

April 7, 1978

LKZusaan:pad

Tel: 739-2617

James H. Lesar, Esquire  
910 Sixteenth Street, N.W.  
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Washington, D. C. 20006

Dear Jim,

Your letter of March 28, 1978 is quite disturbing because of your misunderstanding of our telephone conversation of January 15. My best recollection is that I re-iterated the agreement between the parties in this action that Harold Weisberg would prepare a specific list of deletions in the material released to him and that FBI would review the material and see if additional releases would be made. Because of your claim and Mr. Weisberg's that he has already spent a great deal of time in reviewing the released documents and drafting innumerable letters to the FBI, Deputy Assistant Attorney General William G. Schaffer had previously offered in November that Harold would be paid for time spent in this endeavor. You accepted this recommendation and the Court indicated in Chambers on November 21, 1977, that the Government's offer met with her enthusiastic approval. At no time prior to our March 15, 1978 telephone call was the rate of compensation to Harold discussed since it was not clear to me whether in fact Harold desired to follow through on this plan. At that time and indeed at the present moment, the government has still not received any list from your client.

The purpose of my phone call was to re-state the intention of the government to support this plan and by so doing, prevent it from being raised as an issue the following day at the hearing on your client's preliminary injunction motion in Civil Action No. 77-2155. When you asked me what hourly rate Harold would be paid as a consultant, my recollection is that I indicated that Deputy Assistant Attorney General Schaffer would have to make the final decision on the matter; that there was no precedent for this arrangement upon which to base such a determination;

and that the only instance I am aware of where a consulting fee was offered by the Civil Division to a non-attorney for performance of a specific task relating to an FOIA suit was a proposal to pay a National Security Expert \$75.00 an hour. I also stated that this proposal had not been adopted. I might add, the particular situation I had in mind involved a limited number of hours of work (12 hours).

I am very sorry that you misunderstood this conversation and that Harold is now upset. However, Deputy Assistant Attorney General Schaffer concurs in my judgment that the Department of Justice cannot agree to pay Harold at the rate of \$75 per hour for an unlimited number of hours of this work.

Yours very truly,

LYNN K. ZUSMAN  
Chief, Information and Privacy Section  
Civil Division