

Route 12
Frederick, Md. 21701
August 12, 1976

Mr. John R. Dugan, AUSA
Room JT36-C
U.S. District Court Building
Washington, D.C. 20001

Dear Mr. Dugan:

Thank you for the copy of your response to my Notice for Certification of Compliance in C.A. 75-1996.

I have read it and the attachments in haste in the event I hear from Mr. Leser before he leaves on the trip from which he will not return until Labor Day weekend.

Aside from thanking you for sending me these papers, I have another purpose. In explaining it I begin by reminding you of our first meeting after the February 11 status call; in particular, our conversation near the elevators.

You may not have believed what I told you then and have repeated since. I was being honest and open with you, as I told you I was and as, if it is necessary, I will prove, something else I then told you.

I told you I have no ulterior purpose and that I want no scandals. I also told you that I do want compliance with the request, full compliance. You had just told the Court and us that you were going to file an affidavit of full compliance. I told you that if you did I would prove it was perjurious and that if you had no prior knowledge of it, my telling you of it would put you in the position of suborning perjury. I told you I would confront any false, deceptive or misrepresentative swearing directly because I would have no alternative. I asked you not to present me with this need because if you did I would have to meet it.

The only indications that you heeded me at all are in your deliberate stalling and filing of sworn equivocations.

As one example of your deliberate stonewalling I cite months of many promises of filings you have not made. Of these I cite but two. You told the Court and us that you had expected an affidavit from Guilian Shea, that it had been executed and that you would be filing it promptly. To this day you have not provided it. Weeks have passed. If you are going to, I would like a copy so I can go over it and give Mr. Leser a memo by the time he returns. When the Judge issued a verbal order, you first asked that it be in writing and then that it be delayed until you could file papers that to this day you have not filed.

Now you file three of what you call affidavits. Two are not affidavits, from the copies you sent me. They may be drafts of affidavits but they are not executed. I have had previous experience with these unsigned affidavits provided by your office. (See C.A. 2301-70 and C.A. 75-226 and the remand decision in C.A. 75-226.)

The only one that is actually sworn to in the copies you provided me is dated a month ago. Of the other two, one says it is "Dated: July 12, 1976." Dated it may be. Sworn to it is not. There remains the third, the latest date in which is more than three months in the past. It is not executed and there is no explanation for the long delay in providing it. Of sending me a copy that is not executed a month after it was executed.

Here I note your long delay makes any filing by my counsel impossible - to your knowledge impossible. You know his schedule and that he would be abroad for four weeks and could not respond.

I note also that your Response is but two pages long not counting the space taken up by the form. I note in addition that it contains no research into the law and no citation of cases. Preparing this required an added four weeks?

Unless you would care to provide some written explanation prior to Mr. Lesar's return, when he does he will find a request that he seek redress for me. You know my age and since February 11 at the latest you have known I have a potentially fatal health problem. Knowing this and the language of the law you stonewall me as you have?

As I have written you without response, since February 11 you have promised to send me copies of all papers and I offered to pay you all costs. Until now you have never once done this. How you do it when you know I am without counsel. On the earlier occasions you knew not sending me the copies I asked for precluded timely response by me.

You cannot blame this on secretarial failure. All you had to do is add my name and address to your drafts, as you did this time for the first time.

If for a moment you do not believe that I do not seek scandals and do seek what the law says is mine as a matter of right, reread the transcripts of these status calls. If you cannot perceive what could have made news stories with all that has been going on in the media and in Congress, be my guest and examine my marked copies. I was a reporter before you were born and I am not without successful public relations experience. But I have not held a press conference in all that time, nor issued a press release.

If you doubt for a moment that I will charge and prove perjury, ask your colleague Michael Ryan. In C.A. 76-226 he was reduced, in pretending to answer this when I alleged it under oath, to telling that Court that I could make and prove these charges ad infinitum because I know more about the subject than anyone in the FBI. I do not, of course, regard this as the rebuttal of a perjury charge.

The affidavits you have filed are deceptive and false. I believe they include perjury.

I not only believe, I believe I can prove that you know this. This is what I tried to caution you against February 11. I could not have been more explicit.

Or serious.

If you don't believe me, try me. But I would rather you believe me and eliminate my need to confront the deceptions, misrepresentations and falsifications you have fled, knowing better.

I do not want to be forced to do this, hence I write.

Of the affidavits you filed, the one that comes closest to pretending to swear to full compliance is that of Stephen Horn. So I'll use that as an example.

He swears not to full compliance but to what he reviewed ("all pertinent documents"), identifying some by number and some by other means.

I have been provided no single paper from more than a third of those he found relevant in his search.

I will identify, by number and by other means, what he knew existed and, having qualified himself as an expert, does not even claim to have searched. In addition, I will prove that he knew of records called for by the amended complaint and despite prior personal knowledge did not provide it yet swears as he does. And he a lawyer and an officer of the court.

As for Michael Shaheen, in his better moments he rises to the irrelevant. He has an undisclosed conflict of interest. In my view he could not possibly have accepted the assignment to which he attests without the most serious ethical problems. He has, personally, reviewed what is called for in this cause and has not been provided.

You are now, of course, witting, if not for the first time.

It will be four weeks or more before I can consult with counsel. I do hope that in this time you will undertake what rectification remains possible.

By the time he returns, I will ^{have} prepared proofs of much more than I have indicated to you you herein. Some of it will be pretty specific, addressing persons and the certain knowledge of persons.

Your February 11 explanation of your refusal to arrange a time for me to examine records was that you cannot control your client. I hope you make a belated effort.

Sincerely,

Harold Weisberg