

2/15/73

Dr. B. Douglas Hamilton
Hall, 100101, Barrett & Hamilton
330 Madison Ave.
New York, N.Y. 10017

Dear Mr. Hamilton,

Thank you for your letter of May 10. It confirms all I have alleged.

You say "the basis of the advance....was the estimate of production." I take your word because I know the figures were spurious. This was not to have been the basis.

The agreed advance was a sum equal to the cost of producing a 5,000 edition of a 640 page book like WHITHEAD, not my other books. This means 60 lb bond paper, a sewn binding, etc. The cost figures I had were all in excess of \$10,000. I agreed to round it off at \$10,000. The first contract sent me provided for not this but a \$1,500 advance. I rejected it, after a discussion with David Outerbridge. He delayed sending me another contract until the book was in production. It provided for the \$5,200 advance. I did not accept that figure but phoned Mr. Outerbridge. As he knows, because of this history and the fact that we were by then in a bind, I taped the conversation in which we agreed that my signing of that contract would be conditional upon his production of certified figures for the defined book and that if he did not or could not produce them, the advance would be \$10,000. (He did not return my copy of the contract until late September, 1971, and then only after repeated demands from me.) My demands for authentication were never met, although the promise was made repeatedly. If you doubt that those were the agreed specifications, I make you the offer I made him, I will provide it in his own voice if paid for the cost of dubbing the tape.

If Mr. Outerbridge did not have such certified figures he committed fraud. You do not provide them with your letter. And all the figures you provide are dated in 1972, all but one after I complained to the Post Office Department. I want the figures as of the time of the drafting of the contract. If they do not exist, in the context of our specific agreement this is fraud. I was repeatedly assured that they do exist and that they are tabulated in the letter dated August 20, 1970. This was a half year after the book appeared. They are the figures you quote. Among other deficiencies, these figures do not include all the costs specified in the agreement. In fact, from what you sent me, despite the agreement and despite my repeated demands and the promise made, it appears that it was not then in a year before any figures were obtained from anyone.

The Andrews/Nelson/Whithead letter begins, "It is definitely not bond paper" and therefore is additionally irrelevant. The Gilbertson December 15, 1972 letter established that the "estimates" were based on a book smaller than 640 pages and in one cost figure alone would be 30% greater (if you go to a 640 page book, you would need approximately 30% more paper" and "this would cost \$1270.95."). The Winny Lynch 12/14/72 figures on a cover, if they are otherwise all-inclusive, specifies "Prep" at \$140. If this is the art work, it is a figure considerably lower than prevailed six years earlier, and the most casual examination of the 4/11/72 specifications from The Book Press shows that

on two of the major cost items, specifications are for other than is called for in the agreement. These are offset paper and a "Perfect" binding.

It should be obvious that if for my purposes a "Perfect" binding was acceptable, I would have used it in producing WHITMAN and reduced my own costs by that much. If you examine my books, copies of which I provided, you will find that long before the time of the agreement, actually in 1966, when the printer switched to a lighter paper (red-covered back) we found it unacceptable and in the night (brown cover) returned to the paper used in WHITMAN, hence that stipulation in the agreement.

So, I await your providing of the substantiated figures on which the \$6,870 figure is allegedly based, dated prior to the drafting of the contract, and according to the agreed definitions. If these are not provided, the figure is \$10,000 and the balance owed me on this alone is \$3,000 plus interest, which I have been paying at 7 1/2%. I remind you as I told Mr. Osterbridge, I was told by the postal inspector that if these figures do not exist, this constitutes fraud.

Prior to the copying of the letter dated December 22, 1972, Mr. Osterbridge had agreed that other sums were due me, including interest on delayed payments. These sums remain due me, with interest. He had agreed to apply those sums to a down payment on the remainder and to provide a bill and an accurate count on shipping. As you should know, from October to now I have received no single copy of the remainder and, in violation of the agreement, reaffirmed in correspondence, 1,000 copies of the remainder, which I had bought, were sold to Barbero. Despite my repeated requests these were never recalled. Last week I discussed this with Mr. Petras at Dutton. He reached no valuable agreement with respect to it. He prepared a lengthy draft of it, subject to the resolution of the question of the balance due me on the advance. I then produced the written explanations I had been provided on how my property came to be sold to Barbero and was told they are at best highly improbable. In any event, the loss to me on this one violation of the agreement can be as much as \$9,700. It has already been decreasing in other ways.

There are other violations of which I have made no issue in an effort to get all of this settled as close to amicably as is possible. If after all this stalling a settlement is not made soon, I will have no choice and will sue. Prior to leaving for New York I wrote Mr. Osterbridge that I was making the trip and when and suggested that he make it possible for you and me to meet and discuss this. He never identified you to me. In fact, I learned your name at Dutton. I also received no reply at all until he sent a telegram after the end of the working day of Friday, May 4. It was filed at 6:52 p.m. It was mailed to me from Georgetown, N.J. on Monday, May 7, after I was in New York. It actually says, "I will arrange to have our attorneys attempt to clear things up with you next week by phone." "Next week" is the time he knew I would be in New York, when he knew I would not be available by phone. He also knew that he was no longer at the only phone number I had for him, which he also knows has an intercept referring callers to any other number. He also never told me of his arrangements with Dutton. Or, he did all that was possible to stall these matters further. At the same time he sought to continue a record indicating a cooperative intent. This is consistent with a long history but it is not evidence of seriousness or genuineness.

While I was in New York I did arrange to be represented by counsel should it be necessary. Because of the decent reception I received at Dutton and your promises on the phone I went no farther. I would prefer not to be forced to.

Sincerely,

Harold Weisberg