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3/6/73

Mr. Lester M. Levin
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New York, N.Y. 10005

Dear Mr. Levin,

Allan Rosenberg has sent me a copy of your 2/26/73 letter to him, captioned Weisberg v. A & A Distributngs, Inc. in response to your reading of a copy of my letter to Allan. Your letter, which I take to be a negative, also tells me that you have more knowledge of publishing than most lawyers. Because of this you jumped to conclusions that in this case are not valid or not controlling. In the hope that on learning the facts you may find you can be helpful or might refer me to another lawyer in that position, I write further.

I will be preparing summaries in more detail than this letter. I had hoped to be able to prepare them by now.

My work has been aimed pretty squarely at the FBI. I have sued it with success. Just last week the court of appeals for the District of Columbia remanded one to the federal district court and specified that I be permitted to address the nature of the FBI's allegations in the court below. It is not possible to inquire into the political assassinations without investigating the FBI. This I have done. I have thousands of pages of FBI reports and have reprinted quite a few in facsimile. (I have committed no improprieties.) When I was having trouble getting my first book published a member of the Senate Judiciary Committee, who tried to help me after reading the manuscript but found himself unable to, told me that each time I left a publisher's office a federal agent entered. I did not believe this then or for years but more recent events suggest his seemingly paranoid opinion is not much exaggerated. I now do have carbons of federal surveillance on me. There is overt criminality in some cases. I can't explain this away as normal commercial dishonesty. Two different postal inspectors have told me there are mail-fraud cases. They accepted one of their chosing and then fell silent. I have correspondence on all of this. But I am not implying and I do not believe that federal "protection" is involved in all cases.

There are two New York City book wholesalers who owe me \$4,900+ and \$4,600+. They do not respond to letters. I have written both recently. I spoke to one in June. They bought books and did not pay for them. They returned some that were damaged and failed to make claims for them although I notified in writing. Under Maryland law I can't sue for the damaged shipments. By coincidence, the local lawyer I consulted just returned his files on this to me. The books were the property of the wholesalers, not mine.

Meredith contracted with me, through "Jay David", who is really the anthologist Bill Adler, to use certain specified passages of two of my books in an anthology. They in fact plagiarized an entire chapter, used it to defame me, and to date I have not received any payment. My last letter went unanswered. They had promised to pay and to do something about the unauthorized use. They also published another book which uses my copyrighted material, including error. This error was exclusively mine. They are aware of this, professed the intention of doing something to make it good, and haven't. This is all covered in specific, extensive correspondence. In the second instance, there was no contract. My permission was neither sought nor offered.

Probably the largest sums are involved with Dell. Dell and a subsidiary rejected my first book three times and then came to me for it after I made a best-seller of it in the underground format. We had two contracts, one for them to buy, without return provision but at a special, low price, 8,000 copies of the underground book to use in promoting their reprint, the second for the reprint. They have paid for about 500 copies of the original book only. Their accounting for the reprint is fraudulent and probably fraudulent

without access to their books

Not from personal knowledge but from what I was told by a former executive employee their computers are fed by more than one set of tapes. They can get from their computers whatever figures they may desire. What their books will show I don't know, as you realize, without examining them. Dell also owns its own printing plant, so its records can be more compatible with intended use or misuse. However, there are irrefutable proofs in my possession. One is copies of an entire edition for which they have not accounted and in which they have never made reference. Another proof is an affidavit filed by Dell in Louisiana in response to a spurious suit filed there by a racist, revanchist Cuban. At issue in the affidavit was sales. The affidavit accounts for twice the sales for which I was paid. The original contract was for an initial printing of a quarter of a million copies. In the first month there were two reprints. Dell alleges each was for 50,000 copies only, which hardly makes sense. It also claims to have sold a total of only about 170,000 of the admitted 350,000 copies printed. However, the unaccounted fourth printing of which I have copies was about five months later. It does not seem reasonable that with more than half of the print on hand there would be a totally unnecessary printing. Why print one more copy when they claim to have had more than 100,000 copies on hand? It is only by an accident in the shipping department that I know of the fourth printing. They were sent to me as freebies. Dell has also sold the book in territories not covered in the contract.

In the case of the lawsuit by the Cuban, I was led to believe, despite the contractual provision holding me to account for alleged libel, whether or not real, that because there was no libel and because the suit could be used to promote the book, Dell would assume the defense. Saga reprinted a chapter. The initial suit was against Saga and me. The suit was amended by this fascist to include Dell. Later, without consulting me, Dell agreed in a letter to counsel for Saga that it would pay legal costs and arrange for local counsel and divide the costs equally between the three of us. However, it took the total costs, about \$5,000, from my royalties. Later, when I complained and complained, it defrauded both Saga and me by getting Saga to pay half the costs and refunding that half only to me. Thus Dell avoided paying any of the costs it had agreed to share, and simply took from me half of its third share.

Through a mutual friend I did arrange for New York counsel in the Dell and Meredith cases. He has copies of all this evidence and said it was an open-and-shut case. He also said as you tell Allan, that with proof a settlement is often possible. However, he has not done anything. I don't know why and when I asked I got no answer. By mail.

The Dell case is really more grievous, but I doubt the full extent of the crookedness can be established because the agent who was then representing me would not do any more business with Dell if he testified, as he promised to. The reprint contract gave Dell first turndown on my second book. They did turn it down and I published it myself. When the reprint of the first went crazy they came to me for the second. For six months Dell advertised the first as its only best-selling work of non-fiction. I have the ads. The man who represented me with the first book went abroad for a year and arranged for another to represent me. This second man was pressured and pressured by Dell for the reprint rights to the second book. I held back because Dell had not promoted the first book and because I wanted a better advance than they offered. To get me to agree, Dell told this agent, not two months after appearance of the first book, that they had already sold 435,000 copies and simply had to have the second book. They did give me an advance of \$15,000 on the second book and when they did, I signed. This agent told me that a Dell vice president had told him the initial, early sale was of 435,000 copies with the New York lawyer listening in on an extension phone. With any reprinting after an initial print of 250,000 copies, the 435,000 figure may well be accurate, whether or not the proof can be found in their books, cooked or honest.

