauk's conversation with the Officer. When Judge Hauk looked at her, she turned her eyes up and pretended not to be listening or interested in what he was saying.

Judge Hauk went over and asked her what she was doing in the building and she replied "Oh, nothing in particular." He asked her again what she was doing, and she again said "Nothing in particular." The Judge asked her name, and she refused to give it to him, and said she was going upstairs "for a cup of coffee."

Whereupon Judge Hauk asked her to come over to the officer's desk, and escorted her to said desk to answer a few questions. She came over and Judge Hauk asked her name, address and telephone number, requesting the Officer to write them down as she gave them—Muriel Yasaky, 5959 Franklin Avenue, Apt. 407, Hollywood, California 90028, phone no. 462-0135. Judge Hauk further asked her for her I.D., which she said was "upstairs in the waiting room." At that point, the Chief Deputy Marshal, James L. Propotnick, appeared on the scene and Judge Hauk asked him to go with the young lady to the waiting room and check out the I.D. she mentioned. At no time did Judge Hauk ever state that Ms. Yasaky should be "slapped in irons" if she resisted the Marshals.

[2] Despite the problems the Court has with the factual allegations contained in plaintiff's motion, and despite the Court's firm recollection and conviction that the allegations are false, it feels compelled and bound to follow the more prudent course of granting the plaintiff's Motion for Recusal. Canon 3 C(1) and 28 U.S.C. § 455(a) mandate that a Judge shall disqualify himself whenever "*his impartiality might reasonably be questioned.*" The Court herein finds that plaintiff's Motion for Recusal, while indeed false and erroneous in its allegations, is based upon what Ms. Yasaky and plaintiff's counsel apparently feel is reasonable. Moreover, it has been said in some cases and by some authorities that recusal should be granted, pursuant to the aforementioned Canon 3 C(1) of the Code of Judicial Conduct, and 28 U.S.C. § 455(a), in such a situation, even when the Court is in doubt as to the "reasonableness" of an affiant's belief. This conclusion is reached on the basis of the Court's recognition of the sensitive nature of the case itself and the principles underlying the pertinent sections of the United States Code and the Code of Judicial Conduct, as well as other relevant

9. **U. S. Marshals Are Assassinating Governments Witness**

factors governing Judicial disqualifications, having in mind that when in doubt the Court should resolve the issue in favor of the party seeking recusal. E. g. *Mims v. Shapp*, 541 F.2d 415, 417 (3d Cir. 1976); *Hodgson v. Liquor Salesmen's Union*, 444 F.2d 1344, 1348 (2d Cir. 1971). Of course, this does not constitute any finding or conclusion that the plaintiff's allegations are factually true or have any real substantive merit, nor does it have any bearing whatsoever upon the merits of the basic cause of action.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the undersigned Judge does hereby disqualify and recuse himself from any and all further matters in the within case, cause and proceeding, pursuant to 28 U.S.C. § 455(a) and Canon 3 C(1) of the Code of Judicial Conduct, as amended to date, and pursuant, of course, also, to the Affidavits and Certificate filed herein by and on behalf of the plaintiff;

2. That the within case, cause and proceeding be and the same hereby is returned to the Clerk for random transfer and reassignment by the Clerk to another Judge of this District Court, Central District of California, in accordance with the applicable Rules and Orders of this Court, particularly General Order No. 104, filed January 18, 1971, Part Two, Section One, Paragraph I; and

3. That the Clerk serve copies of this Decision and Order forthwith by United States mail on counsel for all parties appearing in this case, cause and proceeding.

Edward B. BAKER, Ann Britt Baker, Plaintiffs,

v.

Richard Joseph MURPHY, Mary Lou Murphy and Citibank, N. A., Defendants.

Civ. Nos. 79-582, 79-2030.

United States District Court, D. Puerto Rico.

June 28, 1980.

Action was brought alleging breach of contract. Upon defendants' motion to dismiss plaintiff's filed third amended complaint, the District Court, Gierbolini, J., held that third amended complaint alleging that defendants "upon information and belief are presently citizens of the State of New Jersey and of the United States of America" failed to distinctively and positively aver citizenship sufficient to form basis for diversity jurisdiction; furthermore, as plaintiffs had repeatedly failed to adequately plead jurisdiction in spite of opportunities given to amend their complaint, plaintiffs would be denied any further opportunities to amend.

Complaints dismissed.

1. Federal Courts ⇐29, 31

Jurisdiction is a threshold determination that cannot be waived and it must appear from face of the complaint.

2. Federal Courts ⇐30

Courts in federal system must, at all stages of a proceeding, make certain of possessing power to act.

3. Federal Courts ⇐34

Burden of establishing jurisdiction of a federal court is on the party invoking it.

4. Federal Courts ⇐312

Allegations that a party is a resident of certain state is insufficient to form basis for diversity jurisdiction since, consistently with that averment, he may be a citizen of any other state.

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION

TONJA BURDEN, Plaintiff, vs. CHURCH OF SCIENTOLOGY OF CALIFORNIA, et al., Defendants.	CASE NO. 80-501-CIV. T-K

MOTION FOR DISQUALIFICATION

Defendant, CHURCH OF SCIENTOLOGY OF CALIFORNIA, moves for disqualification of the Honorable Ben Krentzman, pursuant to 28 U.S.C. Section 455, and as grounds therefor states:

(1) His impartiality in these proceedings might reasonably be questioned.

(2) A person within the third degree of relationship, to wit his son, John Krentzman, Esquire, has, as Assistant State Attorney, an interest that could be substantially affected by the outcome of the proceedings.

(3) His rulings at the hearing on October 23, 1980, and his written Order of October 31, 1980, have created the appearance of bias and prejudice against the Defendant, Church of Scientology of California.

WILSON, WILSON, NAMACK & JAFFER
CHARTERED
27 South Orange Avenue
Sarasota, Florida 33577
(813) 955-8124
Attorneys for Defendant

By: _____
CLYDE M. WILSON, JR.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail to the following attorneys:

Walt Logan, Esq.
6641 Central Avenue
St. Petersburg, FL 33710

Tony Cunningham, Esq.
708 Jackson Street
Tampa, FL 33602

Michael J. Flynn, Esq.
12 Union Wharf
Boston, MA 02109

Thomas M. Greene, Esq.
12 Union Wharf
Boston, MA 02109

on this 20th day of November, 1980.

By: _____
CLYDE H. WILSON, JR.

SCIENTOLOGY'S WA AGAINST JUDGES

BY JAMES B. STEWART, JR.

On September 5, 1980, as U.S. District Court Judge Charles Richey was recuperating from two pulmonary embolisms and exhaustion, lawyers for the Church of Scientology and the Justice Department gathered before Judge Aubrey Robinson, Richey's successor in the two year-old conspiracy case against 11 members of the Church of Scientology. Judge Richey had already convicted and sentenced nine of the original 11 defendants, but the remaining two, recently extradited from England, were about to go on trial.

"Particularly from the standpoint of your Honor's feelings about these defendants who are members of the Church of Scientology . . ." began John Shorter, Jr., a lawyer for one of the defendants. He was interrupted by Judge Robinson. "You want to raise a motion to recuse?" the judge asked. He knew what Shorter's remark foreshadowed, having witnessed the Scientologists' campaign to drive Judge Richey off the case. "Is this a fishing expedition?"

Robinson is the fourth D.C. district court judge to preside over the Scientology case and the latest target of the Scientologists' self-proclaimed "attack" litigation strategy. Their strategy amounts to an all out war against the D.C. district court judges, a war much more sophisticated, better financed and more successful than the bizarre tactics used by some other groups against their courtroom adversaries, such as Synanon's attempt to murder an opposing counsel by putting a rattlesnake in his mailbox.

Unlike Synanon, the Church of Scientology has long sought to distinguish itself as a legitimate religion. Founded in 1954 by L. Ron Hubbard, a science fiction writer, philosopher and author of the best-selling book *Dianetics: The Modern Science of Mental Health*, the church claims five million adherents to its self-help philosophy. The Church of Scientology has called itself the spiritual heir of Buddhism in the western world, and focuses on what it calls "pastoral counseling" to increase its members' abilities and awareness.

But in the past few years, the church has been accused of brainwashing and harassing its members, and it has become embroiled in dozens of lawsuits (see sidebar, page 32), including the 1978 criminal conspiracy charges against 11 of its members. Such setbacks have triggered increasingly militant responses, which focused, in the conspiracy case, on the federal judiciary. The Scientologists' legal strategy has been to force the recusal of every judge assigned to that case.

Judges lie at the root of the pending criminal charges against the Scientologists. In 1976, D.C. District Court Judge Oliver Hart, Jr., casually proposed a deposition of Hubbard in connection with one of many Freedom Of Information Act suits filed by the church. Hart's remark (no deposition ever proved necessary) forced Scientology officials to believe that the government knew something incriminating about Hubbard. As a result the church intensified its efforts to learn what information the government might possess.

At the same time, the church was issuing "Guardian Programme Orders" (directives to church members) telling them to use "standard overt sources" and "any suitable guise interviews" to monitor the activities of all district court judges presiding in the FOIA suits. In 1977 that directive was extended to all 15 active judges in the D.C. federal district court.

Posing in some instances as students and journalists, Scientologists interviewed the judges, researched their careers and backgrounds, followed them and prepared dossiers. According to Scientology documents, their goal was to determine "tone level" and "buttons on"—indicia of personal vulnerability, in the parlance of Scientology. But the church's operation went far beyond legal surveillance. Members of the church were caught breaking into the offices of the IRS and the Justice Department, stealing and copying documents and eavesdropping. On August 15, 1978, 11 Scientologists were indicted on charges of electronically intercepting oral IRS communications, forging government passes, illegally entering government buildings, recruiting Scientologists to infiltrate the government, stealing records belonging to the IRS, Justice Department and the U.S. Attorney and conspiring to illegally obtain documents in the possession of the United States and to obstruct justice.

The Scientologist defendants lured some well-known defense counsel. Mary Sue Hubbard, the wife of church leader L. Ron Hubbard and the highest ranking defendant on trial, retained Leonard Boudin of Rabinowitz, Boudin & Standard and Michael Hertzberg, a solo practitioner, both activist lawyers now practicing law in New York City. Two other defendants, Henning Heldt and Duke Snider, retained Alexandria, Virginia, lawyer Philip Hirschkop, who had been counsel for the "D.C. Nine," antiwar protesters arrested in 1970. In all, 12 lawyers were hired to defend nine defendants (two others had fled to England where they faced extradition proceedings). Boudin and Hirschkop soon assumed the leading roles in the defense.

Boudin and Hirschkop won't discuss why they were selected, but their public identification with radical and unpopular causes was undoubtedly attractive to church members. This was Boudin's first association with the church, but Hirschkop had handled a search and seizure matter for the church in 1977.

One lawyer who represents Scientologists and has worked with Boudin and Hirschkop offers this ideological defense for their taking the case: "It is a simple case of government overreaching," he says. "The government just can't tolerate an organization with nonconforming beliefs. The Scientologists stand up for their rights—aggressively." Another lawyer who has worked on the case adds a financial motive for their taking such a case: "These people pay their bills—top dollar and on time—which is more than I can say for most of my unpopular clients. This case will finance a lot of *pro bono* work." Hirschkop won't say what he has received in legal fees from the Scientologists, but the church is a prosperous client. In one instance a member paid the church $30,000 for the required series of counseling sessions.

> THE SCIENTOLOGISTS' LEGAL STRATEGY HAS BEEN TO FORCE THE RECUSAL OF EVERY JUDGE ASSIGNED TO THE CONSPIRACY CASE.

Whatever their reasons for taking the case, high-minded principles have not characterized the campaign of the Scientologists' lawyers against the District of Columbia judges. In August 1978 the cases were assigned to Judge Hart, the judge whose comment had originally intensified the intelligence operation and who, like all of his fellow D.C. district court judges, had been investigated. He became the first victim of the Scientologists' recusal strategy.

Boudin filed the first recusal motion in January 1979. His theory was a novel one: by telling Judge Hart that the judge himself was a target of the Scientologists' own possibly illegal activities, he would cause the judge to be biased, or appear to be biased, against them. In his motion, Boudin quoted a Scientology document ordering an "overt" and "covert" data collection operation against Judge Hart, which, in Boudin's words, "possibly [included] the use of methods violative of the judge's privacy and other rights and possibly violative of the criminal laws." Boudin concluded that "the sitting judge is revealed to the jury and the public as a victim of possibly illegal actions," and "the judge has an obvious interest which may be affected by the outcome of the case." Notwithstanding documents to which government and defense counsel had access ordering similar operations on all the District of Columbia district court judges, Boudin declared that he knew of no other such campaigns.

SCIENTOLOGY'S WAR AGAINST JUDGES

BY JAMES B. STEWART, JR.

...ject
recuper-
...isms and
hurch of
partment
Robinson,
...-year-old
...bers of the
Richey had
...d nine of
...e remain-
...rom En-
...
...dpoint of
...se defen-
Church of
...porter, Jr.,
...ts. He was
...n "You
...use?" the
...orter's re-
...nessed the
...rive Judge
...shing ex-

... district
...ientology
the Scien-
...k" litiga-
...unts to an
... court
...l. ...cated,
...ssful than
...ome other
...m adver-
...pt to mur-
putting a

...of Scien-
...guish itself
...ed in 1954
...nce fiction
...of the best-
... *Modern*
the church
to its self-
...f Scientol-
...ual heir of
...id, and fo-
...al counsel-
...bilities and

church has
and harass-
...ecome em-
...ce sidebar,
...minal con-
members.
...creasingly
...ed, in the
...diciary.
been
... as-

...e pending
Scientolo-
...ourt Judge
...roposed a
...ction with
...nation Act
...'s remark
necessary)
to believe
...ething in-
a result the

church intensified its efforts to learn what information the government might possess.

At the same time, the church was issuing "Guardian Programme Orders" (directives to church members) telling them to use "standard overt sources" and "any suitable guise interviews" to monitor the activities of all district court judges presiding in the FOIA suits. In 1977 that directive was extended to all 15 active judges in the D.C. federal district court.

Posing in some instances as students and journalists, Scientologists interviewed the judges, researched their careers and backgrounds, followed them and prepared dossiers. According to Scientology documents, their goal was to determine "tone level" and "buttons on"—indicia of personal vulnerability, in the parlance of Scientology. But the church's operation went far beyond legal surveillance. Members of the church were caught breaking into the offices of the IRS and the Justice Department, stealing and copying documents and eavesdropping. On August 15, 1978, 11 Scientologists were indicted on charges of electronically intercepting oral IRS communications, forging government passes, illegally entering government buildings, recruiting Scientologists to infiltrate the government, stealing records belonging to the IRS, Justice Department and the U.S. Attorney and conspiring to illegally obtain documents in the possession of the United States and to obstruct justice.

The Scientologist defendants hired some well-known defense counsel. Mary Sue Hubbard, the wife of church leader L. Ron Hubbard and the highest ranking defendant on trial, retained Leonard Boudin of Rabinowitz, Boudin & Standard and Michael Hertzberg, a solo practitioner, both activist lawyers now practicing law in New York City. Two other defendants, Henning Heldt and Duke Snider, retained Alexandria, Virginia, lawyer Philip Hirschkop, who had been counsel for the "D.C. Nine," antiwar protesters arrested in 1970. In all, 12 lawyers were hired to defend nine defendants (two others had fled to England where they faced extradition proceedings). Boudin and Hirschkop soon assumed the leading roles in the defense.

Boudin and Hirschkop won't discuss why they were selected, but their public identification with radical and unpopular causes was undoubtedly attractive to church members. This was Boudin's first association with the church, but Hirschkop had handled a search and seizure matter for the church in 1977.

One lawyer who represents Scientologists and has worked with Boudin and Hirschkop offers this ideological defense for their taking the case: "It is a simple case of government overreaching," he says. "The government just can't tolerate an organization with nonconforming beliefs. The Scientologists stand up for their rights—aggressively." Another lawyer who has worked on the case adds a financial motive for their taking such a case: "These people pay their bills—top dollar and on time—which is more than I can say for most of my unpopular clients. This case will finance a lot of *pro bono* work." Hirschkop won't say what he has received in legal fees from the Scientologists, but the church is a prosperous client. In one instance a member paid the church $30,000 for the required series of counseling sessions.

THE SCIENTOLOGISTS' LEGAL STRATEGY HAS BEEN TO FORCE THE RECUSAL OF EVERY JUDGE ASSIGNED TO THE CONSPIRACY CASE.

Whatever their reasons for taking the case, high-minded principles have not characterized the campaign of the Scientologists' lawyers against the District of Columbia judges. In August 1978 the cases were assigned to Judge Hart, the judge whose comment had originally intensified the intelligence operation and who, like all of his fellow D.C. district court judges, had been investigated. He became the first victim of the Scientologists' recusal strategy.

Boudin filed the first recusal motion in January 1979. His theory was a novel one by telling Judge Hart that the judge himself was a target of the Scientologists' own possibly illegal activities. It would cause the judge to be biased or appear to be biased, against them. In his motion, Boudin quoted a Scientology document ordering an "overt" and "covert" data collection operation against Judge Hart, which, in Boudin's words, "possibly [included] the use of methods violative of the judge's privacy and other rights and possibly violative of the criminal laws." Boudin concluded that "the sitting judge is revealed to the jury and the public as a victim of possibly illegal actions," and "the judge has an obvious interest which may be affected by the outcome of the case." Notwithstanding documents to which government and defense counsel had access ordering similar operations on all the District of Columbia district court judges, Boudin declared that he knew of no other such campaigns.

Although government lawyers, led by chief prosecutor Raymond Banoun, protested vigorously, arguing that the Scientologists were using their own possible illegal activities to disqualify the judge, Hart granted the recusal motion and stepped down. Hart denied that he was biased but he agreed that the appearance of impartiality had been tainted by the Scientologists' surveillance operation against him. "I was afraid a jury would be prejudiced against the defendants because of their alleged threats against me," He said recently.

The case was assigned next to Judge Louis Oberdorfer, who in light of Judge Hart's recent experience asked for memoranda and oral arguments from both sides at the outset indicating potential grounds for disqualification. Government lawyers pointed out in their memo that Oberdorfer was formerly an assistant attorney general in charge of the tax division of the Justice Department, which had prosecuted actions that ended the tax-exempt status for the Founding Church of Scientology in Los Angeles in 1969. Oberdorfer concluded that he had "personal knowledge of disputed evidentiary facts," and on February 5, 1979, he too stepped down.

Shortly afterward the case fell to Judge Gesell, a 1971 Nixon appointee whose liberal record—especially in the area of defendants' rights—surprised early critics. The assignment initially pleased the Scientology defendants. In a pamphlet called "The Trial of the Scientology Nine," prepared by the Scientologists, Judge Richey was described as having "a very fatherly visage . . . though crippled with a congenital defect in his hip, one does not notice either limp or his shortness. His glasses glint from the lights of the courtroom add to a picture of a man of deep intelligence and sympathy." And when Richey too asked at the outset for a recusal motion if one was planned, Boudin and Hirschkop said they were satisfied with his assignment to the case. That attitude was soon belied by a campaign of harassment that took place in and out of the courtroom.

During the summer of 1979, court sessions were held for about three weeks in Los Angeles, where Richey scheduled testimony on the Scientologists' motion to suppress evidence seized by the FBI in the 1977 raids of the church's headquarters. The thousands of documents seized in those raids constituted the core of the evidence against the alleged conspirators. The hearings had been moved to Los Angeles to accommodate the Scientology witnesses.

Prior to his departure for Los Angeles, Richey received several death threats. The judge has never publicly alleged that the threats came from Scientologists and he has said they were unrelated to the case, but he flew to California escorted by two federal marshals, and elaborate security precautions were implemented at the federal courthouse in downtown Los Angeles.

During the hearings, defense lawyers repeatedly interrupted the proceedings with objections, motions and audible ex-

The four targets of the Scientologists' litigation strategy (left to right): Aubrey Robinson, Charles Richey, Louis Ob

mentary, including insults to the judge. For example, Hirschkop and other counsel repeatedly and loudly ordered co-counsel to place adverse evidentiary rulings in a mythical "error bag." On several occasions, Hirschkop accused Richey of lying. At times, Richey left the bench and walked out rather than hold defense counsel in contempt. Only once, at a later hearing, did the judge seem to boil over. Speaking to Hirschkop, Richey said, "I want to tell you right here and now, I resent it because I have done nothing to hurt you or your clients. And this record is replete with insults and everything else when I have not done it to you and don't intend to." Banoun, the prosecutor, says Richey was too accommodating. "He should never have tolerated such behavior," Banoun says.

Hirschkop claims that he was the one who was insulted. "Richey showed contempt for me," Hirschkop says, recalling the time when, he claims, Richey tried to "force-feed" him French fries in court. (Banoun says the judge simply offered all the counsel some French fries he had not finished at lunch.) "I called Banoun a liar," Hirschkop continues, "and the judge admonished me. But Banoun could insult me with impunity." Banoun denies that this was true. Hirschkop concedes that he frequently became "heated" in his dealings with Judge Richey but says, "I never called him dirty names."

In September 1979, after the Los Angeles hearings, Richey denied the Scientologists' motion to suppress the evidence seized by the FBI. The defendants eventually entered into a stipulation of facts, which amounted to an admission of the principal charges against them, and waived a jury trial. In return, the government agreed to drop 23 of its 24 criminal counts.

Judge Richey explicitly warned the Scientologists that the stipulation was likely to result in their conviction; he subsequently conducted his own review of the evidence, which he said was "overwhelming evidence of guilt," and on October 26, he convicted all nine. On December 6, two days before they were to be sentenced, a recusal motion against Richey was filed.

In this recusal motion, Boudin and Hirschkop again took the extraordinary position that Richey's response to their courtroom tactics and to the threats showed that Richey was prejudiced against Scientologists. For example, without saying that the death threats were made by Scientologists, Hirschkop said that "upon information and belief, the security in Los Angeles was related to the court's apprehension with regard to the defendants in this case or their church," adding that "it is impossible to imagine a situation —or more clearly 'extra-judicial'— source of bias than fear for one's life or well being."

Whatever its merits, the recusal motion was patently defective in at least two technical respects. The judicial recusal statute requires a "timely" motion supported by an affidavit signed by a "party." This motion was filed four months after the events complained of —and after nearly 120 defense motions had been resolved against the Scientologists— and was supported by Hirschkop's affidavit, not one of the defendants'. ("I should have filed it much sooner," Hirschkop concedes. "Richey was grossly prejudiced from the start.") In response to the motion, Judge Richey defended his security precautions, noting that "the court may accept reasonable security precautions without risk of bias

PHOTOGRAPH BY LEIBA ALTERBACH

of the Scientologists' litigation strategy (left to right): Aubrey Robinson, Charles Richey, Louis Oberdorfer and George Hart, Jr.

to the judge. other counsel ed co-counsel rulings in a everal occa- ney of lying bench and defense coun- at a later hear- o boil over. ey said, "I d now. I re- thing to hurt record is re- ything else. d don't e ", says a "He such behav- was th- sho- showed con- ys, recallin- hey tried o- es in court y offered all s he had not d Banoun a "and the judge admonished me. But Banoun could insult me with impunity." Banoun denies that this was true. Hirschkop concedes that he frequently became "heated" in his dealings with Judge Richey but says, "I never called him dirty names."

In September 1979, after the Los Angeles hearings, Richey denied the Scientologists' motion to suppress the evidence seized by the FBI. The defendants eventually entered into a stipulation of facts, which amounted to an admission of the principal charges against them, and waived a jury trial. In return, the government agreed to drop 23 of its 24 criminal counts.

Judge Richey explicitly warned the Scientologists that the stipulation was likely to result in their conviction; he subsequently conducted his own review of the evidence, which he said was "overwhelming evidence of guilt," and on October 26, he convicted all nine. On December 6, two days before they were to be sentenced, a recusal motion against Richey was filed.

In this recusal motion, Boudin and Hirschkop again took the extraordinary position that Richey's response to their courtroom tactics and to the threats showed that Richey was prejudiced against Scientologists. For example, without saying that the death threats were made by Scientologists, Hirschkop said that "upon information and belief, the security in Los Angeles was related to the court's apprehension with regard to the defendants in this case or their church," adding that "it is impossible to imagine a stronger —or more clearly 'extra-judicial'— source of bias than fear for one's life or well-being."

Whatever its merits, the recusal motion was patently defective in at least two technical respects. The judicial recusal statute requires a "timely" motion supported by an affidavit signed by a "party." This motion was filed four months after the events complained of—and after nearly 120 defense motions had been resolved against the Scientologists—and was supported by Hirschkop's affidavit, not one of the defendants'. ("I should have filed it much sooner," Hirschkop concedes. "Richey was grossly prejudiced from the start.") In response to the motion, Judge Richey defended his security precautions, noting that "the court may accept reasonable security precautions without risk of taint

rulings in the case." He denied the motion and that same day sentenced the defendants to prison terms of [illegible] months to four to five years. Eight pay out checks for $10,000 the day of sentencing, and all nine are now [illegible] pending appeal.

The denial of their first recusal motion and the sentences, which the Scientologists regarded as unconscionable, led to a redoubling of defense efforts to remove Richey from the case. Starting in June 1980, defense counsel [illegible] with another recusal motion, charging and threatening to Judge Richey [illegible] the first. The groundwork for this had been laid nearly a year before, shortly after the Los Angeles hearings. Thomas Dourian, the [illegible] official court reporter who accompanied him to Los Angeles, was approached by Hirschkop soon after returning. Was Dourian [illegible] to the second recusal motion, Dourian says Hirschkop was trying to know if the security precautions in Los Angeles resulted from Richey's bias against Scientologists. In the affidavit Dourian says he denied that the judge was

BAD COPY

...confirmed that before leaving Wash-...ton, the judge and his wife and two ... had received two death threats.

Soon after this encounter, in December ... a Scientology lawyer hired Richard ...st, a private detective who had worked ... Hirschkop several years before, to ...estigate Judge Richey's security ...autions. Bast's fee: $321,000 plus ex-...s. One of Bast's first steps was to ...iltrate Richey's inner circle at the court ...se.

