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February 15, 1978

Mr. Dan Metcalf, Esq.
U.S. Department of Justice
Civil Division, Room 6341
Washington, D.C. 20530

Re: Weisberg v. Department of Justice,
Civil Action No. 75-1996

Dear Dan:

When I returned your call late this afternoon, we spoke about two which you raised: 1) whether the Department owes Mr. Weisberg for expenses incurred in connection with the project he is working on in the above suit; and 2) the rate of compensation for that project.

On the second matter, you stated that after reading my letter to Deputy Assistant Attorney General Schaffer, which requested an interim payment in the amount of \$6,000 for 80 hours of work done by Mr. Weisberg, you became concerned that the rate of compensation was a little too high. You also stated that you had discussed this with someone, I believe Mr. Schaffer, with whom you conferred, and he agreed with you. You further stated that you had had a hasty conversation about this with Lynne Zusman, but that she had been vague about the agreed upon compensation. However, she did tell you that she had mentioned the Department's payment to Maurice Halperin when she spoke with me on January 15, 1978. In view of this, you indicated that a resolution of the amount of compensation and the issuance of an interim check would have to await her return from a trip.

As I indicated on the phone, I will be in San Diego when Lynne returns and will myself not return to Washington until March 5, 1978. However, for the reasons which I give below, I do not think that it is necessary to wait that long to resolve the issue.

The facts are relatively simple and entirely clear to my mind. The night before the hearing in front of Judge Gesell, Lynne called me at home and inquired whether \$75.00 per hour would be a reasonable rate of compensation for Weisberg's work. During the conversation she stated that this was what the Department had paid Maurice Halperin for some work he had done. I told her that I thought it would be an acceptable rate of compensation, but that I would have to check with Harold to be sure.

By this time Harold had become very angry about being forced to work on this project. He continued to complain that it put the burden on him, rather than on the government, where by law it belongs, and that it was diverting his limited energies from doing work that was more important. He had in fact told me that he wanted to stop work on the project.

X
When I called to relay to him Lynne's offer of \$75.00 an hour, his initial reaction was to say that he would not accept the money. He then said he would accept it only so he could give it to me, but would keep nothing for himself. I later relayed his acceptance to Lynne.

While I am not a contract lawyer, I have a feeling that all of the essential elements of a contract are present in this set of facts. I do not see how, legally, you can now go back on an agreement which was reached between myself and a responsible official of the Department of Justice.

Moreover, the truth is that Weisberg's services for this kind of work are really worth much more than the agreed upon rate. He has spent the last ten years mastering the facts of the King assassination. No one can come close to touching his expertise in this field. If the Department is not going to honor its commitment and forces me to go into court to recover what is owed him, I have no doubt that the quantum meruit will prove double or triple what he agreed to accept for this project.

If the Department wants to save on costs, it ought to begin by examining how much it is costing it to litigate issues which need not be litigated and how much it is costing it to allow the FBI to violate the Department's guidelines on exemptions and to dictate the Department's position on legal issues. For example, the total value of a complete set of the 98,000 pages of JFK assassination documents at issue in Civil Action 77-2155 probably costs the government well under \$1,000. Yet the Department will now have to pay several thousand dollars, at a minimum, as a result of the decision to litigate that issue, and, if the decision is appealed, will end up having to pay much more than that. Another example is Civil Action 78-0249, which seeks the FBI's worksheets on these records. It is an open and shut case, one which should never have gone to court. The FBI's failure to comply with that request promptly is again going to cost the government money. And when it comes to processing FOIA requests, the FBI has made this into a vast "make-work" welfare project for FBI bureaucrats.

I'm sorry to have to deal with this issue so bluntly, but I am just plain fed up and see no other recourse.

Sincerely yours,

James H. Lesar