The date of the first Dell printing of my first book, WHITEWASH, is December 1966. The date on the fourth is April 1967. I do have copies of the accountings, They make no reference to this fourth printing and in no way account for any copy of it. I find it hard to believe that Dell will defend itself by claiming that the affidavit filed in the Louisiana court and executed by the vice president who really runs the companies is perjurious.

Whether or not such things are the foregoing constitute mail fraud I do not know. They are not what I referred to earlier. Those cases have to do with my book on the Martin Luther King assassination, FRAME-UP.

If you believe the affidavits, the copies of the unaccounted printing and the contract for the purchase of copies of the original book are a basis for any kind of action, in court or looking toward a settlement, I would take the time to ask for access to the books. The flimflam with the charges for the Louisiana suit were by Dell's staff counsel, Stephen Bair, if you consider that might give a handle on him. It was all by mail. Adding these up, the total is about \$25,000, without whatever might be shown by their books.

I published FRAME-UP in a limited edition, a larger book titled COUP D'ETAT and including more than the King assassination. I contracted with the firm then called Outerbridge & Dienstfrey, now Outerbridge & Lazard. This may appear to be more complicated. I will give you the details if you want them. In brief, they have not paid the agreed advance (here the postal inspector said there seems to be mail fraud). They have made spurious charges. They have admitted that some of these charges were spurious. They have repaid some. They have agreed to owing me other moneys. The contract called for me to get all the remainders. They offered them to me in writing this past October at the best offer they had gotten. I accepted. They agreed to accept as the initial payment on these remainders what they admitted owing me, and I agreed to await a final bill at their request, to save them costs. They did not want to have to handle the stock more than once and said they would bill me on shipping. I immediately arranged to be able to pay the balance at the appointed time. I did not have the money but a lawyer friend in Washington assured me he would provide it. If it is not relevant, he will so testify. It is the fact and he had also said he would lend me the initial payment prior to Outerbridge agreeing to use what he admitted owing me as this down payment. In accepting the October offer of about 3,000 books at 30¢ each I asked that all books be included, which is what the contract specifies, and I was told in writing that I would get 100% of the unsold books, including all later returns. All of this was by mail except for the agreement on the down payment and with Outerbridge's knowledge I taped that phone conversation. To date I have not gotten a single book. They admit letting Marboro have a thousand. They have not, as I repeatedly asked, gotten the return of the unsold portion of those books they let Marboro have. I have recent receipts for the continued sale of what I believe is my property by Marboro. Giant in Washington also advertised this book for Xmas. There has been no response to my complaint about that illegal sale. The unpaid part of the agreed advance is \$3,800 + interest since 2/8/71. I expected to sell all the copies of Frame-Up I bought at \$10,000, except for sales to book stores and institutions, where the probable price would have been \$7.50 on most. Or, up to another approximately \$27,000. Those of my letters dealing with this that I regarded as more important for proof were sent certified and I have receipts plus responses, where responses were made. After some weeks the last is unanswered.

I rather suspect that the federal government is more uptight about FRAME-UP than any of my other work now, for a variety of reasons, the two most obvious being that it reports in detail my winning of a summary judgement in a suit for evidence it suppressed by confiscating it from the British court, with the collaboration of the British Government, and the irrefutable proof that Kleindienst is a liar, in this case so certified by the State Department. All these proofs are printed in facsimile. I have more than I printed. As a lawyer you may be interested in the end product of one of the more recent instances of federal arrogance in this matter. It was misrepresented by the federal attorney before

line missing

the first page, 71-1026. This attracted the interest of the panel, they asked what lay behind it, and the Department of Justice itself was forced to tell the court that the now Attorney General lied.

So, there are political overtones in all these cases, whether or not there is political intrusion. For the most part, I do not believe there has been. Before going to the postal inspector I showed some of the evidence to a Washington lawyer. His opinion was that there was mail fraud. The failure of the postal inspector to respond to any letters or to return what he has of my files smacks of political determination. There is a fairly wide-spread belief, particularly among liberal lawyers, that I blame Warren for all that happened in my writing. This is not true. I am, in fact, the closest thing he has to a defender among any who have criticized the work or the Report of his Commission. The introduction to my first book is explicit enough on this, but opinions where passions are involved often do not rest on fact or knowledge. The high reputation Norman Redlich enjoys among liberal New York lawyers has also been an inhibition.

In giving you sums of money I have been conservative. I believe legitimate claims can be made for more. There is the interest I have actually paid, non-performance under contracts -and this has been very costly - and in the case of the chapter Meredith used without sanction or payment, at that time I was negotiating for a talking record on which I was to have read that chapter. I had recorded a sample. When the doctor told me to move my wife from where we lived, having been told that Dell would be paying something like \$35,000 in September 1967, I went into debt for the home in which we now live. This has led to many serious problems for us. I used all my capital for the down payment and thus was put out of publishing.

Because of the overtones partly indicated above, and because of trust in Allan based on knowing him when we were both younger and working for the Senate, I asked him for help. His confidence in you is more than we need to impart the same confidence. I do hope you can see your way clear to helping us, by taking the cases or by helping us locate other counsel who would and whose lives are not complicated.

Sincerely,

cc:Allan Rosenberg

Harold Weisberg