...In the spring of 1980, a few months ...he Scientologists' sentencing, Fred ... a Bast employee and retired police ...cer, approached James Perry, one of ...o U.S. marshals who had accompanied ...hey to Los Angeles. Cain explained to ...rry that he had been retained by a Euro-...an industrialist, whose daughter had ...mmitted suicide, allegedly as a result of ...r involvement with the Church of Scien-...logy, and that his assignment was to ...scover information that could be damag-...g to the church. According to Bast, ...ry told Cain that he wanted to write a ...k on the Scientology case, and Bast of-...ed him a $2,000 advance. Bast says that ...ry took the money, and they agreed to work together.

The evening of May 23, Perry and Cain met Dourian, the court reporter, at his home in Washington. According to Dourian's affidavit, Cain introduced himself as a private investigator for International Investigations, Inc., Bast's detective agency, and told him the same story about the European industrialist.

Dourian says in his affidavit that he found the story improbable but that because his home had been burglarized and he had received threatening phone calls, which he suspected came from Scientologists, he was curious about what Cain and Perry were doing. According to the affidavit, Dourian met with Cain three more times, and each time he was questioned about Judge Richey. At a meeting at his home on May 31, 1980, Dourian says he realized that the conversation was being recorded. Cain had been drinking heavily, Dourian says, and as a result, the court reporter was able to slip a small tape recorder and three cassettes out of Cain's pocket. Dourian's last meeting with Cain was on June 19, when they met with Bast and then dined at a nearby Pizza Hut. Again, Dourian was asked about Richey, and the conversation was recorded.

The recordings of Dourian, along with tape-recorded statements made by Perry and statements made by Hirschkop—all collected by Bast—formed the basis for the next recusal motion against Judge Richey. The motion, largely incorporating an earlier recusal motion filed by Hirschkop, was filed on June 2[illegible] 1980, as proceedings were beginning against the two defendants recently extradited from Great Britain. For some of the Scientologists' counsel, however, the recusal strategy had gone too far. There was apparently opposition within the ranks to these motions and the way they were prepared. One lawyer, Michael Nussbaum, who represented two of the defendants, didn't sign the papers and withdrew as trial counsel.

The affidavit in support of this motion was filed by Morris Budlong, one of the extradited defendants, after he listened to various tapes and spoke to Hirschkop. Among the prejudicial remarks that Budlong attributed to Judge Richey were that Richey's death threats emanated from Scientologists; that Jim Jones and Scientologists were "all the same"; that it would be a "feather in his hat" to convict the Scientologists; and that Richey had told another judge that Scientologists were spreading rumors about him as part of a "plot" to discredit him.

A cryptic footnote to the affidavit declined to provide details of the alleged rumors about Richey, citing "respect for the court as an institution." But Hirschkop and other defense counsel knew the details of the plot Richey alluded to. They had gotten them from Bast, who says he had combed the Los Angeles area for information about Judge Richey's personal habits, interviewing motel and restaurant employees and making videotapes and recordings. The information not revealed in the motion was taken by Bast to political columnist Jack Anderson.

The central figure in Bast's story was a self-professed Los Angeles prostitute who worked the Brentwood Holiday Inn, the motel where Richey stayed during the Los Angeles hearings. In a video recording shown to Gary Cohn, a reporter for Anderson, the prostitute recalled "in titillating detail," according to Cohn, an encounter with Judge Richey at the motel and his procurement of her services. According to Cohn, Bast also showed results of lie detector tests conducted by Cain to demonstrate that the prostitute was telling the truth; a tape recording of Perry, the U.S. marshal, claiming Judge Richey said, "Let's go get a woman"; and a tape recording of Dourian, the court reporter, saying Richey "was always picking up girls."

Cohn says that he was initially skeptical of the story because he was aware that Bast was employed by the Scientologists. But he says he had often worked with Bast and trusted him. He says he considered but rejected the possibility that the prostitute was herself a Scientologist, planted to entrap the Judge. Bast says only that his discovery of the prostitute was "accidental," that he paid her $1,200, that she is not a Scientologist and that she is no longer streetwalking.

Cohn wrote the column, which later appeared under Anderson's by-line, focusing on Bast's investigation and Richey's procurement of a prostitute. Cohn adds that he is now "not happy" with the way the column was written. In his affidavit, Dourian, the court reporter, who has heard the tapes he stole from Cain's pocket, denies the remarks attributed to him.

Newspapers that subscribe to Anderson's column received the Judge Richey story around July 11, a week before its release date of July 18. Some of them balked at running it—the New York *Daily News* decided not *ington Post* conversatio never reacl although *P* is sure "we umn," no c in the *Post*

On July Evidently Anderson have known and messag recusal mot escalating a the grounds cient as a m "hearsay, r

But, the and their co less and rel Their motiv tempt to tran of this judge tempts to re ple" of abu wrote that " ceedings in merits with the real issu Richey with exhaustion to associate

On July appeared in country. His was hospit pulmonary clined all co code of judi

Judge Rich Hirschkop w the judge wil the prostitut iceberg." Al disclose det will expose tion uncover

Apart fro against Judg legal impact the Scientol appeal is pen and seizure the first nine two defenda under Judge progress.

The activit their counsel only to satisf Hubbard onc

"The DE UNTENABL anything is to forget that, th you are ever terms of pers bate, or a co TERESTED yourself, mu you will WIN

In its July *Lawyer* nam runner-up to bia federal dis who most ve was one of counsel, and ferred our re have represe defendants. left our staff Scientologist cuse Judge R vehemently referrals to o says he woul the survey.

BATTLES ON OTHER FRONTS

The Church of Scientology has been involved in almost constant litigation since its founding nearly 30 years ago. Besides periodic clashes with the government, the church has filed scores of suits against the media to inhibit the news coverage of its activities.

Among the more recent cases involving the church and the media:

▶ Fourteen libel suits have been filed against Paulette Cooper, New York freelance writer and author of the 1971 book, *The Scandal of Scientology*, and her publisher. Church officials seized in the 1977 Los Angeles raid and made public what they revealed "Operation Freakout," a campaign of harassment directed against Cooper that included death threats, obscene phone calls, phony letters from her sexual behavior and alleged bomb threats against the church that resulted in Cooper's indictment in 1973. The charges against Cooper were dropped in 1975. Cooper has now retaliated with a $35-million suit against the church.

▶ A 1977 suit against the *San Diego Union* asked $10,000 in damages for invasion of privacy from a reporter who had registered for a Scientology course in order to write a story about the church. The church offered to drop the suit if plans to publish the story were dropped, but after the story ran, the church increased its damage claim to $0,000 and added charges of fraud and deceit against the paper. The case was decided on summary judgment.

▶ In 1976 the church sued the *Clearwater Sun* in Florida for $1 million and the chance to sue the *St. Petersburg Times* for a series of articles on the church. Scientologists spread rumors linking *Times* officials to the CIA, the FBI and the Communist Party, and harassed reporters. The *Sun* countersued the church for abuse of process, and the *Times* sued for an injunction barring the church's harassment of its reporters. The church subsequently dropped its suit against the *Sun* and never followed through on its threat to sue the *Times*.

▶ In March 1979 the church sued two New York writers, Jim Siegelman and Flo Conway, after they criticized Scientology on the "David Susskind Show," while discussing their book *Snapping*. After the Scientologists' suit against them was dismissed, the pair countersued, charging the church with malicious prosecution.

The church has lately found itself on the defensive in a flurry of suits filed against it by disgruntled former church members and recruits. Currently pending against the church are:

▶ a suit filed October 21 by Lawrence Stiller, a Boston marathon runner, asking $1.25 million for damages sustained after he was allegedly physically attacked by a Scientology recruiter. Stiller says that, due to the injury, he may never run again.

▶ a $16-million suit filed in April by Tonja Burden, a 20-year-old former church member who claims she was deceived and forced to remain in the church, used as slave labor and kidnapped after she escaped.

▶ a $21-million suit brought by jazz guitarist Gabor Szabo in February, accusing the church of embezzlement, kidnapping and forcing him to undergo a "life repair course."

▶ a class action filed last December by former church staff member Lavenda Van Schaick, seeking $200 million on behalf of church dropouts. Her suit accuses the church of mind control, unlawful electronic surveillance and leaking details of her private life to the media.

Last year, Julie Fishbaugh, a former Church of Scientology member, was awarded $2 million by a Portland, Oregon, jury, which found that the church's promises of a better life were fraudulent. The church has subsequently sued four "deprogrammers" for $2 million collectively, claiming that they induced Fishbaugh to file actions against the church.

—J.B.

BAD COPY

Wash- / d two / s / ember / ichard / orked / re, to / curity / ius ex- / vas to / court- / ionths / , Fred / ... / named / ned to / Euro- / r had / sult of / f Scien- / was to / damag- / to Bast, / write a / Bast of- / ays that / reed to

work together.

The evening of May 23, Perry and Cain met Dourian, the court reporter, at his home in Washington. According to Dourian's affidavit, Cain introduced himself as a private investigator for International Investigations, Inc., Bast's detective agency, and told him the same story about the European industrialist.

Dourian says in his affidavit that he found the story improbable but that because his home had been burglarized and he had received threatening phone calls, which he suspected came from Scientologists, he was curious about what Cain and Perry were doing. According to the affidavit, Dourian met with Cain three more times, and each time he was questioned about Judge Richey. At a meeting at his home on May 31, 1980, Dourian says he realized that the conversation was being recorded. Cain had been drinking heavily, Dourian says, and as a result, the court reporter was able to slip a small tape recorder and three cassettes out of Cain's pocket. Dourian's last meeting with Cain was on June 19, when they met with Bast and then dined at a nearby Pizza Hut. Again, Dourian was asked about Richey, and the conversation was recorded.

The recordings of Dourian, along with tape-recorded statements made by Perry and statements made by Hirschkop—all collected by Bast—formed the basis for the next recusal motion against Judge Richey. The motion, largely incorporating an earlier recusal motion filed by Hirschkop, was filed on June 20, 1980, as proceedings were beginning against the two defendants recently extradited from Great Britain. For some of the Scientologists' counsel, however, the recusal strategy had gone too far. There was apparently opposition within the ranks to these motions and the way they were prepared. One lawyer, Michael Nussbaum, who represented two of the defendants, didn't sign the papers and withdrew as trial counsel.

The affidavit in support of this motion was filed by Morris Budlong, one of the extradited defendants, after he listened to various tapes and spoke to Hirschkop. Among the prejudicial remarks that Budlong attributed to Judge Richey were that Richey's death threats emanated from Scientologists; that Jim Jones and Scientologists were "all the same"; that it would be a "feather in his hat" to convict the Scientologists; and that Richey had told another judge that Scientologists were spreading rumors about him as part of a "plot" to discredit him.

A cryptic footnote to the affidavit declined to provide details of the alleged rumors about Richey, citing "respect for the court as an institution." But Hirschkop and other defense counsel knew the details of the plot Richey alluded to. They had gotten them from Bast, who says he had combed the Los Angeles area for information about Judge Richey's personal habits, interviewing motel and restaurant employees and making videotapes and recordings. The information not revealed in the motion was taken by Bast to political columnist Jack Anderson.

The central figure in Bast's story was a self-professed Los Angeles prostitute who worked the Brentwood Holiday Inn, the motel where Richey stayed during the Los Angeles hearings. In a video recording shown to Gary Cohn, a reporter for Anderson, the prostitute recalled "in titillating detail," according to Cohn, an encounter with Judge Richey at the motel and his procurement of her services. According to Cohn, Bast also showed results of lie detector tests conducted by Cain to demonstrate that the prostitute was telling the truth; a tape recording of Perry, the U.S. marshal, claiming Judge Richey said, "Let's go get a woman"; and a tape recording of Dourian, the court reporter, saying Richey "was always picking up girls."

Cohn says that he was initially skeptical of the story because he was aware that Bast was employed by the Scientologists. But he says he had often worked with Bast and trusted him. He says he considered but rejected the possibility that the prostitute was herself a Scientologist, planted to entrap the Judge. Bast says only that his discovery of the prostitute was "accidental," that he paid her $1,200, that she is not a Scientologist and that she is no longer streetwalking.

Cohn wrote the column, which later appeared under Anderson's by-line, focusing on Bast's investigation and Richey's procurement of a prostitute. Cohn adds that he is now "not happy" with the way the column was written. In his affidavit, Dourian, the court reporter, who has heard the tapes he stole from Cain's pocket, denies the remarks attributed to him.

Newspapers that subscribe to Anderson's column received the Judge Richey story around July 11, a week before its release date of July 18. Some of them balked at running it—the New York *Daily News* decided not to publish it—and *The Washington Post* used it only after extensive conversations with Cohn. Cohn says he never reached Richey for comment, and although *Post* editor Ben Bradlee says he is sure "we did call [Richey] about the column," no comment from Richey appeared in the *Post*'s version, either.

On July 16, Richey issued his opinion. Evidently referring to the upcoming Anderson column, which Richey might have known about from reporters' calls and messages, Richey characterized the recusal motion as "this latest effort in the escalating attack on the court" and found the grounds for the motion to be "insufficient as a matter of law," resting only on "hearsay, rumor and gossip."

But, the judge continued, "defendants and their counsel have engaged in groundless and relentless attacks on this court. Their motive is transparent. It is an attempt to transform the trial . . . into a trial of this judge." Though he labeled the attempts to remove him a "classic example" of abuse of the recusal statutes, he wrote that "the time has come for the proceedings in this case to proceed on the merits with the attention of all directed at the real issues in this case." As a result, Richey withdrew from the case in a state of exhaustion and near-collapse, according to associates.

On July 18, Jack Anderson's column appeared in newspapers throughout the country. Five days later, Judge Richey was hospitalized with exhaustion and pulmonary embolisms. He has since declined all comment on the case, citing the code of judicial conduct.

Judge Richey's ordeal may not be over. Hirschkop vows that his campaign against the judge will continue, and he claims that the prostitute affair is "only the tip of the iceberg." Although Hirschkop declined to disclose details, he says if necessary he will expose additional damaging information uncovered by Bast.

Apart from the delays, the campaign against Judge Richey has had negligible legal impact on the proceedings against the Scientologist defendants. Though an appeal is pending on a conventional search and seizure question, the convictions of the first nine stand. Trials of the remaining two defendants started in late ... under Judge Robinson and are still in progress.

The activities of the Scientologists and their counsel in this case seem designed only to satisfy a commandment L. R. Hubbard once wrote:

"The DEFENSE of anything is UNTENABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate, or a court of law. NEVER BE INTERESTED IN CHARGES ... yourself, much MORE CHARGING ... you will WIN."

In its July 1980 issue the *American Lawyer* named Judge Charles R... runner up to the worst District of Columbia federal district court judge. The ... who most vehemently denounced R... was one of the Scientologists' defense counsel, and this same lawyer also referred our reporter to other lawyers ... have represented Church of Scientology defendants. The reporter, who has ... left our staff, says he was ... Scientologists' efforts to discredit and ... cuse Judge Richey. Without the law... vehemently derogatory remarks and ... referrals to other "sources," our reporter says he would not have named Richey in the survey.

...TLES ON ...R FRONTS

... been / ...igation / ...ars ago, / ...e gov- / ...ces of / ...ble the / ...nvolv- / ...n, Eliot / ...York / ...he 1971 / ...y, and

the *Sun* and never followed through on its threat to sue the *Times*.

▶ In March 1979 the church sued two New York writers, Jim Siegelman and Flo Conway, after they criticized Scientology on the "David Susskind Show" while discussing their book *Snapping*. After the Scientologists' suit against them was dismissed, the pair countersued, charging the church with malicious prosecution.

The church has lately found itself on the defensive in a flurry of suits filed against it by disgruntled former church members and recruits. Currently pending against the church are:

▶ a suit filed October 23 by Lawrence Stifler, a Boston marathon runner, asking $1.25 million for damages sustained after he was allegedly physically attacked by a Scientology recruiter. Stifler says that, due to the injury, he may never run again;

▶ a $16-million suit filed in April by Tonja Burden, a 20-year-old former church member who claims she was deceived and forced to remain in the church, used as slave labor and kidnapped after she escaped;

▶ a $21-million suit brought by jazz guitarist Gabor Szabo in February, accusing the church of embezzlement, kidnapping and forcing him to undergo a "life repair course";

▶ a class action filed last December by former church staff member Lavenda Van Schaick, seeking $200 million on behalf of church dropouts. Her suit accuses the church of mind control, unlawful electronic surveillance and leaking details of her private life to the media.

Last year, Julie Titchbourne, a former Church of Scientology member, was awarded $2 million by a Portland, Oregon, jury, which found that the church's promises of a better life were fraudulent. The church has subsequently sued four "deprogrammers" for $2 million collectively, claiming that they induced Titchbourne to turn against the church. —*A.B.S.*

... / ...rtis- / ...said / ...pen- / ...nvesti- / ...sonal, / ...[illegible] / ... / ...croppe- / ...tafiedd / ...the / ...Dileg- / ...ee with / ...ourse / ...the / ...the / ...[illegible] / ...to / ...affida- / ...icles / ...tread- / ...the / ...e Sun / ...se of / ...bo- / ...rhe- / ...herch / ...ainst

BAD COPY

INFO PASS

PAC SEC BI US

26 July 1976

BI NAT'L

GPGMO 301

RE: INFORMATION
ON INVESTIGATION OF
JUDGE WILLIAM GREY

Dear Sandy:

As you know I have been working on the Customs sit and today I spoke with DC legal and some things needed and wanted by legal on support actions BI could do.

I know that you hav the investigations of the Judge and other opposition legal terminals. The following are sources that would really be helpful to legal in our estimate of the Judge (GPGMO 301):

A. Judges are usually very accessible and can be interviewed easily by students. Some questions to ask a Judge would be 1) "What are your favorite cases?" What about them did you like?" 2) What are the cases you disliked and what specifically did you dislike about them?". (Note: In this way legal can form their presentation along the lines of~~xxhxxkkx~~ what the Judge likes and attribute to the opposition what the Judge does not like) 3) How should a case be presented? (this shows up any hidden standards the Judge has and can guide legal in their presentation).

B. Call other lawyers and get their opinion of the Judge and any other data that you can use for the investigation.

C. Find other cases the Judge has ruled on (especially similar cases to ours) and uses this in the final estimate (attaching the cases for legal).

D. Talk with t e local C.C. [illegible] l as this terminal has probably had dealings wi[illegible] Judge - get their opinions and observations.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY

...EDINGS TO COMPEL THE
...DANCE OF MERRELL VANNIER
...TNESS BEFORE THE GRAND
...F PINELLAS COUNTY,
...IDA

AFFIDAVIT

DENIS J. QUILLIGAN being duly sworn deposes and says:

1. That he is the Chief Investigator for the Office of ...T. RUSSELL, State Attorney of the Sixth Judicial Circuit of ...da. The Sixth Circuit encompasses both Pinellas County and ...ities of St. Petersburg and Clearwater, Florida.

2. As Chief Investigator, he is a law enforcement officer ...e State of Florida and has been involved in a continuing ...stigation by the State Attorney's Office into certain criminal ...ities occurring within Pinellas County, Florida. The scope of ...investigation includes inquiry into the actions of an organiza... known as the Church of Scientology (which maintains one of its ...ty national offices in Clearwater, Florida) and the actions of ...mbers. (hereinafter referred to as the Church for the purpose ...nvenience).

3. Review of publicly released documents seized by the ...d States Government in 1977 pursuant to a Search Warrant issued ...he Church's California Offices has made your Affiant aware of ...ted plans by Church officials to infiltrate and discredit many ...izations, government offices or individuals in Pinellas County ...were critical of the Church; additionally, as detailed below, ... plans also included attempts to falsely accuse opponents of ... and scandalous activities:

(a) Previously released documents indicate detailed ... by Church officials to falsely accuse a Clearwater Sun ...ter with sexually assaulting a young boy. An elderly female ...as the alleged grandmother was to make a vehement accusation ...e reporter's superiors; this was to be followed up by a male ... indicating the reporter would be sued and should be arrested.

EXHIBIT A

Based upon an uncontested stipulation of evidence, the defendants were found guilty after a non-jury trial. Defendants HUBBARD, SNIDER, HELDT, WEIGAND, WILLARDSON, RAYMOND and WOLFE were convicted of conspiracy to obstruct justice. HERMANN was found guilty of conspiracy to burglarize government offices and steal government documents and THOMAS was found guilty of theft of government property. Cases are still pending against two additional Church members who have recently been extradited.

5. That a Grand Jury investigation into these and similar criminal activities of Scientology members within Pinellas County is about to commence. The attendance and testimony of MERRELL VANNIER and his wife FRANCINE VANNIER, who are material and necessary witnesses to the investigation, is required for July 16, 1980.

6. That MERRELL and FRANCINE VANNIER are currently residing at 1036 South Main, Apartment E, Burbank, Los Angeles County, California.

7. That MERRELL VANNIER, who was and continues to be an active Scientology member, was involved in an attempt to infiltrate the offices of the State Attorney in July of 1976. VANNIER, who is an attorney, had applied as an Assistant State Attorney with the St. Petersburg Division of the State Attorney's Office. While his application was pending during July, VANNIER had access to St. Petersburg State Attorney's Office and was there on a daily basis. The State Attorney's Office was unaware that he was a Scientologist. Your Affiant's investigation has indicated that the office was a restricted area and inaccessible to unauthorized personnel. Between July 12 and 13, 1976, a portable radio belonging to the State Attorney's Office worth in excess of five hundred dollars ($500.00) was stolen from the St. Petersburg office. This radio was tuned to the same radio band which the State Attorney's Office uses for office communication. Subsequent investigation revealed no one other than VANNIER who had both a motive and the opportunity to have taken the radio.

8. VANNIER was not hired by the State Attorney's Office but remained in the Pinellas County area. He subsequently worked for the law firm of Phillips, McFarland, Gould, Wilhelm and Wagstaff during 1977. This firm had been engaged to represent Clearwater Mayor GABRIEL CAZARES (See Paragraph 3 (d)) who had sued and was being sued by the Church of Scientology. Without informing any one of his connection to Scientology, VANNIER attempted to have CAZARES drop the case and apologize. Copies of documents prepared by VANNIER which CAZARES refused to sign are attached.

9. That the State Attorney's Office has received information that certain documents of the State Attorney's Office are in possession of members of the Church of Scientology, including personnel lists and prosecution strategy notes. It is known to the State Attorney's Office that pretext calls have been made to employees of the State Attorney's Office who have unlisted home telephone numbers but whose numbers are listed on personnel lists. Additionally, the source of the information stated that either oral communication interception devices have been placed within the office of the State Attorney in violation of Chapter 934, Florida Statutes, or that some individual has infiltrated the office of the State Attorney. Further, after confidential conversations held in the State Attorney's Office regarding individuals that it was felt necessary to interview, it was discovered that these persons had left the area although they were still in the area prior to the conversations.

10. FRANCINE VANNIER is the wife of MERRELL VANNIER and is also a necessary and material witness to the investigation. She is also an active member of the Church of Scientology and would have knowledge of the Church's involvement and activities in Pinellas County.

11. That the VANNIERS moved to Pinellas County from Missouri in 1976. They left the area suddenly in September of 1977 and have only recently been located in California. That the activities detailed in Paragraph 3 occurred during the same general time frame that the VANNIERS were in Pinellas County.

12. During her stay in Pinellas County, FRANCINE VANNIER worked for the law firm of Baynard and McLeod that was handling a suit between the Church of Scientology and the St. Petersburg Times (Times' employees had been the object of previous activities by Church members as indicated in Paragraph 3 (b)). Confidential documents from Baynard's file concerning the suit were later found in the possession of the Church of Scientology. Copies of these documents were seized during the execution of a Search Warrant in California in 1977.

13. That attempts to subpoena and question witnesses from the "Church's" Clearwater Headquarters concerning the whereabouts of persons or documents which would reflect the culpability or lack of culpability of Scientology members of these and other potentially criminal acts have been repeatedly obstructed and unsuccessful due to the intentional refusal and inability of such witnesses to provide useful information.

14. MERRELL and FRANCINE VANNIER have material and necessary testimony concerning these and other matters relevant to the Grand Jury investigation. Moreover, it is believed that such testimony will shed light upon and be relevant to the Grand Jury's investigation of subsequent illegal conduct of the "Church" and "Church" members.

15. Your Affiant further requests that the material witness certificate recommend that the witnesses MERRELL and FRANCINE VANNIER be taken into custody and delivered to a member of the Pinellas County Sheriff's Department to assure their attendance in Florida before the Pinellas County Grand Jury. The basis for this request includes the following facts which have been established through your Affiant's investigation:

(a) The witnesses maintain continuing ties to the "Church" of Scientology and therefore may be reluctant and unwilling to return as witnesses in an investigation which involves the activities of the organization and its members.

(b) That the witnesses left Pinellas County suddenly without notice and have only recently been located. Previous attempts by others to serve MERRELL VANNIER, who is a defendant in a civil suit by CAZARES, have met with no success; when deputies attempted to serve him at a previous address in Los Angeles, the occupant denied being VANNIER and denied that any one by that name lived there but refused to identify himself.

(c) That the Office of the State Attorney has been repeatedly obstructed and frustrated in its attempts to serve subpoenas on local Scientologists possessing information relevant to its investigation; employees at the three motels operated by the Church were uncooperative with investigators, refused to identify themselves, and denied knowledge of the location of Church members residing on the premises.

(d) The Church of Scientology had previously developed a detailed secret plan to assist members in avoiding being subpoenaed as a witness against the Church. This plan, known as Project Quaker, was first identified when the FBI served a Search Warrant on the Church of Scientology Headquarters in Los Angeles, California and the document was seized under that warrant. The Project is a top secret plan to insure that any Scientologists who might be subpoenaed are not available for questioning yet kept free of any prosecution for fleeing. Basically, the Project calls for potential witnesses to be moved to other areas under the pretext of sabbatical leave; also, witnesses and officials are advised to:

(1) Have a passport, taking care that the Church of Scientology's connection is not mentioned on any passport application.

(2) List phony occupations.

(3) Indicate that those persons who have flown are on sabbatical leave.

(4) Not communicate with fellow Scientologists.

(5) Have cash available to fund these trips.

(6) Set up safe houses in out of the way places (like ski resorts, dude ranches, Canada, etc.).

(7) Alert the entire organization to the sabbatical cover story.

(8) In general, just not be available.

(Copies of supporting documents are attached.)

WHEREFORE, your Affiant prays that this Court issue a Certificate pursuant to Florida Statute 942.03 requesting the attendance of MERRELL VANNIER and FRANCINE VANNIER as witnesses before the Grand Jury for a period of three (3) days commencing on July 16, 1980 to be filed with the appropriate Circuit Court of Los Angeles County, California.

Denis J. Quilligan

Denis J. Quilligan, Chief Investigator
State Attorney's Office
Sixth Judicial Circuit of Florida

Sworn to and subscribed by me this 2nd day of July, 1980.

John L. Rudd

CIRCUIT JUDGE

Inquiries → 974-1234
974-5177

9 A.M.

Judge William Keene

Supreme Court

Tampa Grand Order.

John Madden -
Deputy D.A.

instructions. The defendant Hermann/Cooper informed Mr. Meisner that he had discussed their FBI confrontation with the defendant Weigand and that the latter wanted him to come immediately to Los Angeles, California. Mr. Meisner stated that he would leave the next morning for Los Angeles. Mr. Meisner and his wife stayed that night at the Quality Inn Motel on Courthouse Road and Route 50 in Arlington, Virginia. (Government Exhibit No. 113).

Mr. Meisner then called Bruce Ullman, the Information Branch II Director for the District of Columbia, and directed him to obtain money from the Guardian's Office funds and bring it to him the next morning, when he was to pick him up at an Arlington motel and take him to the National Airport for his trip to Los Angeles.

IV.

The Conspiracy to Obstruct Justice, to Obstruct an Investigation, to Harbor a Fugitive and to Make False Declarations Before the Grand Jury

A. The Preparation of the Cover-Up Story

On June 12, 1976, Mr. [redacted] was met at the Quality Inn Motel, in Arlington, Virginia, by Mr. Bruce Ullman who

gave him money for a round trip flight to Los Angeles. Mr. Ullman drove Mr. Meisner to National Airport where Mr. Meisner took a United Airlines flight to Los Angeles. On the plane, Mr. Meisner completed his detailed report of the Courthouse incident as he had been directed to, the night before, by the defendant Weigand through the defendant Hermann/Cooper. Mr. Meisner arrived in Los Angeles at approximately noon, and went directly to the defendant Weigand's office on the seventh floor of the Fifield Manor. Defendant Weigand reviewed Mr. Meisner's handwritten report and then asked him to type it. Mr. Meisner typed it at defendant Weigand's desk. (Government Exhibit No. 114.) 130/ When he had finished, Mr. Meisner showed the typed report to defendants Weigand and Willardson, both of whom read it. Defendant Weigand remarked that he would take it to the defendant Heldt's office on the sixth floor. He did this and returned approximately fifteen minutes

---

130/ Government Exhibit No. 114 was seized and initialed by Special Agent Henry L. Williams from the office of the defendant Raymond at the Cedars Complex. The document was inventoried and also initialed by Special Agent Raymond Mislock.

later. The defendants Weigand and Willardson then, together with Mr. Meisner, analyzed the crisis to determine what leads the FBI had and how they could contain or stop the investigation. The three men decided to devise a cover story for use by the defendant Wolfe if he were arrested. The plan contemplated further that defendant Wolfe would, if captured, enter a guilty plea, after which Mr. Meisner would surrender to the FBI and give the same story to them as Wolfe had. An alternative plan had both the defendant Wolfe and Mr. Meisner surrendering immediately and giving the same cover story. All parties recognized that the highest priority lay in stopping the FBI investigation before it could connect the defendant Wolfe and Mr. Meisner to the Church of Scientology and thereby expose other officials of the Guardian's Office who had been involved in the burglaries, thefts, and buggings, described in the first conspiracy, supra. After a full afternoon of discussions, the defendants Weigand and Willardson drove Mr. Meisner to a Holiday Inn located near Hollywood Boulevard in Los Angeles, California, where Mr. Meisner

registered under a false name. That evening, they had dinner together at the motel prior to leaving Mr. Meisner for the evening. 131/

131/ On June 11, 1976 the defendant Richard Weigand had written a lengthy report to Deputy Guardian for Information World-Wide Mo Budlong, outlining the events which had taken place in the United States Courthouse in the District of Columbia. The defendant Weigand also explained the manner in which the defendant Wolfe and Mr. Meisner could be traced to the Church of Scientology, as well as the story to be given to law enforcement investigators. See Government Exhibit No. 116. A copy of that report was sent to the "CS-G", defendant Mary Sue Hubbard. That report was written in code. It was seized by Federal Bureau of Investigation Special Agent Harold R. Brunson from the area immediately outside the office of the defendant Raymond at the Cedars Complex. It was inventoried and initialed by Special Agent Michael Ray Napier. Government Exhibit No. 188 (Code ISIS) was seized by Special Agent Eusebio Benavidez from a file cabinet in the defendant Willardson's office at the Cedars Complex. Code ISIS had an attached cover letter from Mr. Mo Budlong to the then Deputy Guardian for Information, the defendant Duke Snider, in which Mr. Budlong directed that Code ISIS was to be used only for dispatches between the United States Guardian's Office and the World-Wide Guardian's Office. Mr. Meisner identifies the handwriting at the top of that page as that of the defendant Snider, and the signature and handwriting at the bottom of the page as that of Mr. Budlong. Special Agent Arthur R. Eberhardt, a cryptanalysis expert with the Federal Bureau of Investigation in Washington, D.C., has examined Government Exhibit No. 116 and Code ISIS (Government Exhibit No. 188). He concludes that the coded text within Government Exhibit No. 116 uses two different methods of a substitution code - "digital" and "word or phrase." The

(footnote continued on next page.)

On Sunday, June 13, 1976, the defendant Willardson met Mr. Meisner at his motel room and drove him to the defendant Weigand's office, where all three met to finalize the outline of the plan, which they had discussed the day before, in order to present it to the defendants Heldt and Snider. Soon thereafter, the defendant Weigand and Mr. Meisner met with the defendants Heldt and Snider in the defendant Heldt's sixth floor offices at the Fifield Manor. The defendants Heldt and

---

(footnote continued from preceding page.)

"digital" code substitutes the digits 10 through 99 for the various letters of the alphabet. The "word and phrase" code substitutes a word or phrase for a plaintext word or phrase. He also finds that Code ISIS (Government Exhibit No. 188) is the code which was used to encode Government Exhibit No. 116. Thus, using Code ISIS he decoded that Government Exhibit No. 116 by placing the decoded letters and words above the coded ones. See Government Exhibit No. 212.

On June 21, 1976 the defendant Weigand sent the same report to CS-G Assistant for Information Jimmy Mulligan. See Government Exhibit No. 115 which was seized by Special Agent James P. Kramarsic from a file cabinet located in a closet in the defendant Heldt's inner office at the Fifield Manor. Handwriting expert James Miller concludes that it is "probable" that the defendant Heldt wrote his initial next to his title in the routing portion of the cover letter, and that it is "probable" that the defendant Weigand wrote the signature "Dick" on that letter. Mr. Meisner recognizes both the initial and the signature as those of the defendants Heldt and Weigand, respectively.

Snider each indicated that they had already read Mr. Meisner's report (Government Exhibit No. 114) and were fully conversant with the matters discussed in it. All present concluded that the FBI could readily trace already existing leads back to the Church of Scientology. With this in mind, the defendants Heldt and Snider suggested an alternative plan which they had formulated on their own earlier that day. That plan called for the defendant Wolfe and Mr. Meisner to be withdrawn from the District of Columbia and sent out of the United States. The defendant Heldt stated that as long as there were no bodies, the FBI would have nothing to investigate. The defendant Weigand, however, countered that if no bodies were found then the FBI would look even more deeply and find the connection between the defendant Wolfe and Mr. Meisner and the Church of Scientology organization. The defendant Weigand explained that Mr. Meisner had given the FBI an address close to his real residence where, by canvas, the FBI might find someone who could identify him by the photograph on his counterfeit IRS credentials. It was also pointed out

that the FBI not only had Mr. Meisner's and the defendant Wolfe's handwriting on the Courthouse and library logs, but also Mr. Meisner's fingerprints on his false IRS identification card. Thus, the defendant Weigand suggested that if the defendant Wolfe allowed himself to be arrested and gave the proper cover story, then the investigation could be contained. Then, following the defendant Wolfe's plea of guilty, Mr. Meisner would surrender, give the same cover story as the defendant Wolfe, and enter a guilty plea. This, he posited, would terminate the investigation with little or no connection to Scientology. The defendant Heldt directed the defendant Weigand and Mr. Meisner to discuss both plans, and detail one of them and present it to him for his final approval.

The defendant Weigand and Mr. Meisner returned to the defendant Weigand's office where the defendant Willardson joined them to implement the defendant Heldt's orders. During that meeting, the defendant Hermann/Cooper informed them that the defendant Wolfe had left the District of Columbia and was to arrive in Los Angeles later that evening. The defendant Hermann then joined the meeting for a short period

of time. The three men drafted defendant Weigand's ideas in proposal form. The defendant Weigand himself actually wrote out the proposal for the defendant Heldt's approval, typed it, and took it to the defendant Heldt. Some fifteen minutes later, the defendant Weigand returned to his office and stated to the defendant Willardson and Mr. Meisner that the defendant Heldt had approved that plan. They decided to meet again the next morning to prepare the cover story with the defendant Wolfe. The defendant Weigand directed Mr. Meisner to change his appearance with the assistance of Weigand's secretary, Janet Finn. The defendant Willardson and Mr. Meisner then had dinner, after which Mr. Meisner was returned to the Holiday Inn motel.

On Monday, June 14, the defendant Weigand's communicator (secretary), Janet Finn, met Mr. Meisner at approximately 9:00 a.m. at his motel room. She cut his hair, then dyed it red. Mr. Meisner then shaved his mustache. Establishment Officer (Esto Off) Peeter Alvet met Mr. Meisner and gave him approximately $200 to obtain contact lenses. Mr. Meisner

then went to an optometrist on Hollywood Boulevard where he purchased soft contact lenses. 132/

At approximately 1:00 p.m. the defendants Weigand, Willardson and Wolfe arrived at the Holiday Inn to create the cover story to be given by Wolfe to the FBI. The defendant Weigand informed Mr. Meisner that the defendant Hermann/Cooper was on a plane on his way to the District of Columbia where he was to assume temporarily the position of Assistant Guardian for Information until Richard Kimmel could be brought back from England where he had been undergoing training at World-Wide for that position. 133/

During the next hour the following cover story was prepared: The defendant Wolfe and Mr. Meisner were to have met in February 1976 in a District of Columbia bar, which was to be selected later, and struck up a friendship. Mr.

132/ Dr. Gerald Nankin, an optometrist with offices on Hollywood Boulevard in Los Angeles, California, sold a pair of contact lenses to Mr. Meisner on June 14, 1976.

133/ Mr. Kimmel had been selected to replace Mr. Meisner, who during his meetings in Los Angeles in February 1976, had been slated to become National Secretary for the United States.

#6

A - Rush

SE SEC DI US
DG 1 US

27 April 1976

CC: Natl Dir Sec
CC: Tams DI US

RE: LRH SAFETY

Dear Mike:

Attached is some data that we have just received from US Legal showing a Judge Hart in D.C. to be pushing for a deposition of LRH.

I would like you to get the following actions done on a very high priority and as fast as possible:

A. A complete ODC and CDC on Judge Hart. (this can fall under the targets of CPCMO 301 but must be done very fast)

B. Get a line in the JUDY area for immediate feedback of any proposed intention to deposition LRH. Telex all data found. You should also check out the flow line on which this type of deposition would travel and keep a daily monitor of the line.

C. Get some type of line into Dodell (similar to the successful suitable guise line you had when you were in DC) and keep tabs on what his intentions are in the area of deposition of LRH.

D. Also see if we can do some type of Judy action in Dodell's area to get data predicting any action to deposition.

E. From this data and any other data in the D.C. area that might apply, have DC do up an estimate on what this situation is and what is going to happen.

Note: In doing the ODC and CDC on Hart, be sure to look for any data legal could use to get him removed from the cases,

GOVERNMENT EXHIBIT 96

E. If possible go to a trial the Judge is conducting and observe how he handles firsthand.

F. Find out if the Judge practiced law and what kind of lawyer he was, the general types of cases he worked on.

The above would be in addition to other source file data.

It is not rote and your investigators can develop other lines of approach, but the ~~x~~ above type of data is what is needed by legal.

I would appreciate it if you would pass this on to whoever is doing the investigation of Judge Grey (Customs Judge) as it is important that we have a very thorough picture of hime for the upcoming Customs hearing. (Aug 31st).

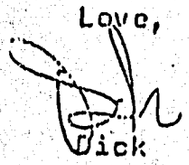
Love,

Cindy

you will have to stay in liasion with Legal both at the US level and at the DC Org level.

You should send me the data as soon as you get it. DC should telex (per BO 4) any vital data they get.

Love,



Dick

xxix

; I US
:L DC US
J: DC L US

BR II DIR US

20 April 76

Dear Dick,

Re: LRH SAFETY

Yesterday, 19 Apr, we received a court xxxxxxx transcript of a oral hana hearing held in regards one of our FOI cases in DC.

In this DCA FOI oral hearing held on April 14 1976, the judge handling the case (A Judge Hart) made one very very very interesting comment. It went like this.

Our Atty: Good morning your honor, etc. We think it would be a very simple matter to file a motion for summary judgement.

The Court: How many of these cases hve you all got before his court?

Our Atty: (Answers "about 5")...many of these agencies have voluminous documents on my client.

The Court: Have you all considered taking Hubbard's deposition?

Dodell (Gov't atty): It is an interesting thought, Judge Hart. (Then he goes ontc another subject gegarding meters, etc.

The Court: Why don't you take his deposition?
DODELL: Well,... I will certainly relay that suggestion xx to them (Justice Dept) with the fact that you have reiterated nre.

A copy of the entire transcript is coming your way but I wanted to xxxx alert you to the above. Sad Scene.
(I am enclosing a copy)

Of Course, Lidi has nothing to do with these cases and we will keep him out of any depositions if any are tried. But the fact that out of the Blue the Judge made this comment is xxxx worth some investigating.

If you need any more data (or any thing) xxxxxxxxx let me know.

Please keep me advised of any developments.

Best

NAT'L DID
CC: Nat'l Sec
DC I US

27 April 1976
Tag 22.4.76
CC: Rons Bill

RE: LRH SAFETY

Dear Cindy:

Attached is data re. LRH safety that we have just received from legal.

I have ordered DC (attached) on the immediate actions to be done.

I would like you to do the following from the National Section:

A. Finish up the GPGMD 301 estimate on Dodell. We have his investigation in our files.

B. Get together with CIC Sec and go over all the indicators that have come in for the last month or so and see if there are any other indicators of a push against LRH. Also ask each Dir Sec if they have any data and look over your own area (ie the April FOI hearings estimate; and the indicators of a gov't attack on us for harrassment) and see if there are any patterns or common denominators. If so get it written up in estimate form.

C. When the D.C. data comes in go over the data and add any national data that applies and change the estimate accordingly sending copies to Legal and PR and SE SEC. (estimate to include any other bureau suggested handlings).

Love,

7 September 1972

DG Comm US
DG US
Guardian Comm WW
The Guardian WW
DG Info WW

DG Info US

cc: DG Comm US
CS-G Comm
CS-G

RE: INTELL US WEEKLY REPORT
W/E 7 September 72

Dear Mo:

SITUATION: Michael Sanders, ex-IRS Attorney in attack against Church, connected with Kaufman, Cooper and Nibs in PT.

WHY: Unknown

HANDLING: We have two agents infiltrated in office where Sanders presently works. Files on Scientology will be obtained.

SITUATION: Paulette Cooper still at large.

WHY: Right data has not been obtained and utilized.

HANDLING: Dunn & Bradstree report obtained on her supposed boyfriend Bob Straus.

HANDLING: Rundown and transcripts of two radio shows Cooper & Nibs appeared on obtained and sent to WW.

HANDLING: Her academic transcript obtained from City University in New York and more specific info on her attendance at Columbia University obtained.

HANDLING: Obtained Dunn and Bradstreet report on Mautner Co. This company connected to Cooper family and Kaufman.

HANDLING: Handwriting analysis done on Cooper showing unfavorable characteristics. For use in future operation.

HANDLING: Full up-to-date timetrack on Cooper sent to WW and CS-G.

SITUATION: Michael Sanders (same as Situation #1)

HANDLING: Letter has been located that Sanders wrote to Nibs a few years ago, re the IRS case.

HANDLING: Letter found where Sanders communicating entheta on Scientology to father of Scientologist Ty Dillard.

SITUATION: Nibs Hubbard appeared on radio shows with PauletteCooper, attacking Scientology.

WHY: Nibs has never gotten the motivator he sought.

HANDLING: Investigation underway on Nibs in P.T., as well has data in files on Nibs being evaluated for P.T. use. Cycle currently very active.

SITUATION: Judge J. Skelly Wright is one of three Judges who turned down decision on CofS.

WHY: Probable pressure from wife and others.

HANDLING: Investigation has disclosed that Helen Mitchell Wright has been made the new President-Elect of the NWU. She will shortly begin service as president. This will, of course, put her in direct communication with the WFMH.

SITUATION: FOLO requested all data B.4 US has on Sea Org member Shereen Stuart.

WHY: Unknown.

HANDLED: Complete debrief from files turned over to FOLO. Shareen has been a pen pal for many years with a professor in Poland.

SITUATION: A new staff member at Los Angeles Org, e Piotrowski, failed to show up for work for ee days. Report turned into Internal Security US.

WHY: Unknown until after interview.

HANDLED: Internal Security interviewed him, found that recently he had set up a "drug bust" (heroin) in Las Vegas and that some of the friends of the people he had gotten busted were after him, and he had taken a few days off to handle this. He refused to give any more data. He has been dismissed from staff and expelled from the Church.

Love,

Terry

LM/gmh

Meisner was to have introduced himself as "John Foster". Mr. Mr. Meisner was to have told the defendant Wolfe that he was a law student attending Georgetown University School of Law. The defendant Wolfe was to have informed Mr. Meisner that he worked at the IRS. The two individuals were to have met on a number of occasions. Then in mid-March 1976, after having drunk heavily at a few different bars, Mr. Meisner was to have mentioned that he had never been to the IRS, and Wolfe was to have offered to take him on a tour of that building. The defendant Wolfe was to have taken Mr. Meisner to the IRS, signed him in, and taken him on a tour of the first floor. Inadvertently, according to the story, they stumbled upon the identification room which had an open door. They went in and as a lark decided to make identification cards for themselves. The defendant Wolfe was to have made Mr. Meisner an identification card and typed in the name "John Foster" upon it. Mr. Meisner was then to have made an identification card for the defendant Wolfe who had decided to use the name "Thomas Blake". On a subsequent occasion, the defendant Wolfe

and Mr. Meisner were to have met at a bar and after a few drinks the defendant Wolfe asked Mr. Meisner to teach him how to do legal research so that he might be able to obtain a better job. Mr. Meisner agreed to do so if Wolfe would, as a return favor, look up some information for him at the IRS for a paper which Mr. Meisner was writing on section 501 (c)(6) of the IRS Code (the section dealing with exempt organizations). They decided that the District of Columbia Bar Association Library in the United States Courthouse in the District of Columbia was the most convenient for them. Thus, on May 21, 28 and June 11, they went to the Courthouse to use the D.C. Bar Association Library where Mr. Meisner taught the defendant Wolfe legal research. While there, they were directed by the cleaning personnel to the photocopying machines within the United States Attorney's Office. Specifically, they used those machines to photocopy cases in law books and their own notes from those books. However, they had no idea that they were within the United States Attorney's Office. After the confrontation with the FBI agents, the defendant Wolfe and

Mr. Meisner were so upset that they forgot to set up a further meeting. Since the defendant Wolfe did not know where Mr. Meisner lived, he could not contact Mr. Meisner again, and, therefore, could not give the FBI his location.

After the defendants Weigand, Willardson, Wolfe and Mr. Meisner had outlined the cover story, the defendant Weigand instructed them to write out "mission orders" for the defendant Hermann in the District of Columbia, write out the cover story, and drill the defendant Wolfe on it. The defendant Weigand then left the Holiday Inn Motel.

The defendant Wolfe called his office at the IRS in Washington, D.C., to determine through a friend whether anyone, such as the FBI, had made any inquiries regarding him. In the process, he requested his friend to notify his supervisor that he would not be at work the next day. 134/ After that phone call, the three individuals prepared written "mission

---

134/ Mr. Keith Shelton, Chief of the National Office Branch of the IRS and custodian of the time and attendance records, states that the defendant Wolfe used eight hours of sick leave on June 14, 1976, and six hours of sick leave and two hours of annual leave on June 15, 1976.

orders" for the defendant Hermann/Cooper. Those orders required Hermann/Cooper to: (1) keep in constant contact with the defendant Wolfe; (2) locate an attorney for the defendant Wolfe so that he could test the plausibility of the concocted story on someone other than the FBI; and (3) supervise the defendant Wolfe pending his arrest. They then wrote out the cover story, gave a copy to the defendant Wolfe and drilled him on that story.

At approximately 7:00 p.m. Mr. Meisner checked out of his motel room, and, together with the defendant Willardson, drove the defendant Wolfe to the airport where Wolfe took a night flight to Baltimore-Washington International Airport. Mr. Meisner stayed that night at the defendant Willardson's home on Roxbury Drive in Beverly Hills.

On June 15, 1976, in Washington, D.C., the defendants Hermann/Cooper and Wolfe met, discussed the cover plan, story and the attorney who was to be selected for Wolfe. The defendant Wolfe then met with his attorney and presented him with the cover story which had been prepared the previous day.

In Los Angeles, Mr. Meisner, who began to use the alias "Jeff Murphy", moved to the defendant Weigand's house on Westmoreland Street, near Wilshire Boulevard, where he stayed for the remainder of the summer. The defendant Weigand directed Mr. Meisner to prepare a complete report on his activities as Assistant Guardian for Information in the District of Columbia and on all pending activities there as required by Guardian's Office procedures when an official leaves a post. For the next few days, Mr. Meisner, working in the defendant Weigand's office, prepared the report as directed. On June 18, 1976, that completed report was typed by Mr. Meisner and presented to the defendant Weigand. (Government Exhibit No. 108.) 135/ In his report, Mr.

135/ Government Exhibit No. 108 was seized by Special Agent Gary Aldrich from the office of the defendant Willardson at the Cedars Complex. Handwriting expert James Miller positively identifies the notation "G. I'll read it later. L.D." located on the front page of that report as the handwriting of the defendant Weigand. Mr. Meisner also identifies the initials "GW" in the upper portion of the front page as having been made by the defendant Willardson.

Meisner explained how he had burglarized government offices, including the manner in which he had forcibly opened doors, and supervised covert operatives. He identified the current covert operatives who were still operating and itemized what remained for them to accomplish. He also described his duties as Assistant Guardian for Information. Within a few days thereafter, the defendant Willardson issued "mission orders" to Mr. Meisner which had been approved by the defendants Weigand and Heldt. These orders directed Mr. Meisner to go to Dallas, Texas, to attend the American Medical Association Convention, and then to New York to resolve a local Guardian's Office matter. Upon his return to Los Angeles, on July 7, Mr. Meisner was appointed National Secretary for the United States by Guardian World-Wide Jane Kember.

B. The Defendant Gerald Bennett Wolfe is Arrested in Washington D.C. by the Federal Bureau of Investigation

On June 30, the defendant Wolfe was arrested in the main IRS building by FBI Special Agent Christine Hansen. He was charged with the use and possession of a forged official pass of the United States, in violation of 18 U.S. Code, Section 499,

and arraigned before United States Magistrate Henry H. Kennedy, Jr. (U.S. Mag. No. 76-930 M (Cr)). On that same day, Assistant Guardian for Information in the District of Columbia Richard "Rick" Kimmel notified the defendant Hermann/Cooper of the defendant Wolfe's arrest. The defendant Hermann/Cooper then informed the defendant Weigand that at 2:30 p.m. Wolfe had been arrested by the FBI, that he had been arraigned, and released on his own recognizance pending a preliminary hearing. As a condition of his release, the defendant Wolfe was to submit handwriting exemplars to the FBI. (Government Exhibit No. 117.) 136/ The defendant Hermann/Cooper told the defendant Weigand that all covert activities in the District of Columbia had been ordered "shut down", that "sensitive material" had been moved to another office, and that "Kelly" (another covert name for the defendant Wolfe) "has been briefed to carry out his part". He also told the defendant Weigand that all data on "Jeff" (Mr. Meisner's alias at the time) had

---

136/ Government Exhibit No. 117 was seized by Special Agent Brunson from the area immediately outside the main office of the defendant Raymond at the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

been taken out of the organization. 137/ On July 1, the defendant Weigand wrote a letter to Deputy Guardian for Information World-Wide Mo Budlong informing him of the arrest of the defendant Wolfe and the information brought to his attention the previous day by the defendant Hermann/Cooper. (Government Exhibit No. 118.) 138/

In a letter dated July 1, 1976, and entitled "Re: Mike and the FSM", the defendant Mary Sue Hubbard stated to the

---

137/ Located above some of the more incriminating words on Government Exhibit No. 117 are the coded words which were to be substituted later. These words are identical to those in code ISIS (Government Exhibit No. 188). Mr Meisner recognizes the initials next to the title "DG Info US" as having been written by the defendant Weigand, and the signature on that document as that of the defendant Hermann/Cooper.

138/ Government Exhibit No. 118 is also in code. Special Agent Eberhardt of the Cryptanalysis Section of the FBI Laboratory, decoded that document using code ISIS (Government Exhibit No. 188). See Government Exhibit No. 216 -- the decoded version of the instant document. That document was seized by Special Agent Brunson from the area outside the defendant Raymond's office at the Cedars Complex. Handwriting expert James Miller concludes that it is "probable" that the defendant Weigand signed this letter. Moreover, Mr. Meisner identifies that signature as having been written by the defendant Weigand. The initials "DW:jf" are those of the defendant Weigand and his secretary Janet Finn.

defendant Weigand that "[f]rom an investigative point of view it was really too easy for the opposition. All they had to do was to trace the common enrty [sic] points of the log back for both Mike and the FSM [Wolfe] until they arrived at the point where the FSM used his correct ID card." She urged the defendant Weigand to keep her informed of what has happened to the FSM, the defendant Wolfe. (Government Exhibit No. 119 at p. 2.) Handwriting expert James Miller is "positive" that the signature on that document was written by the defendant Mary Sue Hubbard. 139/ The defendant Weigand responded to the defendant Hubbard's inquiry in two separate letters, both dated July 2, 1976. He informed her that the defendant Wolfe (Silver) was about to submit his resignation to the IRS to avoid being suspended. He also wrote that the prosecutor in the case had been told that Wolfe had obtained his identification card as part of "[a] lark gone sour". He added that an additional $800 would be needed to "cover the balance of the retainer" of Wolfe's attorney. (Government Exhibit No. 119 at

---

139/ Government Exhibit No. 119 was seized by Special Agent Brunson from the area outside the defendant Raymond's office at the Cedars Complex.

p. 3-4.) He also stated that the defendant Wolfe was "instructed . . . [to] go nowhere near the org [Church of Scientology] and . . . have no personal contact with the case officer [Kimmel] either." He concluded that it was still possible that the defendant Wolfe would be "given minimal punishment" and that the matter would terminate without any connection to the Church of Scientology. (Government Exhibit No. 119 at p. 1.) 140/ In the other letter of 2 July 1976 regarding "Silver", the defendant Weigand updated for Mr. Budlong the information regarding the defendant Wolfe's arrest. (Government Exhibit No. 120.) That coded letter was decoded by a cryptanalyst, Special Agent Arthur Eberhardt. (Government Exhibit No. 213.) In the letter, the defendant Weigand reiterated the information which he had given on

---

140/ Handwriting expert James Miller concludes that it is "probable" that the defendant Weigand wrote the signature "Dick" on pages one and four of the document, and that the initial next to the title "DC US" on the first letter was written by the defendant Heldt. Mr. Meisner recognizes both signatures as having been written by the defendant Weigand, and the initial in question as having been written by the defendant Heldt.

that same date to the defendant Hubbard. 141/ On July 2, 1976, the defendant Hermann/Cooper inquired of the defendant Weigand whether the defendant Hubbard in her letter of July 1, 1976 "is looking toward Silver [Wolfe] denying the use of the false ID card and then it not being able to be proven that he had actually used one." (Government Exhibit No. 121.) 142/ The defendant Hermann/Cooper recommended that "we go ahead with the worked out cover story".

141/ See Government Exhibit No. 119 at pp. 1, 3-4. A copy of Government Exhibit No. 120 was sent to CSG Assistant for Information Jimmy Mulligan who, on July 6, 1976, requested the defendant Weigand to provide him with translations of the code. The defendant Weigand responded in a letter dated July 13, 1976. See Government Exhibit No. 122. Government Exhibits Nos. 119, 120, and 122 were seized by Special Agent Brunson from the area outside the defendant Raymond's office at the Cedars Complex. Mr. Meisner identifies the signature "Jimmy" on the 6 July letter as having been written by Mr. Mulligan.

142/ Government Exhibit No. 121 was seized by Special Agent Brunson from the office of the defendant Raymond at the Cedars Complex. Mr. Meisner identifies the signature on the July 2 letter as having been written by the defendant Hermann/Cooper.

C. The United States Case Against the Defendant Gerald Bennett Wolfe is Referred to the Grand Jury, and an Arrest Warrant is Issued for Michael Meisner.

On July 28, 1976, the defendant Wolfe appeared with his attorney, Lawrence Speiser, Esquire, before United States Magistrate Henry H. Kennedy, Jr. for a preliminary hearing. Following that hearing, United States Magistrate Kennedy found that probable cause existed, and ordered the case "bound over for the action of the Grand Jury". A few days later, on August 5, 1976, Magistrate Kennedy issued a sealed warrant for the arrest of Michael Meisner for the use of a forged official pass of the United States, in violation of 18 U.S. Code, Section 499. (U.S. Mag. No. 1101-76M(Cr)). In mid-August, CSG Assistant for Information Jimmy Mulligan informed Mr. Meisner that the defendant Thomas had overheard a conversation in Mr. Paul Figley's office at the Department of Justice in which it was stated that a sealed arrest warrant had been issued in the District of Columbia. On August 30, FBI Special Agents Joseph Jackson and John Pavlansky went

to the offices of the Church of Scientology at 2125 S Street, N.W., in Washington, D.C., to attempt to locate Mr. Meisner. They were met there by Assistant Guardian for Legal Bureau Kendrick "Rick" Moxon. They explained to Mr. Moxon that they were acting on behalf of the Office of the United States Attorney for the District of Columbia and were attempting to locate Mr. Meisner because an arrest warrant had been issued for him on August 5, 1976, charging him with forgery of United States Government identification cards. They told Mr. Moxon that they wanted to inform him and all others concerned of Mr. Meisner's status so that they could notify him and help him "avoid putting himself in a fugitive status". They warned Mr. Moxon that anyone who aided Mr. Meisner in remaining a fugitive "would be guilty of a criminal act under the harboring of criminals statute." Mr. Moxon informed the agents that he did not know where Mr. Meisner was. Mr. Moxon immediately notified his superior, Mary Rezzonico, the Deputy Guardian for the Legal Bureau in the United States, and appended to that letter the harboring of fugitives statute, emphasizing that it provided for a penalty of "5 year sentence

and $2,000 maximum fine." (Government Exhibit No. 123.) 143/

D. The Guardian's Office Harbors and Conceals Fugitive From Justice Michael Meisner

On August 30, 1976, the same day that he received notification that an arrest warrant had been issued for Mr. Meisner, the defendant Weigand notified the defendant Mary Sue Hubbard that he has "just received word that Mike [Meisner] had a warrant out for his arrest." He added that "[t]he plan at this time is to hide Mike out. It appears that the safest place to do this is in Europe somewhere." (Government Exhibit No. 124.) 144/ The defendant Weigand added:

My actions are as follows:

143/ Government Exhibit No. 123 was seized by Special Agent Brunson from a file cabinet in Room 10 at the Cedars Complex. Mr. Meisner identifies the signature on that exhibit as that of Mr. Moxon with whom he had worked closely for two years. He also recognizes the initials of the defendant Weigand in the routing portion of the letter.

144/ Government Exhibit No. 124 was seized by Special Agent Brunson from a file cabinet in Room 10 in the Information Bureau at the Cedars Complex.

> 1. Immediately remove M [Meisner] from all GO connected spaces and get him into a motel.
>
> 2. Further alter his appearance.
>
> 3. Get with legal for legal opinion to include what the statue [sic] of limitations is on this offence.
>
> 4. Work out how to obtain M the necessary papers to get him out of the country.
>
> 5. Obtain the papers.
>
> 6. Get him out of the country.

The defendant Mary Sue Hubbard responded to the defendant Weigand's letter as follows:

> Wonder how they got a lead onto him?
>
> On getting him abroad, unless you have good ID for him different than his own, it might be dangerous. He would better be "lost" in some large city where it would be difficlut [sic] to find him.
>
> What a shame. (Emphasis added.)

(Government Exhibit No. 124 at p. 2.) On September 2, the defendant Weigand responded to the defendant Hubbard's inquiry

that he did not know how the FBI had connected "John M. Foster" to Michael Meisner. He suggested, however, that they might have been able to locate his former apartment house and have his photograph identified by a tenant. 145/ On the evening of August 30, the defendant Weigand contacted Mr. Meisner and requested him to come to his office, which had since been moved to a warehouse in Glendale, California. In the presence of the defendant Hermann and Assistant Guardian for Information in Clearwater, Florida, Joe Lisa, he informed Mr. Meisner of the outstanding warrant for his arrest, and instructed him to sever all outward connections to the Guardian's Office. He told him that the defendant Hermann would assist him in moving out of the Weigand residence into a motel. He also removed him from the position of National

---

145/ Handwriting expert James Miller concludes that it is "probable" that the signature "Dick" was written by the defendant Weigand, and that the initials next to the title "DG US" on the August 30 and September 2 letters were written by the defendant Heldt. Mr. Meisner recognizes the signature of the defendant Weigand and the initial of the defendant Heldt.

Secretary for the United States. Mr. Meisner was given funds for the motel. With the defendant Hermann's assistance, Mr. Meisner moved to the RegaLodge on 200 West Colorado Boulevard, in Glendale, where he registered as "Jeff Burns". On September 1, Mr. Meisner moved to the Bon Air Motel at 1727 North Western Avenue in Los Angeles, where he stayed until September 8. He registered there as "Jeff Marks." During that time, the defendant Hermann/Cooper ordered Mr. Meisner to change his appearance. (Government Exhibit No. 125.) 146/

In a letter dated 3 September 1976 the defendant Weigand notified the defendant Hermann/Cooper that the defendant Heldt had issued new orders relating to "Jeff Murphy" - Mr. Meisner's alias at the time. (Government Exhibit No. 126.) 147/

146/ Government Exhibit No. 125 was seized by Special Agent Brunson from a file cabinet outside the office of the defendant Raymond in Room 15 at the Cedars Complex. Mr. Meisner was ordered to change is appearance so as to create "the image of an aging guy wanting to look hip as a means of regaining his youth a bit," to wear a "mod wardrobe," to shave his head, to wear contact lenses, to have a tooth capped, to lose or gain some weight, and to wear earth shoes to change his posture.

147/ Government Exhibit No. 126 was seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's office at the Cedars Complex.

The defendant Weigand suggested that Los Angeles was a better place to hide Mr. Meisner since it was "a huge city and he can get lost here very successfully," while still being close to the Guardian's Office. He directed the defendant Hermann/Cooper to give this matter "top priority and lets [sic] get it done." 148/

On September 10, 1976, Mr. Meisner moved to the Westgate Hotel located at 445 South Western Avenue in Los Angeles. At midnight, as a result of new developments in the District of Columbia, Mr. Meisner was moved by the defendants Willardson and Hermann/Cooper to the Wilshire Dunes Motel at 4300 Wilshire Boulevard, also in Los Angeles. He registered at both locations as "Jeff Marks", and stayed at the latter until September 12. Mr. Meisner was then moved by the defendant Hermann-Cooper to the Travelodge at 7370 Sunset Boulevard for one night. On September 13 and 14, he stayed at the Sunset 8 Motel at 6516 Sunset Boulevard. Then, on September 15, he

---

148/ Mr. Meisner identifies the handwritten notations on the lower-half of this letter as having been written by the defendant Hermann/Cooper.

registered at the Burbank Hotel located in Burbank, California, where he remained until early October. Mr. Meisner paid for all of these hotels with Guardian's Office funds supplied to him by the defendant Hermann/Cooper who was his immediate contact.

In a September 18, 1976 letter, the defendant Mary Sue Hubbard informed the defendant Weigand that she had "at last gotten a copy of the warrant" for the arrest of Mr. Meisner. She concluded that there was "the need to establish an alibi for MM". The defendant Weigand responded to the defendant Hubbard's letter on 22 September 1976 in which he expressed his belief that her plan would "encounter difficulties" in view of the fact that the FBI had the defendant Wolfe's and Mr. Meisner's handwriting on the log books of the Courthouse. He stated his opinion that establishing an alibi as she had suggested, would "come down to our word(s) against 2 FBI agents, cleaners and guards, plus handwriting experts, car experts and possibly fingerprint experts."

He concluded that there were two options open:

1. Turn Mike in at the most opportune time

(When we can get some better prediction of what will be done with him and us, which as you wrote should follow the handling of Silver.)

2. Not turn him over. Which means he hides or runs for 5 years at least (that being the statute of limitations.) 149/

"The worst," he stated "from my viewpoint is that M would get 5 years in jail and a $2000 fine that being the maximum for the action. Also, there would be attempts to get him to turn or otherwise implicate us or others in various wrong doings." He added that "[i]f the investigation continues I expect that more data will be turned up linking us with M's and others [sic] actions." He asked the defendant Hubbard to send him her views. (Government Exhibit No. 127.) 150/

149/ The defendant Weigand's perception in this regard was, of course, erroneous.

150/ Government Exhibit No. 127 was seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's office at the Cedars Complex. Mr. Meisner identifies the initials next to the words "Info" and "Return" as having been written by the defendant Heldt.

The defendant Hermann/Cooper and Mr. Meisner met for some two hours on September 20, 1976. Mr Meisner told the defendant Hermann/Cooper that he was absolutely opposed to leaving the country. (See also Government Exhibit No. 128.) 151/ The defendant Hermann/Cooper advised Mr. Meisner that, pursuant to a Guardian's Office directive, a San Diego police lieutenant had made an inquiry through the National Crime Information Center (NCIC) computer to determine the specifics regarding the arrest warrant which had been issued for Mr. Meisner on August 5. The defendant Hermann/Cooper stated that the NCIC check revealed that the Meisner warrant was for the forgery of government identification cards. He told Mr. Meisner that the FBI had contacted the police lieutenant to find out why he had made that inquiry.

151/ Government Exhibit No. 128 was seized by Special Agent Brunson from a file cabinet located outside the defendant Raymond's office at the Cedars Complex. Mr. Meisner identifies the handwriting around the caption of the September 21, 1976 letter, from the defendant Hermann/Cooper to the defendant Weigand, as that of the defendant Hermann-Cooper.

San Diego police lieutenant Warren Young, a member of the Church of Scientology, told the FBI that he had made the NCIC check because he had arrested Mr. Meisner for a pedestrian violation the previous day in San Diego. In fact, Mr. Meisner had never been to San Diego. In a handwritten letter dated 16 September 1976, the defendant Duke Snider stated to the defendant Weigand that "[i]t looks as though AG SD [Assistant Guardian for San Diego] has set C of S [Church of Scientology] up to be accused of conspiring with this policeman to violate the law." He directed the defendant Weigand to take the necessary steps to handle the matter. (Government Exhibit No. 129A.) On the same day, the defendant Weigand responded to the defendant Snider that, while he did not know whether the policeman was "cool", he knew that the police officer was a lieutenant who "is on SCN [Scientology] lines". He observed that they "have laid a nice false lead for the FBI which cant [sic] help but help us while dispersing their investigation. This according to reliable sources is one thing that can draw an investigation to a quik [sic] close." (Government Exhibit No.

129B.) The defendant Snider, in a handwritten notation, thanked the defendant Weigand and stated that he was "glad to see it is under control". 152/

On September 28, 1976, Deputy Guardian for Information World-Wide Mo Budlong, in a letter to the defendant Weigand "Re: Murphy [Meisner]", stated:

> The answer for this gentleman is to have him depart for some whereabouts wherein he can obtain documents concerning his ability

---

152/ See also Government Exhibit No. 129. Handwriting expert James Miller is "positive" that all of the handwriting on the Snider letter marked Government Exhibit No. 129A is in the handwriting of the defendant Snider. He is "positive" that the handwritten notation signed "Duke" on Government Exhibit No. 129B is in defendant Snider's handwriting. He also concludes that the handwritten notation sig. "Love Cindy", as well as the initials and date next to the "natl sec" entry on Government Exhibit No. 129, are positively in the handwriting of the defendant Raymond. Government Exhibit No. 129 was also seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's office at the Cedars Complex.

In fact, Special Agent Christine Hansen requested the FBI Field Office in San Diego, California, to question police lieutenant Warren Young, and follow the lead, given by him, that Mr. Meisner was in that city. This false lead diverted the resources of the FBI in the instant investigation to yet another city.

to drive but does *not* have to give details of his life history, if you know what I mean, to obtain the documents.

Then he should find some out of the way large city where he can rent himself a quiet place to do research or some such for an article or a book or whatever.

He can then live and work there for some time undisturbed.

Once Silver has completed his cycle we will have some idea of which way things are moving and we will be able to ascertain Murphy's next move, but for the time being he should keep himself fairly exclusive.

Silver should admit what he did but let his representative do his talking for him and should not volunteer any further information.

To achieve this of course Silver and his representative will have to push for the big event to occur as soon as possible.

Once the Silver event is over we can reassess the whole cycle in light of the data that comes up, which you will have to work out some way of reporting to me.

<u>If any of the above is not clear, please ask immediately as I don't want any confusions on what has to be done</u>. (Emphasis added.)

(See Government Exhibit No. 131.) 153/

E. The Guardian's Office Gives the FBI and the Grand Jury False Handwriting Exemplars.

In late September 1976, FBI Special Agent Hansen requested the Church of Scientology in Washington, D.C., to supply the government investigators with exemplars of Mr. Meisner's handwriting. In Los Angeles, California, the defendant Raymond met with Mr. Meisner to discuss what should be given to the FBI. She informed Mr. Meisner that it had been decided to give false exemplars to the FBI. In a letter dated September 30, 1976, to the defendant Weigand, the defendant Mary Sue Hubbard stated that she was aware that the FBI had requested Meisner handwriting exemplars and that those would be compared to the log books of the buildings which Mr. Meisner had entered. She, thus, requested the defend-

153/ Government Exhibit No. 131 was seized by Special Agent Henry L. Williams from the desk of the defendant Cindy Raymond at the Cedars Complex. It was inventoried and initialed by Special Agent Raymond Mislock.

ant Weigand to furnish her with a list of all the buildings which Mr. Meisner had illegally entered. The defendant Hubbard stated in that letter that she was, as of that date, fully aware of the existence of an arrest warrant for Mr. Meisner. (Government Exhibit No. 132.) 154/

In order to respond to the defendant Hubbard's inquiry the defendant Raymond met with Mr. Meisner to obtain from him a list of all the buildings he had illegally entered in the District of Columbia and the details of those entries. She then relayed that information to the defendant Weigand who responded to the defendant Hubbard's request in a late October 1976 letter. (Government Exhibit No. 132 at page 1.) In that letter, the defendant Weigand informed the defendant Hubbard that the buildings illegally entered by Mr. Meisner included the Department of Justice, the Internal Revenue Service, the Office of International Operations, as

---

154/ Government Exhibit No. 132 was seized by Special Agent Raymond Mislock from a file cabinet located in Room 30 of the Information Bureau at the Cedars Complex.

well as a number of other private and Government buildings. 155/ The defendant Weigand pointed out to the defendant Hubbard that he was in the process of "working out a full cover that would cover the log book sign-ins along the lines of they were done to reveal the insecurity within the government for a series of articles that M [Meisner] would be writing as exposes." 156/

155/ The other buildings listed in that letter include the Post Office, the Labor Department's National Office, the Federal Trade Commission, the Department of the Treasury, the U.S. Customs Building, the Drug Enforcement Administration, the American Medical Association's law firm offices in Washington, D.C., and the offices of the law firm representing the St. Petersburg Times, also in Washington, D.C. Handwriting expert James Miller concludes that it is "highly probable" that the signature "Dick" at the end of the October 8 letter was written by the defendant Weigand. Mr. Meisner, himself, recognizes that signature as in the handwriting of defendant Weigand, and explains that the initials "DW/jf" to the left of the signature are those of the defendant Weigand and his communicator (secretary) Janet Finn.

156/ For another series of letters to the defendant Mary Sue Hubbard discussing the District of Columbia incident and the Wolfe/Meisner situation, see Government Exhibit No. 130, which includes a "CSW" from Mr. Meisner to the defendant Hubbard as well as memoranda from the defendant Hermann/Cooper to the defendant Hubbard. Mr. Meisner states that the defendant Hermann/Cooper's handwriting appear in the following locations: the word "secret" at the top of page one, and the signature on the last page. Government Exhibit No. 130 was seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's offices.

On October 8, 1976, FBI Special Agent Hansen served upon Assistant Guardian for the Legal Bureau in Washington, D.C. Kendrick "Rick" Moxon a Grand Jury subpoena for all original known handwriting exemplars of Michael Meisner and the employment application and personnel records of Mr. Meisner in the possession of the Church of Scientology. That subpoena was returnable on October 14, 1976. Assistant Guardian for Information in the District of Columbia Richard Kimmel immediately notified the defendant Hermann/Cooper of the service of that subpoena. The defendant Hermann/Cooper then notified the defendants Heldt and Weigand in an October 9, 1976 memorandum. (Government Exhibits Nos. 133 and 134 at p. 1.) 157/ In that same memorandum, the defendant Hermann/Cooper requested approval from the defendants Heldt and Weigand for a mission by Randy Windment, the real name of Bruce Raymond, the National Operations Officer for the Information

---

157/ Government Exhibits Nos. 133 and 134 were seized by Special Agent Brunson from a file cabinet in room 10 at the Cedars Complex.

Bureau in the United States. Mr. Windment/Raymond was to go to the District of Columbia to check the security of the Guardian's Office and the covert operatives who were still functioning--namely the defendant Sharon Thomas (also known as "Judy") and Ms. Nancy Douglass (also known as "Pitts"). Both the defendants Weigand and Heldt signed their approval of that mission. (See Government Exhibit No. 134.) 158/

On October 14, 1976, District of Columbia Assistant Guardian for the Legal Bureau Kendrick "Rick" Moxon, submitted

---

158/ Handwriting expert James Miller concludes that it is "probable" that the handwritten initials next to the words "mission approved" on page one of Government Exhibit No. 134 were written by the defendants Heldt and Weigand. Similarly, Mr. Miller finds it "probable" that the initials and date next to the title "DG Info US" on page one are in the handwriting of the defendant Weigand, and the initial next to item 2 (vital targets) on page two is probably in the handwriting of the defendant Heldt. Mr. Meisner identifies those initials as in the handwriting of the defendants Weigand and Heldt respectively, as he does all of the handwriting on page three as that of the defendant Hermann/Cooper. Mr. Meisner also identifies the signature "Mike" at page one of Government Exhibit No. 134 and the handwriting on pages three and five of Government Exhibit No. 133 as that of the defendant Hermann/Cooper.

an affidavit with nine pages of handwritten material. In the affidavit, he stated that he was unable to locate a personnel file for Mr. Meisner, and that the nine pages of appended handwriting were those of Mr. Meisner. However, as the defendant Raymond stated to Mr. Meisner in a meeting in late September 1976, Mr. Moxon had been directed to supply the government with fake handwriting samples in lieu of Mr. Meisner's true handwriting exemplars.

F. The Guardian's Office Refines its Cover-Up Plans

In early October 1976, the defendant Raymond decided that it would be best for Mr. Meisner to move from his motel to an apartment, thereby reducing the expenses of the Guardian's Office. Paul Poulon, the Collections Officer for the Information Bureau, rented an apartment for Mr. Meisner at 444 South Burlington Street in Los Angeles, California, to which Mr. Meisner moved on October 6. Mr. Meisner, at that time, was spending most of his days at local libraries doing research

on the security of government buildings, in order to support one of the cover-up stories, viz., that he had entered various government buildings to do an expose on the lack of security. The defendant Raymond and Mr. Meisner met approximately twice a week to discuss the ongoing cover-up. Mr. Meisner requested of the defendant Raymond that she set up a meeting between him and the defendant Snider as soon as possible. Mr. Meisner had been anxious to communicate his views regarding the cover-up in the current District of Columbia situation with someone in a position of higher authority. He thus selected the defendant Snider because of his high position in the Guardian's office as well as the fact that he had known him for a long time. Indeed, the defendant Snider had recruited Mr. Meisner for the Information Bureau of the Guardian's office. On October 28, the defendant Snider and Establishment Officer Peeter Alvet met with Mr. Meisner at the Burlington Street apartment. Mr. Meisner told the defendant Snider that he was concerned about the length of time that the cover-up operation was taking. The defendant Snider

cautioned Mr. Meisner that "we didn't want him doing something too fast as we wanted to see what happened with Silver [Wolfe] first, the threat of a Grand Jury." Government Exhibit No. 137, is a letter dated 4 November 1976 in which the defendant Snider wrote the defendant Heldt of the outcome of his meeting with Mr. Meisner. 159/ In it, the defendant Snider stated that Mr. Meisner "seemed to finally realize . . . that his actions would ultimately seriously effect [sic] the church. . . ." Mr. Meisner had expressed concern for his wife and his parents as well as for the fact that he was being kept almost totally uninformed of Guardian's Office actions on the ongoing cover-up. The defendant Snider assured Mr. Meisner that he would be briefed on all decisions taken by the Guardian's Office and that his views would henceforth be considered. He assured Mr. Meisner that the defendant Mary Sue Hubbard was concerned about the situation and was fully

---

159/ Government Exhibit No. 137 was seized by Special Agent Brunson from a file cabinet located outside the office of the defendant Raymond.

aware of it, and that anything Mr. Meisner wanted to express to the defendant Hubbard would be sent directly to her. At the conclusion of the meeting, the defendant Snider asked Mr. Meisner to continue doing work for the Information Bureau. In his letter to the defendant Heldt reporting on that meeting (Government Exhibit No. 137), the defendant Snider concluded that Mr. Meisner "is not a traitor and will cooperate" with the Guardian's Office. (Emphasis added.)

Three days later, in a letter to defendant Weigand the defendant Hubbard added yet another dimension to the cover-up plan. She suggested that the following scenario be considered: Mr. Meisner (whom she refers to by the letter "H" for the code name Herbert which Mr. Meisner had assumed since going underground after the issuance of his arrest warrant) was having marital trouble and was jealous that his wife was being more productive than he. Therefore, he took it upon himself to organize the burglaries of government buildings and thefts of documents from those buildings to prove that he too could produce for the Guardian's Office. She instructed the defend-

ant Weigand that "[i]f this seems workable" then Mr. Meisner should be ordered to work on the details of this aspect of that plan. (Government Exhibit No. 135.) 160/ In response to an order that he received from his "senior", the defendant Heldt directed the defendant Willardson to contact the defendant Wolfe and instruct him to "push his lawyer to get the scene handled." (Government Exhibit No. 136.) 161/

On November 5, pursuant to the decision made during his meeting with the defendant Snider, Mr. Meisner was moved by Mr. Paul Poulan to a new apartment located at 840 South Serrano Street in Los Angeles, California. Mr. Meisner

---

160/ Government Exhibit No. 135 was seized by Special Agent Brunson from a file cabinet in Room 10 in the Information Bureau at the Cedars Complex. Mr. Meisner identifies the handprinting on that letter above the typewritten words as being in the handwriting of the defendant Raymond. He further recognizes the initial next to the title "DG US" as having been written by the defendant Heldt.

161/ Government Exhibit No. 136 was seized by Special Agent John C. Kammerman from Room 15 in the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Michael Ray Napier.

rented that apartment in the name of "Jeff Marks" with funds provided him by Mr. Poulon. Mr. Meisner resided at that location until the end of April 1977. On November 26, Mr. Meisner wrote a lengthy letter to the defendant Mary Sue Hubbard explaining to her the extent of his predicament. Government Exhibit No. 138.) 162/ In that letter, he expanded upon the various aspects which she had proposed in her October 31 letter to the defendant Weigand (Government Exhibit No. 135). Mr. Meisner told the defendant Hubbard, that regardless of what cover story was eventually used to handle the ever expanding Federal investigations in the District of Columbia, it would be necessary to explain where he had been living since June 11 when he was confronted by the FBI in the United States Courthouse. He explained that, in any event, the FBI would want to know how Mr. Meisner was able to support himself during all the time that he was in hiding. Thus, Mr. Meisner told the defendant Hubbard that

---

162/ Government Exhibit No. 138 was seized by Special Agent Kammerman from a file cabinet in Room 15 in the Information Bureau at the Cedars Complex. It was initialed by Special Agent Napier.

he and the defendant Raymond had already worked out a plan, whereby Mr. Meisner would tell the FBI that he had been living with a friend in Canada. Mr. Meisner wrote that Canada was selected because the FBI had no authority to conduct investigations there. However, he also stated that a cover would have to be created in Canada. He concluded in a postscript that "in my opinion, no matter what story we use, the longer we wait to implement it, the less believeable it will be and the more that the government will be inclined to believe that the Church is behind it."

On November 30, the defendant Mitchell Hermann (a/k/a Mike Cooper) wrote a briefing memorandum outlining step-by-step the activities in which the defendant Wolfe (Silver) and Mr. Meisner (Herbert/MM) had been involved in the District of Columbia, and the cover story which had been prepared since their encounter with the FBI. The defendant Hermann/Cooper explained that the defendant Wolfe and Mr. Meisner had been involved, from 1974 through June 1976, in the burglaries of Government offices and thefts of Government documents in

Washington, D.C. In the spring to summer of 1976, they had directed their attention to the office of Assistant United States Attorney Nathan Dodell in the United States Courthouse in Washington, D.C. It was there, on June 11, 1976, that they were confronted by the FBI. The defendant Hermann/Cooper stated that on June 12, Mr. Meisner had come to Los Angeles, where over the next few days a cover-up story and plan was prepared to contain and terminate the FBI investigation. On June 30, the defendant Wolfe was arrested by the FBI and subsequently gave the previously prepared cover-up story to the FBI and the Office of the United States Attorney for the District of Columbia. Then, on July 28, the defendant Wolfe's case was referred to a grand jury for investigation. On August 5, he pointed out, a sealed warrant had been issued for Mr. Meisner. He concluded that "an overall cover story for MM and Silver is being put together by Natl Sec to submit uplines for final approval." That briefing memorandum was sent on December 1, 1976, to the Deputy Guardian for Information World-Wide, via the defendants Heldt and Weigand, with

a copy to the defendant Raymond. (Government Exhibit No. 139.) 163/ The defendant Raymond sent to the defendant

---

163/ Government Exhibit No. 139 was seized by Special Agent Kammerman from a file cabinet in Room 15 in the Information Bureau at the Cedars Complex. It was initialed by Special Agent Napier. At that time, the defendant Raymond held the position of National Secretary for the Information Bureau in the United States. Mr. Meisner identifies the handwritten word "Secret" at the top of page one as having been written by the defendant Hermann/Cooper.

During this time Mr. Meisner was undergoing regular auditing pursuant to the directive of the defendant Heldt. See Government Exhibit No. 140. Handwriting expert James Miller concludes as follows: "positive" that the word "handroute" at the top of page one and the notation "cc: DDGUS . . . ." in the routing portion also on page one were in the handwriting of the defendant Raymond; "positive" that the handwritten notation in the upper right-hand portion of page two, the 28 November 1976 letter from the defendant Heldt, as well as the signature on that page were written by the defendants Raymond and Heldt respectively; "positive" that the notation to "Cindy" in the upper part of page three was written by the defendant Heldt; "positive" that the notation "(enemy formula)" at the bottom of page six was written by the defendant Raymond; "positive" that the notation "CR: note no folders . . . ." two-thirds down on the eleventh page was written by the defendant Raymond; "positive" that the notations in the left margin were written by the defendant Raymond; "positive" that the handwritten routing on the reverse of page seventeen and the notation at the top of page eighteen were written by the defendant Raymond. Government Exhibit No. 140 was seized by Special Agent Brunson from a file cabinet in Room 10 of the Cedars Complex.

Weigand the cover-up plan and story intended to stall the FBI investigation in the District of Columbia (Government Exhibit No. 141 at p. 2 et seq.) 164/ She stated that once the defendant Wolfe's District of Columbia case was resolved, Mr. Meisner (Herbert) would be surrendered by the Church of Scientology and would give the agreed-upon cover-up story which she outlined. That story conformed to the one prepared and approved by the defendants Heldt, Snider, Weigand, and Willardson in mid-June and given to the defendant Wolfe. Appended to her letter was a project for the containment of the investigation which was being conducted by the FBI and United States Attorney's Office in the District of Columbia.

The defendant Weigand simultaneously informed the defendant Mary Sue Hubbard that the cover-up plan had been completed.

164/ Government Exhibit No. 141 was seized by Special Agent Brunson from a file cabinet outside Room 15 at the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

He explained that:

> As I see things now:
>
> 1. We turn Herbert in.
>
> 2. He says he did it via an attorney who should check the accuracy of the charge(s).
>
> 3. He says nothing more than guilty.
>
> 4. We establish lines as possible to see if the govt continues its investigation of us and if so we hit them with a full scale attack using BI, PR and Legal.
>
> 5. We get the Herbert case supervised closely by Legal and see that he gets the best treatment possible.
>
> And that does it. The key thing being Herbert [Meisner] does not have to get into any cover with the Government. . . . The only complication I can see is that they might try to hit Herb for flight to avoid which needs to be worked out with Legal so that the handling is effective.

(Government Exhibit No. 141.) The defendant Weigand sent the same information to Deputy Guardian for Information World-

Wide Mo Budlong. (Government Exhibit No. 142.) 165/

G. The Federal Grand Jury Investigation in the District of Columbia Continues

On December 15, 1976, the Grand Jury investigation continued before a new Grand Jury of the United States District Court for the District of Columbia with the appearance of Special Agent Christine Hansen. 166/

In a briefing paper dated January 7, 1977, the defendant Hermann/Cooper informed the defendant Heldt that the Commodore Staff Guardian, defendant Mary Sue Hubbard, had "approved" a plan identical to the one previously laid out by the

---

165/ Handwriting expert James Miller concludes that it is "highly probable" that the writing "Love, Dick" at the end of that letter is that of the defendant Weigand. Government Exhibit No. 142 was seized by Special Agent Brunson from a file cabinet outside Room 15 in the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

166/ As mentioned supra, at page 212, a previous Grand Jury of that Court had, in October, issued a subpoena directing the Church of Scientology to surrender the personnel records and exemplars of Michael Meisner's known handwriting. See also Government Exhibit No. 214 for the Grand Jury docket entry reflecting Agent Hansen's appearance.

defendant Raymond on December 10, 1976. (Government Exhibit No. 143.) 167/ In that briefing paper the defendant Hermann/Cooper outlined for the defendant Heldt the following events: the arrest of the defendant Wolfe; the investigation which was being conducted by the FBI and the United States Attorney's Office; the cover-up story given by the defendant Wolfe; Principal Assistant United States Attorney Carl S. Rauh's statement that he did not believe that story; the assignment of the investigation to Assistant United States Attorney Garey Stark of the Fraud section; the statement by Wolfe's attorney "that the case has been prepared to go to the grand jury" (emphasis added); and the various attempts which were being made by the FBI to locate Mr. Meisner in Washington,

---

167/ See page five of Governmment Exhibit No. 143 and compare to Government Exhibit No. 141 at page 2 et seq. Handwriting expert James Miller concludes that it is "highly probable" that the signature "Love, Mike" at page four was written by the defendant Hermann/Cooper. Mr. Meisner identifies that signature, as well as the one on page six, and the handwriting in the routing portion of page one as having been written by the defendant Hermann/Cooper. A copy of Government Exhibit No. 143 was sent to the "CSG", defendant Mary Sue Hubbard, and to the defendant Raymond. Government Exhibit No. 143 was seized by Special Agent Kammerman in a file cabinet in Room 15 of the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

D.C. He suggested that research should be conducted to determine if a "guilty plea would then eliminate the grand jury." He also stated that the defendant Wolfe had been directed not to give any further information beyond the cover-up story prepared for him by the Guardian's Office. (See Government Exhibit No. 143 at p. 5.)

On January 23, 1977, the defendant Hermann/Cooper notified the defendants Heldt and Weigand that the defendant Wolfe had a scheduled meeting with the United States Attorney's Office in Washington, D.C. He suggested that that meeting be used to present "further cover story to them as a possible means of forstalling [sic] a possible grand jury." He added, however, that the "furthr [sic] cover story needs to be elaborated." Thus, he appended to his "CSW" the original story with the additions that were prepared to "dovetail" with it. (Government Exhibit No. 144.) 168/ In handwritten

---

168/ Handwriting expert James Miller has reached the following conclusions: "positive" that the notation "Cindy's copy" on page one, the entire fourteen-line handwritten

(footnote continued on next page.)

notations throughout the document, the defendant Raymond opposed some of the changes in the cover-up story proposed by the defendant Hermann/Cooper.

In an appended report beginning at page five of Government Exhibit No. 144, the defendant Hermann/Cooper outlined the final proposed cover-up story which in fact was given by the defendant Wolfe to the United States Attorney's Office, the FBI, and later to the United States Grand Jury for the District of Columbia. He included in that report the names of restaurants and bars which had earlier been left unnamed. One week later the defendant Hermann/Cooper reminded the Deputy Guardian for Legal Affairs in the United States Mary

---

(footnote continued from preceding page.)

notation on page two, and the notations in the right-hand margins of pages three, four and seven, are all in the handwriting of the defendant Raymond. Mr. Meisner also identifies the notation in the left-hand margin of page one as having been written by the defendant Raymond, and the notation in the upper portion of page 5 as having been written by the defendant Hermann/Cooper. Government Exhibit No. 144 was seized by Special Agent Kammerman from a file cabinet in Room 15 in the Information Bureau in the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

Rezzonico that "it is still planned to get Silver [Wolfe] out here for briefing prior to the meeting" which Wolfe had scheduled with the United States Attorney's Office. He expressed the defendant Wolfe's concern that the United States Attorney's Office would attempt to strike a deal with him to become a government witness. (Government Exhibit No. 146.) 169/

During the months of February and March 1977 the cover-up preparation by the Guardian's Office and Information Bureau slowed considerably due to the failure of the defendant

---

169/ During the same period the defendant Hermann/Cooper requested Paul Klopper the Legal Branch II Director U.S., to research whether the United States Attorney's Office could still conduct a grand jury investigation if the defendant Wolfe entered a guilty plea. (Government Exhibit No. 145.) Government Exhibit No. 145 was seized by Special Agent Aldrich from a file cabinet in the office of the defendant Willardson at the Cedars Complex. Government Exhibit No. 146 was seized by Special Agent Kammerman from a file cabinet in Room 15 of the Information Bureau at that complex. The latter document was inventoried and initialed by Special Agent Napier. Mr. James Miller, the handwriting analyst, concludes that it is "probable" that the signature "Mike" on Government Exhibit No. 146 was written by the defendant Hermann/Cooper. Mr. Meisner identifies that signature as that of the defendant Hermann/Cooper.

Mitchell Hermann (a/k/a Mike Cooper) to complete the outstanding aspects of the cover-up story, and because of the defendant Wolfe's waiver of the rule requiring an indictment within forty-five days of arrest. 170/ The defendant Raymond and Mr. Meisner continued to elaborate upon various portions of that cover-up story. The defendants Willardson and Raymond assigned Mr. Meisner the task of preparing other covert operations and projects. During this period, Mr. Meisner continued to be audited three times a week.

Towards mid-March, however, Mr. Meisner became upset at the lengthy delays and complained to the defendant Raymond, who informed her superiors of Mr. Meisner's dissatisfaction. The defendant Weigand notified Mr. Meisner that the defendant Hermann/Cooper had been removed from the Information Bureau in part for his failure to properly handle the cover-up, and was assigned to the Services Bureau. He was replaced as

---

170/ Rule 4(a)(1) of the Rules of the United States District Court for the District of Columbia provides that indictments are to be returned within forty-five days of any arrest which occurred prior to July 1, 1976.

cover-up coordinator by the defendant Raymond. Simultaneously, Brian Andrus was appointed to replace the defendant Hermann/Cooper Southeast U.S. Secretary. 171/ Soon thereafter, Mr. Andrus also became Mr. Meisner's case officer.

On March 27, 1977, the defendant Raymond sent a "CSW" to the defendants Heldt and Weigand emphasizing the need for action in regard to the defendant Wolfe's and Mr. Meisner's situation in Washington, D.C. She pointed out that she had recently been assigned the task of coordinating the cover-up and reminded them that the Commodore Staff Guardian, the defendant Mary Sue Hubard, and the Guardian's Office World-Wide had ordered the containment of the grand jury investigation. (Government Exhibit No. 147.) 172/

171/ See Government Exhibit No. 147 at page three where the defendant Raymond indicated that the defendant Hermann/Cooper "was badly suppressing the lines and giving no or false information, keeping both Legal and BI in a confusion as to exactly what to do." Government Exhibit No. 147 was seized by Special Agent Brunson from a file cabinet outside Room 15 of the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

172/ During the few months prior to March 1977, the defendant Raymond had shown Mr. Meisner much of the

(footnote continued on next page.)

H. The Guardian's Office Cover-Up Moves Into its Final Phase

In late March, Mr. Meisner wrote to the defendant Heldt requesting him to take a more active role in the handling of the District of Columbia situation because the delays were becoming intolerable. Mr. Meisner stated that he was prepared to return to the District of Columbia and handle the matter himself. Soon thereafter, the defendant Heldt became more active in supervising the execution of the cover-up. To that end, on April 1, 1977, the defendant Heldt told the

---

(footnote continued from preceding page.)

correspondence within the Guardian's Office concerning ongoing research for the cover-up. See, e.g., Government Exhibits Nos. 147A and 147B. Handwriting expert James Miller positively identifies the handwriting of the defendant Raymond on the following pages: page one - the notation "A Rush"; page two - the three-line handwritten notation in the middle of the first line; pages four, five and six - the handwritten notations; page nine - the handwriting at the bottom of the page; page thirteen - all writings in both margins; page seventeen - the handwritten notation in the upper portion of the right margin. Mr. Miller also positively identifies the initials and date next to the title "DG I US" in the routing portion of page one as being in the handwriting of the defendant Weigand. Moreover, Mr. Meisner identifies the initials next to the title "DG US" on that same routing as being in the handwriting of the defendant Heldt.

defendant Mary Sue Hubbard that Mr. Meisner was concerned about the delays. He told her that he was now taking a more active role in the handling of Mr. Meisner and that he was sending the defendant Weigand to speak to Mr. Meisner "to cool him off". (Government Exhibit No. 148.) (The appended handwritten letter explains the coding contained in the typewritten one.) 173/ The defendant Heldt then responded to Mr. Meisner's earlier letter, stating that he was convinced that both the defendant Wolfe and Mr. Meisner should enter guilty pleas in the District of Columbia. He also told Mr. Meisner that Brian Andrus would keep in constant contact with him and inform him of all new developments and solicit his views on all future matters. Heldt also promised Mr. Meisner that within six weeks the defendant Wolfe would enter his guilty plea and pave the way for Mr. Meisner's surrender to Federal authorities in Washington, D.C. Mr. Andrus handed that letter

---

173/ Government Exhibit No. 148 was seized by Special Agent Brunson from a file cabinet located outside Room 15 in the Information Bureau at the Cedars Complex. It was initialed and inventoried by Special Agent Napier. Handwriting expert James Miller positively identifies the defendant Heldt as the writer of the entire handwritten letter beginning at page six of this exhibit.

to Mr. Meisner.

On April 6, in a letter to the defendant Heldt, Mr. Meisner reviewed the issues which were of concern to him. He complained that "the data I had been given was false, incorrect, misinformed, etc., and I caved in." He expressed relief that the defendant Heldt was now in control of the situation. (Government Exhibit No. 149.) 174/ Mr. Meisner also wrote to the defendant Weigand on April 7, 1977, suggesting that, since the defendant Heldt had indicated that Mr. Meisner would shortly be surrendering in Washington, an attorney should be chosen to handle his case. He also recommended that an "FSM" be placed in the appropriate government agency to obtain information regarding anticipated action by federal authorities. 175/

174/ Government Exhibit No. 149 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office in the Cedars Complex.

175/ By memorandum dated 12 April 1977, Brian Andrus informed the defendant Weigand that Mr. Meisner (Herb) had inquired about the delay in receiving a response from the defendant Weigand to his letter of 7 April 1977. (Footnote continued on next page.)

Mr. Andrus and United States Deputy Guardian for Legal Bureau Mary Rezzonico gave the defendant Heldt's letter to Mr. Meisner during a meeting they had at his apartment. At that meeting, Mr. Meisner told Mr. Andrus and Ms. Rezzonico that he did not believe it was necessary to enter a guilty plea. He preferred to return to the District of Columbia, surrender to the authorities, and go to trial putting the government to its burden as required by law. Mr. Meisner felt that in this manner he could challenge FBI Agent Hansen's

---

(footnote from preceding page.)

Exhibit No. 150.) In a handwritten note on that memorandum, the defendant Weigand responded that he had not as yet read Mr. Meisner's letter, and that he wished to receive Andrus' and Raymond's proposals before responding. The handwriting analyst, Mr. James Miller, concludes that it is "probable" that that notation was written by the defendant Weigand. Mr. Meisner identifies that notation, and the initials next to the title "DC I US", as having been written by the defendant Weigand. He also recognizes the signature on the memorandum as that of Mr. Andrus. Government Exhibit No. 150 was seized by Special Agent Henry Williams in the defendant Raymond's desk at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

identification of him as one of the two persons she had confronted in the United States Courthouse in the District of Columbia. (See also Government Exhibit No. 151.) 176/

In a briefing memorandum dated April 15, Mr. Andrus stated that Mr. Meisner had thanked him for being willing to listen to his point of view. Mr. Andrus concluded that Mr. Meisner was now once again in the fold. A few days thereafter, the defendant Wolfe arrived in Los Angeles, California, where he was briefed on various aspects of the cover-up story by Mr. Andrus, Ms. Rezzonico, and Paul Pflueger, a Legal Bureau official. Mr. Andrus informed Mr. Meisner of the defendant Wolfe's prese and of the briefing sessions.

On April 20, 1977, Guardian World-Wide Jane Kember criticized the defendant Heldt for his "sloppy reporting and poor co-ordination" of the Wolfe/Meisner District of Columbia situation. She formulated the following "strategy", whereby

---

176/ Government Exhibit No. 151 was seized by Special Agent Henry Williams from the defendant Raymond's desk at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

the defendant Wolfe would request an immediate meeting with the United States Attorney's Office, admit his guilt stating the cover-up story, waive his right to a Grand Jury indictment, plead guilty, and would be "sentenced lightly" as a first offender. Meisner would then surrender and also enter a guilty plea based on the cover-up story, giving "an informal story on where he had been for the last 7 months", and also receive a suspended sentence. If the United States Attorney's Office were to insist on continuing with its Grand Jury investigation, then Wolfe would be directed to "refuse to testify". Ms. Kember also demanded an explanation for the long delay in resolving the Wolfe case. (Government Exhibit No. 152.) 177/

At the same time, the Commodore Staff Guardian, defendant Mary Sue Hubbard, directed the defendant Heldt to begin creating a Canadian cover to explain Mr. Meisner's fugitive

---

177/ Government Exhibit No. 152 was seized by Special Agent William R. Stovall from the defendant Heldt's desk at the Fifield Manor. Mr. Meisner identifies the whole letter as being in the handwriting of Ms. Kember.

status without connecting Mr. Meisner to the Church of Scientology. The defendant Heldt immediately informed Mr. Andrus of the defendant Hubbard's order and charged him with the task of putting it into effect. (See Government Exhibit No. 153.) 178/

I. The Guardian's Office Retrains and Guards Michael Meisner

On April 27, Mr. Andrus, following a meeting with Mr. Meisner, notified the defendant Weigand that Mr. Meisner was so concerned about the slowness of the Guardian's Offices actions that Mr. Meisner intended on "leaving for either Canada or DC Saturday." (Government Exhibit No. 154.) 179/

178/ Handwriting expert James Miller positively concludes that the defendant Heldt was the writer of the two letters to Mr. Andrus contained in Government Exhibit No. 153. That exhibit was seized by Special Agent Williams from Room 15 in the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

179/ Government Exhibit No. 154 was seized by Special Agent William R. Stovall from defendant Heldt's desk at the Fifield Manor. Mr. Meisner identifies the signature on page five as having been written by Mr. Andrus.

On April 28, Mr. Andrus spoke to the defendant Wolfe and was informed that it was impossible to withdraw the waiver of the rule requiring an indictment within 45 days of arrest. (Government Exhibit No. 155.) That exhibit was also seized by Special Agent Stovall from the defendant Heldt's desk.

On April 28, Ms. Rezzonico and Mr. Andrus, together with Jim Fiducia, Mr. Meisner's auditor, visited Mr. Meisner at his Serrano Street apartment in order to convince him that it was not in his best interest to leave Los Angeles and return to the District of Columbia on his own. Mr. Meisner, however, was adamant that he would leave by April 30 unless he received assurances that the Wolfe situation in the District of Columbia would be resolved promptly. In a 29 April letter to the defendant Heldt summarizing the April 28 meeting, Ms. Rezonico stated her conclusion, based upon additional conversations with the defendants Raymond and Weigand, that there were reasons for concern about Mr. Meisner's situation. She also stated that she had been notified by the Assistant Guardian for the Legal bureau in the District of Columbia, Kendrick "Rick" Moxon, that the defendant Wolfe's attorney had reported that the United States Attorney's Office "had made 'noises' about the Grand Jury." (Government Exhibit No. 156.) 180/ That same day, the defendant Heldt informed

---

180/ Government Exhibit No. 156 was seized by Special Agent Stovall from the defendant Heldt's desk. Mr. Meisner recognizes Ms. Rezzonico's signature at page three of that letter.

the defendant Mary Sue Hubbard that "Herb [Meisner] is threatening to return to DC and handle the scene as he sees fit if the waiver is not withdrawn this week." He told her that he was ordering the Information Bureau to "arrange to restrain Herb and prevent him from leaving, and to guard him so that he does not do so." (Government Exhibit No. 157.) 181/ The defendant Heldt then directed the defendant Weigand and Ms. Rezzonico that "Herb is to be restrained and guarded. He is not to be permitted to leave." He further directed that the Canadian cover be set up within ten days even if it required trips to Canada, and that the Legal Bureau should assume much closer supervision and control over the defendant Wolfe and direct him to conclude his case in the District of Columbia promptly. (See Government Exhibit No. 158.) 182/

181/ Handwriting expert James Miller concludes that the entire letter was written in the defendant Heldt's handwriting. The letter was seized by Special Agent Stovall from the defendant Heldt's desk at the Fifield Manor.

182/ Government Exhibit No. 158 was seized by Special Agent Hillman from Room 15 in the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Gonzales.

Mr. James Miller, the handwriting expert, positively concludes that the letter was handwritten by the defendant Heldt.

On April 29, Mr. Andrus met with Mr. Meisner at Mr. Meisner's South Serrano Street apartment and informed him that from that day on he would be placed under guard. (Government Exhibit No. 159 at p. 4 et seq.) Mr. Meisner told Andrus that he would not accept the presence of guards. Mr. Meisner also made it clear that if he were charged as a fugitive he would not enter a guilty plea. He complained that his whole situation had been mishandled by the Guardian's Office and had resulted in his becoming a fugitive. He demanded that the defendant Heldt explain to him what action was being taken regarding his case. At the end, of that meeting Mr. Andrus placed the guards outside Mr. Meisner's apartment. (See 29 April letter to the defendant Weigand.) That same day, the defendant Heldt reported to the defendant Mary Sue Hubbard that Mr. Meisner was now under guard and that Mr. Meisner had "reacted violently to the arrival of persons to insure he did not blow." He added that he had directed the

Information Bureau to locate "a more isolated" apartment where Mr. Meisner could be kept under the watch of "some trustworthy . . . Body Guards". He also stated that he was sending the defendants Weigand and Willardson to see Mr. Meisner and "get control" over him. (Government Exhibit No. 159.) According to handwriting expert James Miller that letter was written in its entirety by the defendant Heldt. 183/

Pursuant to the defendant Heldt's directive, the defendants Weigand and Willardson together with Southeast U.S. Secretary Brian Andrus and three guards, visited Mr. Meisner at approximately 2:15 a.m. on April 30. The defendant Weigand warned Mr. Meisner that he would no longer be permitted to make "demands and threats on the Church," and "that he was to start becoming a decent, co-operative, contributing part of the venture and nothing else was to be tolerated." With the guards' assistance, the defendant Willardson searched

---

183/ Government Exhibit No. 159 was seized by Special Agent Daniel P. LeVine from the defendant Heldt's desk at the Fifield Manor.

Mr. Meisner's apartment and personal property and removed any evidence connecting Mr. Meisner to the Church of Scientology. At approximately 6:30 a.m., the meeting concluded "with the guards in charge." 184/ On May 3, 1977, the defendant Weigand forwarded this report to Deputy Guardian for Information World-Wide Mo Budlong. Copies were sent to "DG US", the defendant Heldt, and "CSG", the defendant Hubbard. On May 1, Mr. Andrus gave Mr. Meisner a handwritten dispatch from the defendant Mary Sue Hubbard which explained to Mr. Meisner that she was aware that he had been placed under guard, and that it was being done for his own good and the good of Scientology. She promised Mr. Meisner that if he followed orders, the guards would be eventually removed. 185/

184/ For a detailed report of that meeting, see Government Exhibit No. 160. That exhibit was seized by Special Agent Frederick S. Hillman from a file cabinet in the defendant Raymond's office. It was inventoried and initialed by Special Agent Martin A. Gonzalez.

185/ See Government Exhibits Nos. 161 and 162 at pages four. The second document is a coded version of the first one. They were both seized by Special Agent Aldrich from the defendant Willardson's office. Mr. Meisner identifies the signature "Brian" on pages four and eight as having been written by Mr. Brian Andrus.

On May 1, at approximately 6 p.m., Brian Andrus, Peeter Alvet, Information Bureau official Chuck Reese and two bodyguards visited Mr. Meisner and told him that he was to be moved to another apartment. Mr. Meisner refused to leave, threatening to cause a commotion if forced to do so. The two guards handcuffed him behind his back, gagged him and dragged him out of the building. Outside, they forced him onto the back floor of a waiting car. In the car one of the guards held Mr. Meisner down with his feet. Mr. Meisner was taken to an apartment which he later learned was located at 3219 Descanso Drive, in Los Angeles, California. After Messrs. Andrus and Alvet left, three guards remained in the apartment with Mr. Meisner. 186/ On Monday, May 2, the defendant Heldt approved the defendant Raymond's funds request for Mr.

186/ This incident is detailed by the defendant Weigand in a 2 May 1977 letter to Mr. Budlong. (Government Exhibits Nos. 161 and 162.) The routing on that letter indicates that copies of it were sent to the defendants Mary Sue Hubbard and Henning Heldt, and to GWW Jane Kember.

Meisner's guards. (See Government Exhibit No. 163.) 187/

During the ensuing three weeks, Mr. Meisner continued to be guarded and prevented from leaving his apartment. By May

---

187/ In that "CSW", the defendant Raymond requested $202.48 for Mr. Meisner's guards' expenses, including food, and a fine for one of the guard's car, which had been towed. Handwriting expert James Miller positively identifies the handwritten note at the top of page one next to the title "DG US" as having been written by the defendant Raymond. Mr. Miller further identifies the intiial next to Mr. Heldt's title and next to the word "approved" on page two as probably having been written by the defendant Heldt. Mr. Meisner identifies that initial as having been written by the defendant Heldt. He also recognizes the signature at the bottom of page two and the handwriting on that page as that of the defendant Raymond. Mr. Miller also positively identifies the following handwriting on the envelope appended to the end of the exhibit: "A Rush" - positively written by the defendant Raymond; "Good - disp rec'd. Love H." - positively written by the defendant Heldt; the initial next to the title "DG US" - probably made by the defendant Heldt. Government Exhibit No. 163 was seized by Special Agent Hillman from the defendant Raymond's office at the Cedars Complex. It was inventoried and initialed by Special Agent Gonzalez.

An additional request for funding for Mr. Meisner's guards was made by Acting Collections Officer Jim Douglass to the defendant Heldt on May 13, 1977. (Government Exhibit No. 166.) That request included money for food, gas, and a battery that was stolen from one of the guard's jeeps. Government Exhibit No. 166 was seized by Special Agent Hillman from Room 15 at the Cedars Complex. It was initialed by Special Agent Gonzales.

5, Mr. Meisner determined that it was in his best interest to cooperate with his captors. He corresponded with the defendant Heldt in an attempt to resolve his predicament and to have the guards removed. 188/ He also accepted auditing. 189/

On May 13, 1977, the defendant Wolfe entered a plea of guilty to a one-count information charging him with the wrongful use of a Government seal, in violation of 18 U.S. Code, Section 1017, before United States District Judge

---

188/ See Government Exhibit No. 164 at p. 3 et seq. That exhibit was seized by Special Agent Aldrich from the defendant Willardson's office at the Cedars Complex.

189/ Meisner's account of the events of the first days in May is corroborated by the defendant Weigand in a letter to Mr. Budlong, by Mr. Andrus in a letter to the defendant Heldt, (see Government Exhibit No. 164), and by the defendant Weigand in a letter dated May 8, 1977 to the defendant Heldt. (See Government Exhibit No. 165.) According to Mr. Miller, the handwritten letter signed "H" and addressed to "Herb", located at page six and seven of Government Exhibit No. 164, was written in its entirety by the defendant Heldt. Mr. Meisner concurs in that finding. Handwriting expert Miller concludes that the defendant Heldt wrote the note to Brian Andrus on the 5 May 1977 letter appended to Government Exhibit No. 165. Mr. Miller also finds that it is "probable" that the defendant Heldt wrote the initial next to the title "DG US" on that letter. Mr. Meisner identifies that initial as having been written by the defendant Heldt. Furthermore, he recognizes the signature at the end of that letter as having been written by Mr. Brian Andrus.

Thomas A. Flannery in Washington, D.C. The defendant Wolfe's plea specifically involved the June 11, 1976 entrance into the United States Courthouse in that city and his use of the IRS identification card bearing the name "Thomas Blake". A few days thereafter, Mr. Meisner was informed of this new development by Mr. Andrus. By the third week of May, in part due to Mr. Meisner's cooperation, his watch was relaxed and his guards began to take him out of the apartment. 190/ At that time, Brian Andrus showed Mr. Meisner a program

---

190/ In a letter dated 13 May, the defendant Willardson instructed the defendant Raymond to take control of the guards. He complained that they could not involve any more Information Bureau personnel in this matter. See Government Exhibit No. 167. Page four of that exhibit included a weekend guard schedule for "Herbert" (Mr. Meisner). It listed the following individuals as guards: Jim Douglass, Chuck Reese, Peeter Alvet, John Lake, George Pilat, and Gary Lawrence. Handwriting expert James Miller concludes as follows: "positive" that the first two pages were handwritten by the defendant Willardson; "positive" that the notation on the third page from "Cindy" to "Greg" was written by the defendant Raymond; and "positive" that the handwritten notation on the last page addressed "Dear Cindy" was written by the defendant Willardson. Government Exhibit No. 167 was seized by Special Agent Hillman from Room 15 at the Cedars Complex. It was inventoried and initialed by Special Agent Gonzales.

written by DC I WW Mo Budlong which approved the final plan for handling the cover-up. Mr. Andrus told Mr. Meisner that Mr. Budlong had decided that Mr. Meisner could not surrender to the FBI in Washington, D.C. until the IRS had granted the Church of Scientology of California's request for tax exempt status.

J. Michael Meisner's First Escape from his Guards

By the end of May, Mr. Meisner was guarded by just one person. On May 29, while he was out with his guard, John Matoon, Mr. Meisner escaped by jumping into a taxicab. He went to the Greyhound Bus Station, and took a bus to Las Vegas. Mr. Meisner did not have much money, but having been there previously he knew a motel which he could afford. He escaped from his guard because he wanted time to think about his predicament and to determine an appropriate course of action. At that time, Mr. Meisner was still committed to Scientology, and did not want to leave the organization precipitously.

On May 30, Mr. Meisner telephoned the defendant Raymond in Los Angeles and requested to speak to either Mr. Brian Andrus or Mr. Jim Douglass. Since Mr. Andrus was unavailable, Mr. Douglass spoke to Mr. Meisner. Mr. Meisner refused to state where he was staying in Las Vegas until he first spoke to defendant Heldt. Therefore, a telephone call was scheduled for 8:30 that evening. The defendant Heldt pleaded with Mr. Meisner to return to Los Angeles and the Guardian's Office of the Church of Scientology. 191/ While Mr. Meisner

---

191/ The defendant Raymond immediately notified her new superior, Temporary Deputy Guardian for Information U.S. (T/DG I US) Brian Andrus, of Mr. Meisner's telephone call to her and of the defendant Heldt's telephone discussion with Mr. Meisner that evening. She concluded that "[t]he only thing I can think of is that we work a cover story that he is trying to blackmail the Church for money by pretending that the Church harbored him for the last months making the Church a party to the crime." (Emphasis added.) (Government Exhibit No. 168.)

That same day, the defendant Raymond sent Ms. Mary Rezzonico (DG L US) a letter requesting her to brief the thirteen people who had had contact with Mr. Meisner and who knew he had been harbored by Scientology. (See Government Exhibit No. 169.) Both documents were seized by Special Agent Williams from a desk in Room 15 in the Information Bureau at the Cedars Complex. They were inventoried and initialed by Special Agent Mislock. Handwriting expert James Miller positively identifies the handwriting on pages three and five of Government Exhibit No. 168 as having been written by the defendant Raymond.

initially refused, he did agree to meet with Mr. Douglass the next day in Las Vegas.

On May 31, Mr. Meisner met with Mr. Douglass at a prearranged crowded location. They discussed Mr. Meisner's concerns, and Mr. Douglass urged Mr. Meisner to return with him. Mr. Meisner refused. By the next morning the Guardian's Office had learned where he had been staying, and he was confronted by Information Bureau official Chuck Reese, who insisted that Mr. Meisner return with him to Los Angeles. Mr. Reese represented to Mr. Meisner that the defendant Weigand had been removed from his position as Deputy Guardian for Information in the United States, and had been temporarily replaced by Brian Andrus, who had been Mr. Meisner's case officer. Mr. Meisner first spoke to the defendant Heldt who promised to meet with him that evening if he returned to Los Angeles. Mr. Meisner, still troubled and confused, agreed, nonetheless, to return to Los Angeles.

That same night, Mr. Meisner and the defendant Heldt met at Canter's Restaurant in Los Angeles. The defendant Heldt

assured Mr. Meisner that he understood Mr. Meisner's feelings. He told him that both L. Ron Hubbard and the defendant Mary Sue Hubbard were working on his case and would do everything to help him. He explained that while Mr. Meisner would have to continue to be guarded, he should consider his guards his friends and not his enemies. Mr. Meisner agreed to remain with the Guardian's Office. He was driven to his Descanso Drive apartment by the defendant Heldt and Mr. Reese. When he arrived, Mr. Meisner was met by Mr. Douglass who had been waiting to guard him. Mr. Meisner describes the then-existing situation as an "armed truce".

In the meantime, Brian Andrus, on May 31, had ordered the defendant Raymond to find a "secured" place for Meisner to stay if and when he returned from Las Vegas. He suggested "a place where he could be locked in a room that has no or a very small window" and where he would have "no outside contact". (Government Exhibit No. 170.) 192/ On June 1,

---

192/ Government Exhibit No. 170 was seized by Special Agent Williams from a desk in Room 15 at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock. Mr. Meisner identifies the handwriting notation "changed by verbal order" as having been written by the defendant Raymond, and the signature "Brian" as having been written by Mr. Andrus.

Mr. Meisner was moved by his guards to an apartment located at 327 South Verdugo in Glendale, California. During the entire month be continued to be guarded by at least one person.

K. The Defendant Wolfe's Sentencing and Subsequent Testimony Before the Grand Jury in the District of Columbia.

On June 10, the defendant Wolfe was sentenced by United States District Judge Thomas A. Flannery to a term of probation, and was required to perform one hundred hours of community service. Inasmuch as he resided in Minnesota, the case was transferred both for probation supervision and jurisdiction to that state. Immediately following his sentencing, the defendant Wolfe was served with a subpoena to appear that same afternoon before the United States Grand Jury for the District of Columbia which had been investigating the entries into the United States Courthouse there.

At approximately 1 p.m., the defendant Wolfe appeared before the October 1976 Grand Jury of the United States

District Court for the District of Columbia. 193/ He was represented by attorney, David Schmidt, Esquire. The defendant Wolfe was sworn by Grand Jury Foreperson Mildred Chaplin. The record was transcribed by an official Grand Jury reporter, Ms. Judith Bracegirdle Warner, who states that Government Exhibit No. 215 is the complete testimony given by the defendant Wolfe on that day.

At the time of the defendant Wolfe's appearance, the Grand Jury was conducting an investigation to determine whether violations of statutes of the United States and the District of Columbia had been committed in the District of Columbia. The Grand Jury was attempting to identify the individuals who had committed, caused the commission of, and conspired to commit such violations. It was material to its investigation for it to determine the reasons for the presence of the defendant Wolfe and one "John M. Foster" in the United

---

193/ United States District Court Clerk James F. Davey states that the records of that Court reveal that the October 1976 Grand Jury had been sworn in on October 13, 1976, and was authorized to conduct investigations and hear evidence on behalf of the Court on June 10, 1977. Its term did not expire until April 1978.

States Courthouse in the District of Columbia on May 21, 28 and June 11, 1976. The Grand Jury was seeking the reasons for the defendant Wolfe's use on May 28 of an identification card bearing the last name "Haake", and his use on June 11, 1976, of counterfeit IRS credentials bearing the name of "Thomas J. Blake". It was also material for the Grand Jury to determine whether, while in the United States Courthouse, the defendant Wolfe and the individual using the name "Foster" had entered the office of any Assistant United States Attorney for the District of Columbia, and, if so, whether they had unlawfully taken any documents or files located therein. Moreover, the Grand Jury wanted to learn whether the defendant Wolfe and "Mr. Foster" had photocopied any documents which were the property of the Office of United States Attorney for the District of Columbia, and the United States of America, on photocopying machines within that office. The Grand Jury sought to learn from the defendant Wolfe the true identity of the individual who had entered the Courthouse with him and used the name "John M. Foster". It also was inquiring into

the manner in which the defendant Wolfe and "Mr. Foster" had obtained the counterfeit and forged IRS credentials which they had used to enter the Courthouse. Finally, the Grand Jury was attempting to determine whether any other individual in the District of Columbia or elsewhere had conspired with, aided and abetted, or caused the defendant Wolfe to obtain his counterfeit IRS credentials, or assisted him in entering the United States Courthouse for the District of Columbia.

During his testimony under oath before the federal Grand Jury, the defendant Wolfe knowingly made the following false declarations regarding the above-mentioned material matters which the grand jury was investigating:

Statement No. 1

Q. When did you first come to know that the D.C. Bar Association had a library on the third floor of this building?

A. I don't remember exactly the date.

Q. Why did you want to come to this library?

A. To study.

Q. To study what?

A. To learn how to do legal research.

Q. Why did you want to learn to do legal research?

A. Well, I was planning on going back to Minneapolis to complete or further my studies in music and I thought that in addition to clerical skills that I had that if I could learn to do some legal research that I could perhaps get a better paying, more interesting job to help pay for my school.

Q. Where would you find that job?

A. In Minneapolis, I presume.

Q. Who would hire you in Minneapolis?

A. I don't know. A law firm, perhaps.

Q. Did you embark on this program to learn how to do legal research with the idea in mind of presenting yourself to a Minneapolis law firm and saying, "I can do legal research for you"?

A. Yeah, I think so.

Q. You don't know?

A. That's what I had in mind.

* * *

Q. How did you propose to learn to do legal research in the D.C. Bar library?

A. Someone was going to teach me.

Q. Who was that someone?

A. John Foster. (Government Exhibit No. 215 at 15-16, 17-18) 194/

* * *

Statement No. 2

Q. Now, the first night that you were here in the courthouse, did you xerox anything?

A. I don't think so but I don't recall exactly, you know, which night.

Q. How long were you here on that first occasion?

A. I don't remember how long exactly.

Q. Approximately.

A. I don't know. Guessing, I'd say maybe an hour.

* * *

194/ The underscored portions of the declarations of the defendant Wolfe were material to the Grand Jury and the indictment charges that the defendant Wolfe "then and there well knew, were false."

Q. Did you go anywhere else but the library that night?

A. I don't know. I do know that one or more of the times here I did go to the men's room. Now, whether it was the first night or not that I couldn't recall exactly.

Q. Did you have to leave the library to go to the men's room?

A. Yes.

* * *

Q. Apart from going to the men's room, did you go anywhere else in the courthouse that night?

A. I don't think so.

Q. From the first to the third floor library and back onto the first floor and out?

A. Right. (Government Exhibit No. 215 at 173, 174.)

* * *

Statement No. 3

Q. Do you recall ever doing any xeroxing on the third floor of this building on any of the three occasions?

A. Yes.

* * *

Q. What did you xerox?

A. Case histories.

Q. Case histories? What's a case history?

A. Well, a case out of a law book which contains cases.

* * *

Q. Did you bring the books from the library to the xerox machines?

A. Myself, yes, some of them.

Q. Did Mr. Foster carry books?

A. Yes.

Q. How many did you carry?

A. Approximately five.

Q. And how many did he carry?

A. Approximately the same.

Q. Were they the same type of books?

A. You mean as mine? Yes, I think so.

* * *

Q. And how long did you use the xerox machine?

A. Approximately fifteen minutes to a half hour.

Q. No longer than half an hour?

A. I don't think so.

Q. And what did you do when you left?

A. Brought the books back to the library and just left. (Government Exhibit No. 215 at 179-180, 184-185.)

* * *

Statement No. 4

MR. STARK: Let me inform you, however, that the grand jury and the U.S. Attorney's Office have a joint responsibility to investigate criminality that occurs within the District of Columbia.

Now, you may have made your plea of guilty in this case and been sentenced today but Mr. Foster has not. Now, we are investigating Mr. Foster's involvement in this and there may come a time when Mr. Foster is sitting either in that chair or in the defendant's chair before a petit jury.

And your version of what happened on these three occasions will aid this grand jury in its determination of what if anything to charge Mr. Foster with. Do you understand that?

* * *

Q. Now, did you know Mr. Foster by any other name?

A. No, I didn't.

Q. You only knew him by John Foster?

A. Right. (Government Exhibit No. 215 at 200-201.) 195/

The defendant Wolfe knew that the testimony he was giving to the Grand Jury of the United States District Court for the District of Columbia on June 11, 1977, was false in all material respects. He knew that the individual who had entred the Courthouse with him using the name "John M. Foster" was in fact Michael Meisner, who at the time of the entries was the Assistant Guardian for Information in the District of Columbia. He knew Mr. Meisner's address and telephone number in Arlington, Virginia, as well as Mr. Meisner's telephone number at the Church of Scientology offices at 2125 S Street, N.W., in

---

195/ The complete transcript of Mr. Wolfe's Grand Jury testimony is submitted to the Court as evidence, and is incorporated as part of this record. See Government Exhibit No. 215.

Washington, D.C. The defendant Wolfe had obtained employment at the Internal Revenue Service knowing that he was a covert operative for the Guardian's Office of the Church of Scientology, and that his purpose for being at the IRS was to have access to Government documents in order to steal them for the Guardian's Office. He was aware that the counterfeit IRS credentials had been used by himself and Mr. Meisner to make illegal entries into various Government buildings for the purpose of burglarizing offices and stealing documents and photocopies thereof located therein. He and Mr. Meisner had entered the United States Courthouse on May 21, 28 and June 11, 1976, for the purpose of burglarizing the office of Assistant United States Attorney Nathan Dodell and stealing documents from that office. Indeed, they had accomplished that task on May 21 and 28, 1976. The defendant Wolfe also was fully aware that he and Mr. Meisner had not gone into the United States Courthouse to use the Library of the Bar Association of the District of Columbia to do legal research, and that Mr. Meisner was not to teach him to do any legal research.

He knew that they did not, at any time, photocopy law books or cases contained in law books which were taken from the library but had, in fact, photocopied, with United States Government equipment and supplies, United States Government documents taken from Mr. Dodell's office. The defendant Wolfe further knew that the burglaries of, and thefts of documents from, the office of Assistant United States Attorney Dodell were pursuant to Guardian Program Order 158. Mr. Meisner had fully briefed him on that Guardian Program Order, as well as the orders which he had received from his superiors in Los Angeles, California, including the defendants Heldt, Weigand, Willardson, Snider, Raymond, Hermann, and Hubbard. The defendant Wolfe participated in the preparation of the cover-up story in Los Angeles, California, on June 14, 1976, together with the defendants Willardson, Weigand and Mr. Meisner. He was repeatedly briefed by Guardian's Office officials both in the District of Columbia and in Los Angeles regarding the cover-up story and his contrived statements to the United States Attorney's Office for the District of

Columbia, the Federal Bureau of Investigation, and the Grand Jury of the United States District Court for the District of Columbia. Indeed, when the defendant Wolfe appeared before the Grand Jury on June 10, 1977, he was under specific orders from the Guardian's Office of the Church of Scientology, including, at one time or another, the defendants Hubbard, Heldt, Snider, Weigand, Willardson, Raymond and Hermann, to make false material declarations to that Grand Jury for the purpose of derailing the Grand Jury investigation and preventing that Grand Jury from discovering the actual facts about the involvement of the above-named defendants, the Guardian's Office of the Church of Scientology in the United States and at World-Wide, and Mr. Meisner. All of the defendant Wolfe's testimony before the Grand Jury of the United States District Court in the District of Columbia, on June 10, 1977, including the statements quoted above and at Counts 25 through 28 of the indictment, conformed in detail to the cover-up plan and story prepared by the defendant Wolfe, the other named defendants and Mr. Meisner. All the false declarations made by the

defendant Wolfe were material to the investigation being conducted by the October 1976 Grand Jury of the United States District Court of the District of Columbia with the assistance of the Office of the United States Attorney for the District of Columbia.

L. The Defendant Wolfe is Debriefed by the Guardian's Office After his Grand Jury appearance.

Immediately following his Grand Jury appearance the defendant Wolfe went to the office of the Church of Scientology at 2125 S Street, N.W., in Washington, D.C. where he was debriefed by Guardian's Office officials. The next day, on June 12, a transcript of that debrief was sent to the Guardian's Office in Los Angeles, California, and excerpted by Legal Bureau official Paul Klopper in a memorandum to his superior, Deputy Guardian for the Legal Bureau Mary Rezzonico. That memorandum, entitled "Silver Hearing and Grand Jury" summarized the sentencing proceedings before Judge Flannery and the testimony of the defendant Wolfe. (Government Exhibit

No. 173.) 196/ According to the routing on the June 12 letter, copies of that letter and debrief were sent to the "CSG", defendant Mary Sue Hubbard, the "DG US", defendant Henning Heldt, the "DGI US" Brian Andrus and the Guardian World-Wide Jane Kember. 197/ Pursuant to the order of the defendant Heldt (Government Exhibit No. 171) 198/ Ms. Rezzonico and Mr. Andrus gave Mr. Meisner the debrief contained in Government Exhibit No. 173 to read so that he could start adjusting his cover-up story to that given by the defendant Wolfe in the Grand Jury. Mr. Meisner read the defendant Wolfe's Grand Jury debrief at his apartment on South Verdugo. 199/ In his directive to Ms. Rezzonico and Mr. Andrus,

---

196/ Government Exhibit No. 173 was seized by Special Agent William R. Stovall from the defendant Heldt's desk at the Fifield Manor.

197/ Mr. Meisner identifies the handwriting of the defendant Raymond at page five, the margins at pages ten, eleven, thirteen, twenty-one through twenty-four and at the bottom of page twenty-six.

198/ Government Exhibit No. 171 was seized by Special Agent LeVine from the defendant Heldt's desk at the Fifield Manor.

199/ Appended to the Wolfe Grand Jury debrief were two newspaper clippings from the Washington Post and Washington Star, regarding Wolfe's sentencing.

the defendant Heldt also ordered them to research any possible fugitive charge against Mr. Meisner and to increase security. 200/ On June 16, Mr. Andrus informed Ms. Rezzonico that "Herb [Meisner] was given the news. His reaction was mild pleasure. He uplifted his eyebrows and said something like 'not bad'. He learned the news by reading the hearing debrief." (Government Exhibit No. 172.) 201/

According to Mr. Andrus, Mr. Meisner complained that "he didn't feel that anyone was concerned or really looking out for his own welfare." Mr. Andrus assured him that he would keep him informed of all new developments and would see him again soon.

On June 13, the defendant Heldt and Mr. Andrus visited Mr. Meisner in order to show him a handwritten letter from

---

200/ Handwriting expert James Miller has positively identified the defendant Heldt as the writer of the entire letter marked Government Exhibit No. 171.

201/ Government Exhibit No. 172 was seized by Special Agent Williams from a desk in Room 15 in the Information Bureau in the Cedars Complex. It was inventoried and initialed by Special Agent Mislock. Mr. Meisner identifies the signature at the end of that letter as that of Mr. Andrus.

the defendant Mary Sue Hubbard. The defendant Heldt read to him that letter in which the defendant Hubbard warned Mr. Meisner that if he escaped from his guards again he would be on his own.

On June 17, Mr. Andrus met once again with Mr. Meisner. He discussed with him the potential legal defenses prepared by the Legal Bureau, and left the meeting feeling that "Herb was again in better shape communication and duplication wise."

In Government Exhibit No. 174, Mr. Andrus informed the defendant Willardson, who had by now assumed the duties of Temporary Deputy Guardian for Information in the United States of the meeting which he had with Mr. Meisner. 202/

M. Michael Meisner Surrenders to the Federal Bureau of Investigation

By mid-June, Mr. Meisner had decided that if the watch over him were ever relaxed, he would immediately leave the

---

202/ Government Exhibit No. 174 was seized by Special Agent Williams from a desk in Room 15 inthe Information Bureau in the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

Guardian's Office, surrender to the federal authorities, plead guilty, and cooperate in the ongoing investigation. Thus, he feigned cooperation with his captors and his superiors in the Guardian's Office in the hope that eventually his guards might be removed. As a reward for this cooperation, Mr. Meisner's watch was relaxed. In fact, beginning on the evening of Friday, June 17, he was no longer guarded at night. His guards would leave his apartment at night and return at 9 a.m. the next morning.

On Monday, June 20 at 6 a.m., Mr. Meisner, taking a few clothes with him, left his apartment on South Verdugo in Glendale, California, for the purpose of surrendering to federal authorities. In order to elude any potential follower, Mr. Meisner took two buses to a bowling alley, from which he placed a collect call to Assistant United States Attorney Carey Stark in Washington, D.C. Mr. Meisner identified himself to the operator as "Gerald Wolfe" because he feared that the Guardian's Office of the Church of Scientology might have placed a covert operative in the United States Attorney's Office. When Mr. Stark answered the telephone

Mr. Meisner identified himself by his real name, informed Mr. Stark that he was ready to surrender, plead guilty for his participation in the criminal activities of the Guardian's Office, and cooperate with the United States. Mr. Stark directed him to stay at the bowling alley and wait for Federal Bureau of Investigation agents. Approximately two hours later, three agents of the FBI met Mr. Meisner at the bowling alley. Mr. Meisner surrendered to the agents and was taken by them to Los Angeles Airport where he was placed on an airplane to the Baltimore-Washington International Airport. Upon his arrival in Baltimore, he was met by FBI Special Agents Robert S. Tittle and James R. Kramarsic. He was kept that night in a motel and taken the next morning, June 21, to the office of Assistant United States Attorney Garey G. Stark. At the insistance of the Assistant United States Attorneys assigned to the investigation, Mr. Meisner conferred with an attorney appointed to him by United States Magistrate Henry H. Kennedy, Jr. After conferring with his court-appointed attorney, Mr. Meisner agreed to enter a plea of

guilty to a five-year conspiracy felony pursuant to 18 U.S. Code, Section 371, without any other condition except that he would fully cooperate with the Grand Jury investigation. Mr. Meisner was, of course, warned that any false statement he made would be prosecuted as perjury. Mr. Meisner requested and was granted protective custody by the United States Marshal Service. He has been in the Marshal Service's protective custody since June 21, 1977.

From June 20 to June 22, the defendants and other officials of the Guardian's Office notified each other of Mr. Meisner's disappearance. On June 20, the defendant Willardson informed the defendant Heldt that "Herbert [Meisner] was found missing today." He stated that Brian Andrus had found in Mr. Meisner's apartment a note stating that Mr. Meisner would call in a week, that he was not going anywhere where he could be located, and that there was no purpose in discussing his motivations. The defendant Willardson informed the defendant Heldt that Mr. Meisner had last been seen by his guard on Sunday, June 18 at 6:00 p.m. He speculated

that Mr. Meisner was hiding somewhere in Los Angeles, probably doing legal research in a library regarding his possible legal defenses in the District of Columbia case. He added that a Guardian's Office official had been sent to Mr. Meisner's apartment to remove any documents connecting Mr. Meisner to Scientology, and to wipe-out all possible fingerprints. (Government Exhibit No. 175.) 203/ A copy of that letter was sent to the defendant Mary Sue Hubbard ("CSG"), the defendant Raymond ("BI DC Scene Co-Ord (Natl Sec)") and Mary Rezzonico (as "DC Scene Co-Ord (DG L)") That same day, Ms. Rezzonico notified the defendant Mary Sue Hubbard that Mr. Meisner had escaped. Ms. Rezzonico speculated that Mr. Meisner had become concerned about additional fugitive from justice charges. She stated that the defendant Willardson had agreed to have all those individuals in Washington, D.C. who might be affected by Mr. Meisner's appearance briefed

---

203/ Government Exhibit No. 175 was seized by Special Agent Aldrich from the defendant Willardson's office at the Cedars Complex. Handwriting expert James Miller concludes that it is "probable" that the signature "Greg" is in the handwriting of the defendant Willardson. Mr. Meisner identifies that signature as being in the handwriting of the defendant Willardson.

on what to do if he should return there. She also stated that the defendant Heldt ("DG US") had "suggested the possibility of creating some confusion with some phone calls and a false arrest set-up -- leading the government to believe . . . that Patsy [Mr. Meisner's wife] would be meeting her ex-husband at some clandestined [sic] meeting -- then have her and Greg Taylor [another Guardian's Office official who resembled Mr. Meisner] meet." Thus, the FBI would, presumably, arrest the wrong person. (Government Exhibits Nos. 176 and 177). 204/

In a letter also dated 20 June, the defendant Willardson ordered the defendant Raymond and Mr. Brian Andrus to "[c]ontinue to fully work out Herb's [Meisner's] cover story per the program eventualities so that we are prepared". (Government Exhibit No. 178). 205/ He also directed

---

204/ Government Exhibits Nos. 176 and 177 are identical. However, they were seized by the FBI from two different locations. Government Exhibit No. 176 was seized by Special Agent LeVine from the defendant Heldt's desk at the Fifield Manor; Government Exhibit No. 177 was seized by Special Agent Williams from the desk in Room 15 in the Information Bureau at the Cedars Complex. The latter document was inventoried and initialed by Special Agent Mislock.

205/ Government Exhibit No. 178 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office at the Cedars Complex.

that Mr. Meisner's wife be ordered not to follow her husband's instructions should he contact her. 206/ Furthermore, Guardian's Office personnel were to continue checking all libraries in Los Angeles on the assumption that Mr. Meisner was doing research. The defendant Willardson ordered the removal of all incriminating documents from the Guardian's Office and their placement in the "Red Box". (Government Exhibit No. 219.) 207/

206/ Brian Andrus, in a letter dated 22 June 1977, informed the defendant Willardson that he had contacted Mr. Meisner's wife on June 21 and briefed her about her husband's unauthorized departure from his apartment. She was ordered to notify Andrus immediately upon being contacted by Mr. Meisner. She was directed "not to take any instructions from him, but to simply ack[nowledge] him and contac. me." See Government Exhibit No. 182 seized by Special Agent Williams from a desk in Room 15 of the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

207/ Government Exhibit No. 219 is the directive regarding "Red Box". It orders that "[a]ll the Red Box material from your areas must be centrally located, together in a movable container (ideally a briefcase), locked, and marked." Appended to that document is the "Red Box Data Information Sheet" which defines "what is Red Box Data?" Under that definition "Red Box" includes:

(footnote continued on next page.)

In a letter dated June 21, 1977, the defendant Mary Sue Hubbard explained to Ms. Mary Rezzonico that she believed Mr. Meisner's escape had resulted from a refusal on his part to recognize the need to plead guilty on the fugitive from justice charge. She felt that that charge, with its five years and/or $5,000 fine was too heavy for Mr. Meisner to bear. She speculated that Mr. Meisner had probably gone somewhere where he could do legal research to prepare his case. However, she concluded that she did not think that he would remain in the Los Angeles area but that he was more likely to go to San Francisco, and possibly Berkeley. (Government Exhibit

---

(footnote continued from preceding page.)

a) Proof that a Scnist is involved in criminal activities.
b) Anything illegal that implicates MSH, LRH.
c) Large amount of non-FOI docs.
d) Operations against any government group or persons.
e) All operations that contain illegal activities.
f) Evidence of incriminating activities.
g) Names and details of confidential financial accts.

Government Exhibit No. 219 was seized by Special Agent Aldrich from the defendant Willardson's office at the Cedars Complex.

No. 179 at p. 2.) 208/

Following her receipt of the defendant Hubbard's letter, Ms. Rezzonico notified "DG I US", the defendant Willardson, and "B-I CO-ORD US", the defendant Raymond, as well as "NAT'L CASE OFF (SEUS SEC)" Brian Andrus of the defendant Hubbard's directive. 209/ That same day, the defendant Willardson notified Ms. Rezzonico in her capacity as "DC Scene Co-Ord[inator]" that the CSG, defendant Mary Sue Hubbard, had ordered that the Information Bureau "not waste resources" looking for Mr. Meisner since he might be anywhere. The defendant Willardson also notified Mr. Mo Budlong by telex that Mr. Meisner had "blown again" and that "no real avenues

---

208/ Government Exhibit No. 179 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office in the Cedars Complex. Handwriting expert James Miller positively concludes that the signature on that letter was written by the defendant Hubbard.

209/ Handwriting expert James Miller concludes positively that the notation on the lower part of that letter "Mary, Could you please clarify this? GW" was written by the defendant Willardson. Mr. Meisner identifes the four-line notation signed "M" as having been written by Ms. Rezzonico.

[were] open to locate [him]." He told him that Mr. Meisner's apartment was "cleaned out and wiped down", and that "all his GO associates [were] to be briefed". He states that a "[p]lan [was] in the works to remove sensitve GO data shud [sic] it become necessary in future". (Government Exhibit No. 180). 210/ In a 22 June 1977 letter, the defendant Raymond updated the information which the defendant Willardson had telexed to Mr. Budlong. She informed him that "[w]e are working on a plan to create another false arrest scene type of action along ops [operations] lines", to sidetrack the ongoing Grand Jury investigation in the District of Columbia. (Government Exhibit No. 181.) 211/

210/ Handwriting expert James Miller concludes that he is "positive" that the entire telex was written by the defendant Willardson. He also identifies the initials and letters "OK'd" next to the title "DG US" on the envelope appended to the telex as probably in the handwriting of the defendant Heldt. Mr. Meisner identifies the initials and letters as having been written by the defendant Heldt. Government Exhibit No. 180 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office in the Cedars Complex.

211/ Government Exhibit No. 181 was seized by Special Agent Williams from a desk in Room 15 of the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

On June 21, the defendant Mary Sue Hubbard instructed the defendant Willardson not to "waste time or resources" searching for Mr. Meisner in the Los Angeles area. She stated that she believed that he was more likely to be in a large city or community such as San Francisco or Berkeley where there were good libraries available. She further informed the defendant Willardson that she had already instructed Ms. Rezzonico to prepare a program to handle the present situation. The next day, the defendant Willardson agreed with the defendant Hubbard that Mr. Meisner was "probably on the west coast somewhere" and that there were "too many possibilities to make a check worthwhile." He pointed out that the Information Bureau's checks of the local libraries in Los Angeles had been negative. (Government Exhibit No. 183.) 212/ All the

---

212/ Handwriting expert James Miller concludes that he is "positive" that the signature "Mary Sue" on the June 21 letter was written by the defendant Hubbard. He also states that it is "probable" that the signature "Greg" on the June 22 letter was written by the defendant Willardson. Mr. Meisner identifies both signatures as those of the defendants Hubbard and Willardson respectively. Government Exhibit No. 183 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office at the Cedars Complex.

defendants and officials of the Guardian's Office firmly believed that Mr. Meisner was still a devoted member of the Guardian's Office had not surrendered to the federal authorities.

On June 29 the defendant Willardson informed Ms. Rezzonico that he had met with the defendant Raymond and Mr. Andrus to "iron out some bugs on Herb's [Meisner's] story". He indicated that he had directed Mr. Andrus and the defendant Raymond to continue to work over the next few days on the "basic story". He expressed concern that Mr. Meisner had not called the Guardian's Office since his escape on June 20, and felt that the situation "could potentially leave us open to crossing up stories or facts to both Herb's and our detriment." He concluded, however, that he was convinced that Mr. Meisner had not surrendered to the authorities and was still with the Guardian's Office. (Government Exhibit No. 184.) 213/ On that same day the defendant Willardson

---

213/ Government Exhibit No. 184 was seized by Special Agent Aldrich from a file cabinet in defendant Willardson's office of the Cedars Complex.

notified the defendant Heldt that he had "just got word from Herb." The defendant Willardson had just been informed that Mr. Andrus had received a letter from Mr. Meisner postmarked San Francisco. The letter which had been sent by Mr. Meisner after his surrender to the federal authorities and after the United States Attorney's Office for the District of Columbia had decided to obtain a search warrant for Guardian's Office premises, stated:

> Brian -
>
> I know you don't understand what's going on, but I still need time to myself. I'm making enough money to get by on so there's no problems.
>
> I'll be in touch in a couple of weeks.
>
> Herb.

(Government Exhibit No. 185 at p. 4.) 214/

214/ Government Exhibit No. 185 was seized by Special Agent LeVine in the defendant Heldt's desk at the Fifield Manor. Mr. Meisner identifies the signature on that letter as having been written by the defendant Willardson.

The defendant Willardson concluded that "as CSG [the defendant Hubbard] predicted" Mr. Meisner had been doing legal research in the San Francisco area. He suggested that the Guardian's Office send a "missionaire" to "scout the legal libraries and perhaps law schools to locate him [Mr. Meisner]." A copy of this letter was sent to the "CSG", defendant Mary Sue Hubbard, National Secretary, the defendant Raymond, and Southeast Secretary, Brian Andrus.

The defendant Hubbard, in a handwritten letter dated July 3, told the defendant Heldt:

> I frankly wld [would] not waste Burl resources looking for him [Mr. Meisner], but wld instead utilize resources to figure out a way to defuse him shld [should] he turn traitor.

(Government Exhibit No. 185 at p. 3.) 215/ The defendant Heldt immediately notified the defendant Willardson of the defendant Hubbard's directive not to look for Mr. Meisner.

215/ Handwriting expert James Miller states that he is "positive" that the bulk of the letter was written by the defendant Hubbard.

He instructed him to "produce a plan or plans in report form early this week" to carry out the defendant Hubbard's directive. (Government Exhibit No. 185 p. 2.) 216/

216/ Handwriting expert Miller is "positive" that the entire letter was written by the defendant Heldt. Additionally, Mr. Miller finds that the envelope on page one of the series of letters was handwritten by the defendant Hubbard ("To: DG US, Frm: CSG").

The above 282-page Stipulation of Evidence is accepted by the United States of America, the defendants, and their attorneys, as the uncontested evidence of the United States in the instant case.

CARL S. RAUH
United States Attorney

RAYMOND BANOUN
Assistant United States Attorney

TIMOTHY J. REARDON, III
Assistant United States Attorney

STEVEN C. TABACKMAN
Assistant United States Attorney

HENRY F. SCHUELKE, III
Assistant United States Attorney

JUDITH HETHERTON
Assistant United States Attorney

LEONARD B. BOUDIN
Counsel for Defendant
Mary Sue Hubbard

MICHAEL L. HERTZBERG
Counsel for Defendant
Mary Sue Hubbard

MARY SUE HUBBARD
Defendant

PHILLIP J. HIRSCHKOP
Counsel for Defendants
Henning Heldt
Duke Snider

HENNING HELDT
Defendant

DUKE SNIDER
Defendant

ROGER ZUCKERMAN
Counsel for Defendants
Richard Weigand
Gregory Willardson

ROGER SPAEDER
Counsel for Defendants
Richard Weigand

RICHARD WEYGAND
Defendant

GREGORY WILLARDSON
Defendant

MICHAEL NUSSBAUM
Counsel for Defendants
Cindy Raymond
Mitchell Hermann

EARL C. DUDLEY
Counsel for Defendants
Cindy Raymond
Mitchell Hermann

CINDY RAYMOND
Defendant

MITCHELL HERMANN
Defendant

JOHN KENNETH ZWERLING
Counsel for Defendant
Gerald Bennett Wolfe

GERALD BENNETT WOLFE
Defendant

LEONARD J. KOENICK
Counsel for Defendant
Sharon Thomas

SHARON THOMAS
Defendant

Accepted by the Court this ____ day of October, 1979.

CHARLES R. RICHEY
UNITED STATES DISTRICT JUDGE

INTELLIGENCE SPECIALIST TRAINING ROUTINE - TR 1

Purpose: To train the student to give a false statement with good TR-1. To train the student to outflow false data effectively.

Position: Same as TR-1

Commands: Part 1 "Tell me a lie". Command given by coach. Part 2 interview type 2 WC by coach.

Training Stress: In Part 1 coach gives command, student originates a falsehood. Coach flunks for out TR 1 or TR 0. In Part 2 coach asks questions of the student on his background or a subject. Student gives untrue data of a plausible sort that the student backs up with further explanatory data upon the coach further questions. The coach flunks for out TR 0 and TR 1, and for student fumbling on question answers. The student should be coached on a gradient until he/she can lie facily.

Short example:

Coach: Where do you come from?

Student: I come from the Housewives Committee on Drug Abuse.

Coach: But you said earlier that you were single.

Student: Well, actually I was married but am divorced. I have 2 kids in the suburbs where I am a housewife, in fact I'm a member of the P.T.A.

Coach: What town is it that you live in?

Student: West Brighton

Coach: But there is no public school in West Brighton.

Student: I know. I send my children to school in Brighton, and that's where I'm a P.T.A. member.

Coach: Oh, and who is the Chairman there?

etc.

w/o Sealdocument

COPY

17 OCT 71

INT HATTING:

THE STRIKE

file in appropriate mat folder

A strike is the action of gathering information on a covert basis. It is performed by one or more agents (persons doing the strike), who are intentionally aiming at a target (the desired info, or therperson who has the target info, etc.).

It is assumed that the individual is hatted as an INT agent.

The strike is done in 12 steps, and each step follows consecutively (thus, step 2 should not be begun until step 1 is completed, and any new observation pertaining to an earlier step during the doingness of a latter step requires re-evaluation of the interim steps and verification of all the data acquired in the process).

The amount of time spent on a step and the amount of info needed for a respective step to be completed depends upon the target. The objective is to get all of thettarget info, by whatever means is necessary. For example, if the target is well-known and readily accessible to the agent(s), the strike may be achieved very quickly. On the other hand, if the agent(s) knows very little about the target, has no current access to the target, and the target is a large quantity of data, it may take extensive research, planning, and on-target observation to begin the actual strike.

The quantity of knowledge needed to complete each step is relative to the circumstances of the target.

THE STEPS OF STRIKING

1) Receive the assignment to strike. This usually comes in the form of an order from the agent's senior. The senior may either officially order or unofficially suggest the strike, either way, the idea is given to the agent that the info must be covertly gathered from some source.

2) Take ownership of the job. Here the individual determines that he is going to be the one to do the strike.

3) Identify the target. This may be knowing the name of a person or group on whom info must be covertly gathered, or it may be knowing the specific location of the piece of wanted data, or simply being told to "see what they are up to." Either way, the purpose here is to haveaa starging basis for the strike.

4) Gather info on the target area (the location of the target) for the purpose of striking. This includes any info that would be pertinent to striking. Info is pertinent to striking if it helps the agent to locate (pin-point) the specific target, gain access to the target area and the target, learn the routines of the target area, or anything else that would help to put the agent in control of the target during the strike itself.

18

11572

C-9
P144
273

5) Determine the most optimum means available for gaining access to the target area, on the basis of the info now known about it. This includes having a cover.

A cover is the pretense the agent assumes to make the strike possible. It includes anything that protects the agent from exposure as the agent of the strike (eg, assuming the cover of a newspaper man who wants to write an article on Scientology, with the objective of having the target group provide the agent with info on its activities as regards Scientology, but not know that this info will be used by Scientology itself). The most optimum cover is one that excludes the agent from any suspicion by the target. In some instances this would include wearing squeakless shoes, and carrying a large purse or attache at all times so that the one time the agent is carrying target info in the purse or attache, he is not questioned about its contents.

6) Gain access to the target area. This may include obtaining full-time employment from the target if the target is an organization, or simply contacting a person on a friendly basis so that the agent can gain access to personal files kept at home, or any other means that provides access to the target and a timespan of access to the target that will allow the agent to gather all of the info that is wanted.

It is possible that the access to the data will require repeated strikes — and thus, long-term procedures (eg, full-time employment would allow long-term procedures and repeated strikes if the target were an organization).

This step may also be called penetration.

7) Directly observe the target area for verification of the knowledge gained in the preceeding steps and continue to gather new data that would be pertinent to striking. This includes determining the actual security measures used by the target area to keep the target safe. (eg, guards making security rounds, locked cabinets, maintenance personnel after working hours, closed circuit TV cameras, alarm systems, etc).

Three tools that are available to the agent (and have been tested and proved valuable in actual strike activity that required very strict security) include:

#1 - SECURITY RULE OF THREE: If the agent observes an activity in the target area occurring three separate times under identical or similar conditions within a given period of time (usually one week), he can use these observations in planning his striking activity.

One always observes for current and usual (predictable) activities in the target area, and accessible exits from the target area for "quick-get-away."

#2 - SECURITY RADIUS: a distance around the target that can be postulated as creating a safe condition for strike activity. The radius may be used to listen for persons coming near the target area during strike-preparation and actual strike activity. (eg, if the strike requires that no one know that the agent has been in the target area, the agent should be able to hear someone enter his security radius and quickly leave the target area without being seen or heard by the intruder and without leaving evidence of his presence).

#3 - If the target is extensive written material, it may be most optimum to have a separate location from the target area for reading and xeroxing or transcribing the data — this is called a SAFE READING PLACE. If this is needed for strike activity, it should be determined during step 7 of striking procedures.

The final aspect of step 7 is evaluation of all data obtained upon direct observation of the target area and re-evaluation of the data learned in the preceeding six steps in light of the direct observation data.

8) Determine how to safely get the target information from the target area to therperson who wants the info. (This would include making sure that the agent's cover is adequately planned (eg, the big purse, etc.)

9) Plan the actions, step by step, that will be necessary in doing the strike. For instance, it may be found that the most optimum time to strike is between 12:30 PM and 12:55 PM. Thus the agent would plan to arrive at the target area at 12:31 PM; if the target area is safe (no persons present), he would then proceed to perform the strike, always listening to his security radius for intruders; he would proceed with operations until 12:50 PM, making sure that he is out of the target area by 12:52 PM. This plan might include hitting the target, getting the info xeroxed in the safe reading place, and returning the target info to its original location by 12:80 PM.

This step includes preparation for any uusual circumstances that might arise and how they would best be handled. For instance, if someone entered the security radius of the above situation at 12:40 PM, would the agent leave the area immediately or wait for therperson to leave the security radius?

The purpose of step 9 is to make sure that the agent has enough knowledge to perform the strike safely, accurately, and thoroughly.

10) On the basis of the preceeding steps, begin either a pretend dry-run of the strike (to check for unknowns and remedy them immediately) or do the actual strike, depending on the circumstances of the entire situation.

The following is an example. It was actually done by an agent in both dry-run and actual strike procedures at a national organization's headquarters. The agent was a full-time employee of the group, and worked on a different floor from the one where the taryet info was located. The agent had to maintain a totally safe operating condition during strike procedures (ie, it was predetermined that anyone within the security radius was dangerous to the agent and warranted stopping strike activity immediately, and that the less time

time spent in the target area the more safe the operating condition):

a - agent went to the target area — no one else was present — proceeded.
b - agent found target file.
c - agent stood near target file — the label appeared to indicate this file was the target. Agent determined a safe radius for future activity and listened for the usual sounds — a through c were safe, proceeded.
d - agent checked file contents, always listening to the security radius. Still safe, so agent proceeded.
e - file contents appeared to be wanted, could agent pull them to take to the safe reading place? Yes. Agent proceeded.
f - Agent took file to safe reading place, going by the (predetermined) quickest route, agent observed security radius at all times.
g - target data was exactly what was wanted. Agent xeroxed data and then hid xeroxes in a place that was safe while the agent was returning the target materials. This included the possibility that the agent would not be able to return to the hiding place for quite a while and a place that would not indicate that the xeroxes belonged to the agent if another person found them.

h - agent returned to target area, repeating steps a through c, then put file back exactly where it was found (continually observing the security radius).
i - agent took target data (xeroxes) out of the building without being suspected. This required wearing a cape under which the xeroxed data was hidden in a large purse and being friendly with the night guard.
j - Agent took evidence and written repour of all strike-related activities to agent's senior within 3 hours after strike occurred.

11) Get into to the person who wants it, by the safest and quickest route.

12) Report all strike-related actions in a written report.

It should bennoted here that written progress reports (most optimum) and verbal reports may be given to the agent's senior at any time during the strike procedures. Any report should be written with the objective of informing the senior of the progress done to date and/or reporting any change in agent-like or strike-related activities. A report never serves the purpose of asking the agent's senior to handle the agent's problems.

INT CHGO

17 OCT 71

SUMMARY AND COMMENTS

As stressed before, the individual circumstances of the target and the agent determine the extensiveness of the work done in each of the 12 steps and the time it takes to achieve the strike.

If the agent is required to return to the target area on several occasions to get the target info, he should always be observant of new developments and handle each new development as it arises. This may mean simply making a small adjustment in the plan of striking or it may mean a total halt of all agent-like activity until the agent is safely able to continue with the preparation steps and doingness of the strike. (As when the target begins to suspect the agent's activities and tries to protect itself from a strike).

Certain striking activities require more security than others. The agent must determine the degree of security he must maintain, as it is relative to his individual situation, in order to achieve the strike.

Whether a strike takes 15 minutes to prepare for or 15 months, the key to the whole game is observing what is really there, not what you were told should be there; and working on the basis of what you know.

END OF REPORT

Kathy Gregg
INT CH COMM
INT CHGO

15

16

DG I US Comm
DG I US
DG US Comm
DG US
Gdn WW Comm
Guardian WW
DG I WW Comm
DG I WW
DDG I WW
US Dir Sec WW
Dir I Dir US DI

20 May 75

Re: B&E's
Yours to DG I 5 May 75
DG I's to you 14 May 75

Dear Michael,

When Dick first wrote you on this subject a few of us in the office had been comparing notes and smatterings of legal knowledge on this subject with the end result of deciding we needed to research the differences between "breaking and entry" and "unlawful entry".

Upon searching through legal dictionaries and various legal sources I discovered in Wests California Penal Codes (which except for varying technical differences by state is representative of the basic US statewide law on this subject) that the technical differences between "b & e"and "unlawful entry" become relatively meaningless when it can be seen that a large portion, if not the majority, of our high priority successful Collections actions fall into the category of second degree burglary, which is a felony.

Some of our successful collections actions in the recent past and present which fall into this category are: (past) GO 1222, GO 1300, GO 1361, GO 1344, GO 1080-Yolo, DEA; (present) GO 1361, GO 1344, DEA. (this is not an exhaustive rundown, just enough to demonstrate the importance)

From my study of the codes and from my knowledge of how the collections actions are done, one of the key points in solidifying the burglary commission is basically the theft of xerox paper and xerox machine use of whatever group is approached. Without this theft, then the distinction between "b&e" and "unlawful entry" would become important and could mean the difference between a felony and misdemeanor.

Burglary

Definition: Every person who enters any building with intent to commit grand or petit larceny or any felony is guilty of burglary. (p.1,a; p2.,a)

Defendant's entry into room to take personal property for temporary use, without intending to deprive owner thereof permanently, is not burglary. (p5,a)

Burglary may be committed by a breaking on the inside and it is burglary to enter an inner door with an intent to commit a felony even though the inner door was unlocked. (p7,a)

Evidence that employee devised plan to steal his employer's property, that such plan involved entry into employer's store by other persons for purpose of taking delivery of property, and that one of such persons was induced by employee to enter store for expressed purpose of aiding and abetting him in consummating scheme to defraud employer, was sufficient to sustain employee's conviction of burglary. (p7,b)

One who enters a room or building with intent to commit a felony is guilty of burglary even though permission to enter has been extended to him personally or as a member of the public. (p8,a)

One who enters a room or building with intent to commit larceny is guilty of burglary even though express or implied permission has been given to him personally or as a member of the public. (p8,b)

Nighttime burglaries of a building currently used as sleeping and living quarters is burglary in the first degree, and all other burglaries by unarmed persons of other buildings, whether occupied or not, are in the second degree. (p11,a)

Punishment: Burglary in the second degree: by imprisonment in the county jail not exceeding one year or in the state prison for not less than one year or more than 15 years - in trial judges discretion. (p12,a, 13,a).

# # # #

OPERATING TARGETS:

1. Review existing suitable guise program (mailing of docs to several organizations including us) to see how it would effect keeping our FS's in place and with good access if it was done prior to negotiation breakdown or reversion after settlement. Replan if necessary, target handling out and report to DG I HW.

DG I US

2. Get additional FSMs into LA and DC target areas as needed so that existing people can be replaced. DG I US

3. Have GO 1561 documents reviewed for Branch I attack use, and a multi-phase campaign worked out right down to the press releases and events. Report in full to DG PR HW. DG PR US

4. Have GO 1561 documents reviewed for possible legal action in the event breakdown of negotiations or reversion. Target out full preparation of legal actions for this, send to DG L HW for OK. DG L US

5. Once GO 1561 collection is complete, have FSMs continue to survey for new data on IRS actions or intentions towards us. DG I US

6. Have FSMs collect data for Ops or use in Br I PR that is entirely in IRS territory. DG I US

7. Plan and target use of exemptions of all US Orgs (should CofSofC get its exemption) to dead agent any IRS entheta existing in other government agencies or elsewhere. Issue as a PR Project if it is needed. (It won't be needed if CofSofC doesn't get exemption.)

DGPR US

8. Continue to tie in IRS in FREEDOM as a tool for general criticism and ridicule. The IRS/FDA/AMA/ Psychiatry are all big brother agencies and can be tied together editorially and by cartoon for their bureaucratic misdemeanors DGPR US

8b. Get FRCs prepared on GO 1561 docs for use when suitable guise turnover is accomplished, or for use if legal can obtain docs through FOI. DG PR US

9. Target out handling of IRS FOI for maximum effectiveness (i.e. getting all the docs and correction), issue as Legal Bureau US Project with HW OK. DG L US

Henning Heldt
DGUS

for

Jane Kember
The Guardian HW

HH/bc

154-1

COVERNMENT EXHIBIT 542

this is written as if they were pro-
ching themselves but it obviously
both on breaking in.

62 25

WHITE-UP

1 May 1974

To all OG Infos and AG Infos

RE: SECURITY AND THEFT OF MATERIALS

From time to time files, policies, technical materials and documents vital to the Church have been stolen from Organizations. These thefts are usually performed either by PTSs and nut-cases who hope to make some personal gain out of selling or using the material. On other occasions such thefts are committed by professionals operating in the field of data collection. It is important that for purposes of security we be able to recognize the difference between a nut and a professional. Therefore I am giving here a description as to how the professional operates in stealing materials by infiltration or by straight breaking, entering and theft.

a (

Many references are available on this subject concerning industrial espionage and a large volume of books have been written on the subject. However, it would appear that a lot of this data has been ignored and it is time that we had it.

CASING

The first step in any breaking and entering job is casing. This consists of checking out the area to ascertain the possibilities for breaking into the premises. It frequently amounts to the surveillance of an unfixed duration made on the place to obtain a rough or precise idea of the schedules of the staff, when the office is empty, whether there are burglar alarms and what is the best method of entry.

Other factors such as police patrols in the area, number of public passing by the area, visibility through windows etc., can be considered depending on circumstances. The person doing the casing usually takes every effort to ensure that he is not spotted while he is doing the casing, as the police are very used to this method and consequently after a theft has been reported or documents found missing will check this aspect to see if any strangers have been noted in the neighbourhood, etc.

SECURITY OF THE OPERATION

The first consideration on security is always the personnel chosen to do the job. Professionals would usually choose someone who is confident and competent, easily trainable and fully trained. In other words in Scientology terms, people who are not PTS, who are not ethics cases. Additionally one would normally choose someone who is motivated by duty or other high motivation to prevent later sell-outs or discovery by reason of an agent turning.

The second security is basically to devise a plan based on effective casing that avoids any chance encounters, mistakes or confusions while the operation is being executed.

C-10
P 90
176

1

The third necessity on the operation itself is the factor of returning the materials before they are noticed to be missing, thereby preventing anyone from ever finding out that a theft has occured. This subject is covered later.

SECURITY OF THE OPERATIVES

Professionals at all times wear gloves during an operation. This prevents fingerprints being left behind by which the agents could be traced. Gloves used are frequently light cotton gloves such as woman's dress gloves. Another type used is an underglove used by motorcycle riders to wear underneath the motorcycle gauntlet to keep their hands doubly warm in Winter. Such gloves are thin and do not interfere too much with the use of hands and fingers for detailed jobs. Additionally papers, files and other material can be leafed through or paged through easily.

If there is any difficulty in handling papers with gloves on, an agent might use rubber finger stalls to help him read through documents. These are small rubber caps with a rough surface that go over the tips of the fingers, used by people who have to do a large amount of paper sorting.

The reason for using gloves has nothing to do with the actual identification of the agent in connection with the job at hand, unless the agent is picked up at a later date or on another job. However, gloves are worn as a routine matter because someone doing a series of jobs in a row could leave himself wide open by leaving prints behind for the police to compare prints on several different jobs, find out that only one individual was involved and possibly by thoroughness of checking, isolate the people or persons who were in the area at the right times. Therefore professionals always wear gloves, whether his prints are recorded with an official agency or not.

There are only a few surfaces that will take a fingerprint that can then be cleaned off. Such surfaces are plastics and metal. Virtually every other surface will retain a print for a long period of time! Modern scientific methods have made it possible to retrieve prints that have long since faded with age and are not recoverable by the old-fashioned technique of fingerprint powder. Scotland Yard have in fact developed a device that will pick up a fingerprint off a piece of paper that has been floating in a river for over three months.

SECURITY OF THE ORGANIZATION

Professionals are always working for some person or group which for the purposes of this section will be referred to as an organization. If the agent's motivation for working for the group is high, then this section will concern the agent as well.

Any professional intelligence group has to confront the possibility that at some stage an agent will be picked up. The most serious of these is when the agent is picked up in the actual act of stealing documents or in position where he is about to steal documents, or has just stolen documents and is moving to his base with the material. Therefore agents are frequently given instructions along the lines of " if you are picked up by the police, don't say anything more than you are required to by law", which is usually your name and address but this varies depending on the area. This is of course if the agent is in a position where no story would explain the out;oints confronting the police. The agent will probably be arrested at this stage and should quietly arrange a lawyer

through a law society or legal aid society. Such societies abound these days and a name and address of one can be memorized beforehand.

The organization usually arranges some method of communication so that the agent can tip them off that he has been picked up. Any organization that has a desire to retain its agents or to continue recruiting agents, usually has the sense to provide bail through some bail bond system that allows the organization to remain anonymous, pays any legal fees incurred and gives every possible moral encouragement.

Additionally, any agent working on such operations would have nothing in his possession that connected him with the organization, nothing at his home address that connected him with organization and no possible way of tracing him back. For example, an alternative employment or no employment, but certainly no mention of employment by the organization. This is the usual exchange between agent and organization in the event of an arrest. The agent protects the organization, the organization assists the agent in every possible way. Such preparations are also usually made well in advance, so that the agent's recent history does not show any connection with the organization.

COVER STORY

One trick used by professionals is, after the casing has been completed and the plan decided on, a series of cover stories are worked up to cover each stage of the operation in the event that the operation is blown at any point. Such cover stories usually relate to the most vulnerable state of operation. For example, an agent might prepare a story as to why he was in that particular neighbourhood, why he was on that particular street, why he knocked on that particular door, even what he was doing in that particular backyard. Thus if he is picked up at any of these points he has a plausible explanation as to what he is doing.

On occasion cover stories are worked up to cover being caught in the act. It is sometimes to the advantage of the agent and the organization, if the police believe that the agent was actually breaking in for money or goods, rather than documents or files, as the police have a common faith with criminals who they can duplicate, but sometimes get frantic when confronted with intelligence operations. Such cover stories as mentioned above would also be designed to handle the local security guard, the local resident or staffmember or whoever discovers the agent in the beginning stages of the operation.

TOOLS AND EQUIPMENT

Tools and equipment have always been a problem to agents in any operation because the standard lock picking devices; crowbars, sledgehammers and hacksaws and standard items used for breaking into a place are easily recognized by the police. In fact in some places carrying such instruments is in itself an offence. An agent picked up on suspicion prior to an operation could find himself in hot water even though he had not yet actually done anything. Therefore an agent will usually try instead to obtain a key to the place he wants to enter beforehand or find a method of entry that does not require the use of instruments and tools. As this is not always possible an agent will attempt to avoid detection by

carrying the tools for as short a time as possible in connection with the operation being done, or disguise the tools in some way that they cannot be recognized, such as a thin plastic comb instead of a strip of cellulose or a hairgrip instead of a lock pick.

Some agents and organizations devise ingenious methods of hiding the equipment usually in concealed pockets in rigid items such as cigarette lighters and fountain pens. Most agents, however, rely on the two key factors involved during an operation which are 1) attending to minor detail before you get started, and 2) keeping your cool and staying up together while the operation is on.

THE FILES THEMSELVES

Best way of preventing being caught at a later date is of course to ensure that no one finds out that anything ever happened in the first place. In other words copy the files and return them. Most agents operate on this basis, at least the professional ones do. However, orgs have also been plagued with files going missing and never to be seen again. Such operations are not professional, unless done with the express purpose of making the files disappear in the first place. This is of value to some professionals as a file containing vital planning or documents disappearing, could have damaging effect on the group. Obviously gloves would also be used when the documents are copied and in the subsequent operation to return the documents.

PLANTS

There has already been much written about plants so I won't go into any great detail here, but just two notes.

A plant in any organization or group has a job in an area he operates in. The staff of the organization are accustomed to seeing the person in that area. Additionally the person's fingerprints would normally only be found in that area. Therefore a plant wishing to remove files from another section of an organization would do so at a time when he or she wouldn't be seen and would do it with only gloves on.

I hope you will find the above useful. I may have gone into too much detail in some places, but the data should help you combat thefts of documents effectively as anyone of the points outlined picked up on a person, would be an indicator of a professional operating. I hope you will keep alert to these.

Mo Dadlong
D/G Information WJ

3

Ne Dir Sec

SECRET

21 July 1976

19332

GPmm 0 408, OI 2

OPERATION BULLDOZER LEAK

MAJOR TARGET:

Cover effectively spread the rumor that will lead Government media, and individual SPs to conclude that CIA has no control of the C of S and no Legal Liability for Church activity.

PRIMARY TARGETS:

1) All US Bl Secs are there on Post.

2) The purpose here, is to protect CIA from Legal Liability for any C of S activities.

3) All US Bl Secs are responsible, each in his area, for seeing that this project gets done. - SUBTLETY MUST BE OBSERVED.

4) US Bl Ops Nat is responsible for the over all planning of this project.

5) Any debugging necessary on this project is to be done by each US Bl Sec working in liaison with US Bl Ops Nat.

6) This project is not to impede upon any other projects/ programmes etc that the Secs already have going.

VITAL TARGETS:

) That all US Bl Secs ensure that their AG Is keep security on this project.

) That the AG Is recruit all the necessary PSMs to do this roject.

but the names of all the Government, Media, and individual be obtained for each area by the concerned AG Is.

OPERATING TARGETS:

GOVERNMENT:

1) Each AG I is to make a list of all the Government Bureaus/ Departments/Organizations etc., in his area covering National State and City; that have:

a) Attacked Scientology in any fashion.

b) Would have any interest in Scientology for any reason.

AG Is

2) Each AG I is to work out a simple " cover story " for his PSM to use on this project. It can be something like the PSM is going to write a book on Scientology and just wants to get some information. PSM does not use his/her correct name on this cycle.

AG Is

3) Each AG I recruits a reliable PSM to carry out this project. And ensures that security is " in " on the PSM.

AG Is

4) Drill/bullbaits/ briefs the PSM on the following:

a) He will be visiting all proper people in each of the Government agencies.

b) He will be giving out his cover that in some way he is investigating the C of S.

c) During the interviews , he will in several different ways mention that he has heard that LRH no longer has any control of the Church; and that an ex Scientologist had shown some articles to the PSM that stated that it had definitely been established in several Court Cases " Precedents, that LRH had no liability for any Church activity. This should be presented in each interview with very good "intention", and limit it is remembered.

d) Those areas that can't be reached for any reason, should be telephoned by the FSM and the cover story and rumor be given. Say if a Government Office were 2 hundred miles away.

AG Is

5) FSM does his in person or telephone interviews and writes up clear reports on each interview's outcome. He should really "IMPINGE" when stating the rumors.

FSMs

6) All AG Is see to it that the FSMs thouroughly complete all those Government Agencies on the list.

AG Is

7) AG Is send up progress report on this action to their US B1 Secs.

AG Is

MEDIA:

1) All AG Is are to make a list of all the Media and the specific individuals concerned (SPs) in their respective areas, that have printed entbets on Scientology.

AG Is

2) All AG Is are to have the same FSM do targets 2 - 7 on the list of Media.

INDIVIDUAL SPs

1) All AG Is who have penetration PSMs in any anti Scientology groups(Squirrels/Deprogramming Groups/ etc.) are to contact these PSMs and work out with them the best approach to spread the rumor, to all the individual SPs / SP groups / etc in each AG I's respective area.

The PSM would be telephoning these various SPs and stating something like." Well you know that Hubbard has completely resigned from the Scientologists, don't you. I mean he doesn't control it at all any more. I've heard from several ex Scientologists I know,that several times different persons tried to get damages from Hubbard for something that the Scientology Organization did but couldn't. Yes, several Court Cases have ruled that he isn't liable for anything the Scientologists do. I was even shown afew articles on it. Blah/blah/blah. This should really impinge.

AG Is
PSMs

2) AG Is should have a complete list of all the individual SPs in his area and ensure that the PSM or PSMs contact all of them.

AG Is

3) Any AG I that has no penetration PSM in on any of these groups or individual SPs, should use the PSM recruited for the first 2 sections.

AG Is

4) The same procedure should be followed by the PSM. Only this time telephone only. Any additional cover needed on this, should be worked out by the AG I.

AG Is

5) All AG Is are to write up a final Compliance Report on this project.

PRODUCTION TARGET:

The entire project should be completed 3 weeks from receipt.

OPS NAT # Randy

Secret? No. 76

Re: Project Quick.

Dear Duke;

Attached is the Project report on DC 60 Sticks

that I sent the up a week ago.

Best.

Bruce

1966

OBSTRUCTION — Sticky Prepared Wire

DYNAMITE

DD/G US

Duke,
Here is plan discussed.
Love
Bryce.

EYE'S ONLY

TOPSECRET

PROJECT QUAKER

(Refer to the persons concerned as "the friends")

INFORMATION

It may be deemed necessary for all the DC staff who could be pulled in for questioning to suddenly leave. This must be done in such a way so that they never can be accused of "fleeing prosecution".

MAJOR TARGET

To ensure that all those DC staff concerned are not available for questioning by Scales yet cannot be prosecuted for fleeing.

PRIMARY TARGETS

1. US B1 SEUS SEC is responsible for seeing that this project gets speedily done. He is to work closely with DG INFO US and DG US on this project.

2. The purpose of this project is to protect the Church from Scales actions.

3. D/NAT'L SEC is responsible for the overall planning of these actions and their debugging as necessary.

VITAL TARGETS

1. To ensure that extremely tight security is maintained on this project.

2. To ensure that it gets done speedily.

3. To ensure that each action is smoothly worked out so that if evacuation is necessary it will be done without a "hitch" or mistake.

4. To get the finances quickly for this project.

5. To get approval up lines on this project "super fast" so that it can be gotten done and ready fast.

OPERATING TARGETS

1. Each person to whom this project pertains must immediately get his/her passport. This must be done within security's framework, meaning the person doesn't mention C of S on the passport. For occupation list Researcher - Public Relations Consultant - etc. or housewife for girls that are married. Production target 2 weeks on this. As assigned.

2. US B1 SEUS SEC is to mock up an ED or some such official type proclaimation entitled "Sabbatical Leaves." This can be worked out with both D/NAT'L SEC US B1 and DDG US. The above shall basically state that about 10 CO personnel shall be chosen for Sabbatical Leaves. This shall start with the Founding Church in Washington DC. This is being done as an award for upstats who consistently produce well, and as an experiment to see what an energetic staff member will do on his own if given 3 to 6 months to travel and study and use Sen Tech. The rules are

the persons are to:

1) To observe coventry and to not communicate to a fellow Scnzist during this time.

2) They are to spend at least some of this time in "retreat" where they are to study their choice of topics.

3) They may travel anywhere in the world to do this.

4) They are to produce at the end of this time a product of use to Scn.

5) They may prepare ahead of time but must start from scratch.

This project is to be called "Ten Talents" after the biblical tale. A quote of this should be gotten from the bible and put into the ED. US B1 SEUS SEC.

3. When the above ED is completed, it should be sent to all GO DC staff or wherever needed. It should appear real to those to whom it doesn't affect. US B1 SEUS SEC.

4. US B1 SEUS SEC is to work out the comm the pertinent persons are to give on this to their relatives or fellow staff. This should be done ahead of time A.S.A.P. so that when and if persons do have "to go" it will not cause any flaps or PTS situations. "All" should be ready to leave at any time. US B1 SEC.

5. US B1 SEC is to ensure that all concerned are ready to leave any time and that all personel cycles - finances, 2D, bills, are completely up to PT and there are no PTPs or stops to immediate departure. US B1 SEUS SEC.

6. US B1 SEUS SEC is to see AG DC keeps all staff actions written up to PT and that machinery exists, to as best as possible, take over, for each person (including the AG) if this action were needed to be done. This should be worked out in liaison with DDG US and

DG US. US B1 SEUS SEC.

7. US B1 SEUS SEC is to immediately do up a confidential CS-W for "set-aside" finances for this project. This is for seven or eight people so the amount should be about $10,000 for starters. Any help needed on this can come from DDG US or DG US. These finances should be given to AG DC to hold in case this action is implemented. US SEUS SEC B1.

8. SEUS SEC US B1 is to ensure that the "need to know" is strictly followed on this project. No communicaters are to know. The Need to Know is limited to DG US; DDG US; DG I US; DDG I US; US B1 NAT'L SEC; US; D/NAT'L SEC US; any US DG's that must know are told by DG US; and those DG staff that this concerns. SEUS SEC US B1.

9. SEUS SEC US B1 is to set up an "early warning" system whereby he or DG US can be notified immediately with any info needed to decide to put "Failsafe" into action. SEUS SEC US B1.

10. A "safehouse" or "safehouse area" should be chosen in an out of the way place, like a ski resort - Dude Ranch - farm - Canada - Mexico - etc. . This "place" should be investigated to ensure it can be used anytime of the year by people "just showing up". This "safe house" is for the Sabbaticals to go til it is shown one way or another that they must stay away or come back. SEUS SEC US B1.

11. A cover as to why "they" all went there; without the Church knowing it; must be worked out - as this breaks the Sabbatical rules. SEUS SEC US B1.

12. Seven safe different places (or as many as needed) must be worked out, where the Sabbaticals will go if they must extend their leave. One for each person. SEUS SEC US B1

13. Secure comm lines, codes, etc., must be worked out for this "safe house" are in #10; and each different place in #12 above. This must be done before any Sabbaticals are taken. SEUS SEC US B1.

14. The entire DC Org should be alerted in some way to this Sabbatical "cover story". And if needed to be implimented the DC Org should be informed of this "award for" those concerned. (The one, two - 10 Talent analogy should be used). This is to take all of the mystery off the line and make it no surprise as well as handling any testimony in court by any staff. SEUS SEC US B1.

15. When all of the above actions are worked out to the DC I/DC US's satisfaction, a check list, code words, etc., are to be worked out so that if deemed necessary the Sabbaticals will go off like clockwork. SEUS SEC US B1.

16. Upon completion of targets 1 - 15, D/NAT'L SEC is to fly to DC on mission. His MOs will be the briefing and any necessary drilling to be done to prepare the "persons" for their "Sabbaticals" if necessary to impliment. MOs to be written by SEUS SEC US B1 and approved by DC I US and DC US. SEUS SEC US B1.

- -

#-37
2/27

GPgm0 5 December 1975

SECRET 9322

Distribution:

DG I US
B-1 US as OK'd by DG I US
D/DGUS, Pgms Ch US
DGUS

PROJECT: EARLY WARNING SYSTEM: B-1.

Ref: GO ORDER 261175 LRH "POWER"

TARGET #1

PROJECT INFO:

This Project contains only B-1 Targets which will have no distribution beyond B-1 and DDGUS as Programs Chief. An addition to this GPgm0 follows with PR and Legal targets.

MAJOR TARGET:

Maintain an Alerting EARLY WARNING SYSTEM throughout the GO Network so that any situation concerning governments or courts by reason of suits is known in adequate time to take defensive actions to suddenly raise the level on LRH Personal Security very high. (Target #1 GO 261175 LRH).

PRIMARY TARGETS:

1. SOMEBODY THERE: DGUS, DG I US.

2. WORTHWHILE PURPOSE:

   To provide the alert from which defensive actions to suddenly raise the level on LRH personal security very high.

3. SOMEBODY THERE TAKING RESPONSIBILITY FOR AREA OR ACTION:

   D/DGUS, B-1 Pgms Off US, DG I US, DGUS.

4. FORM OF ORGANIZATION PLANNED WELL:

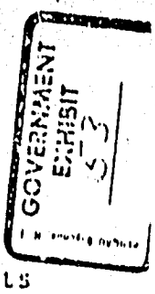
   Compliances obtained by B-1 Pgms Office.

5. FORM OF ORGANIZATION HELD OR REESTABLISHED:

   D/DGUS and DG I US rapidly and effectively debugging any bugged targets.

6. ORGANIZATION OPERATING:

   Early Warning System functioning and continuing.



VITAL TARGETS:

1. That this system be effective and grant proper importance to facts discovered, so that actual threats are not ignored, and no-situations are not used to alarm or upset LRH lines.

2. That every real threat be known to us before activation.

3. Any hard info on potential or existing threat to LRH or MSH from a government agency or individual litigation or from any source whatever to be telexed to EW, cc to CS-6.

FEDERAL

1. Place an agent into the US Attorney's Office DC as a first action as this office should cover all Federal agencies that we are in litigation with or may be in litigation with. AG I DC

2. Obtain data on their intended actions toward Scientology, LRH/MSH. AG I DC

3. Get an agent into the US Attorney's office LA as a simultaneous action. (This is the one Federal Agency Justice asked us to back off of on our FOI actions). BR I DIR US

4. Obtain data on their intended actions toward Scientology, LRH/MSH. BR I DIR US

5. Place a separate agent into the IRS Office of International Operations (OIO) (as this office has a case preparation or investigative action going on LRH personally for income tax evasion or something similar). AG I DC

6. Obtain their files on LRH/MSH and Scientology and monitor the line continuously of other actions against LRH/MSH. AG I DC

7. Continue to monitor tightly theDEA DC, IRS DC and LA, the Coast Guard (soon to go to Immigration and Naturalization) DC. Get any present time data on LRH/MSH. BR I DIR US

8. Get agents in DA LA and AG California into position to obtain advance warning. BR I DIR US

GENERAL

9. Groove in all orgs to report any tips, rumors, or statements of intended attack on LRH/MSH to DG I US immediately. BR I DIR US

10. See any rumors, tips, are traced down as highest priority and that the truth of them is established. DG I US

11. See any real threats are handled fast and efficiently. DG I US

INDIVIDUALS/NON GOVERNMENT SUITS

12. Determine from Legal whether the following names - individuals/groups - with their suits have any subpoena powers re LRH/MSH. If any do, then carry out the targets for that individual. Those that don't are to be omitted from this program and handled on routine lines. BR I DIR US

13. Continue current successful Branch I actions on Goodriches to obtain intelligence and to settle the case. OPS OFF US

14. Get Intell coming from Paulette Cooper, Robert Kaufman, Bernie Green, and John Seffern to obtain intelligence data on any intended attack. AG I NY

15. Get intell coming in from Allard (currently near San Diego, California). BR I DIR US

16. Place a very secure agent into the ANA Chicago headquarters in the best position possible to obtain data on their intended actions towards us. BR I DIR US

17. Work out a Project to obtain advance warning of any intended attack from Adolphina Lantz and/or her husband on LRH and implement it. BR I DIR US

18. Maintain a close line with DG L US for any new suits that could pose a threat to LRH/MSH and add such as targets to this program. DG I US

LOCAL

19. Determine what agency near LRH would serve any Federal governmental subpoena. This could be the local US Marshall's Office. AG I FLAG

20. Work out a project to receive immediate intelligence from the office found in the target above of any subpoena to be served on LRH/MSH and get it done. AG I FLAG

21. Place an agent in the State Attorney General's Office in a position to learn of any intended attack. AG I FLAG

22. Infiltrate the local District Attorney's Office (or the state's equivalent of DA). Get the agent into the best position to gain intell of any plans or actions against us. AG I FLAG

23. Determine from what area IRS attack would be implemented (National Office, District Director of area, or local IRS headquarters). BR I DIR US

24. Work out a Project to receive immediate intelligence from the office(s) found in Target #23. BR I DIR US

Henning Heldt, DGUS

and

Dick Weigand, DG I US

for

Jane Kember
The Guardian WW