

10/19/73

Dear Jim,

Last night I completed the revision of a long chapter. It leaves me ahead of Lil in her retyping, so I'm trying to catch up on a few things I'd let slide. By coincidence, the enclosed letter from the State Department came yesterday. My response is with it. It is also a coincidence that I mentioned this to you earlier in the week because they took seven months for non-response.

There is little about that obscenity that you know. One of the facts that today may have some influence in private, given the postures about Soviet Jews, is that this thing was a pogrom. Malmberg can't have looked into anything without having learned that. As I think you would understand from what you know of me, the first thing I did was investigate. My recollection today lacks fine details, but there is no doubt that George Marshall was blackmailed by some anti-Semites on the House Appropriations Committee. All of us except, as I now recall, one case of mistaken identity, were Jews. No, all but two, the other was married to a Jew. 8 1/2 out of 10 upstes the statistics on chance.

If you feel like phoning Malmberg, please do, along these lines: you had just seen me and in general, I had asked you if, should I decide there is no alternative, would you represent me. You know no more than that I say I am entitled to this back pay plus interest for the period before I resigned as part of the deal to save State's face and cleanse our besmirched records.

I do not know what the regulations are, but I am certain there has to be a joker in them to permit rectification of error. The real questions are, do they have the willingness today and do they fear more political repercussion. If the second is applicable, they must then also ponder which they would find more unwelcome as a political reaction should I proceed, as I am more than willing to do. I do need that money and those bums do owe it to me. If I had known earlier, I'd have tried earlier. I don't now recall when and how I learned, but I think it was over something in Bob Smith's case.

As to my record, it happens to be a good one there. At the end, we got a new division chief, a scholarly incompetent and a real stuffed shirt. He lowered my efficiency rating on what to him was principle, I wasn't loaded with degrees, not over my work. After he did this I still had a good rating. And as a matter of fact, there was no political reason for firing me under then-applicable regulations. What they did do was under what was known as the McCarran rider. I think it has since been declared unconstitutional. Before I was in the Department they used me as a trouble-shooter, so I was not unknown. If they have good files, they will show that when I was a correspondent I did intelligence work of enough value to have been used in an FDR fireside chat. They may not like the fact that the undersecretary with whom I then worked happened to have been a schooldays associate of Alger Hiss. As I remember it, he committed suicide. His name was Larry Duggan. On a simplistic basis, however, he was there employee, not mine, and he was the man with whom I had to work. And in those days I was anything but a "red." I was, actually, working without pay for British intelligence. How many "reds" did that before Pearl Harbor?

The case I cite is of civilian employees of the Army. There was an expeditionary force under a General Graves, who later regretted our intrusion into the domestic affairs of another country, by the way. These men claimed they were entitled to Army benefits. They just got them, either this year or last, when most of them were dead.

I have no doubt that what I tell Malmberg is true: if they want to do something to undo what they did, they'll have little trouble finding a way if they tell their spooks on regulations to find an applicable one.

Sincerely,

Harold Weisberg Rt. 8., Frederick, Md. 21701
10/19/73

Mr. K.E. Malmborg
Assistant Legal Adviser for Management and Consular Affairs
Department of State
Washington, D.C. 20520

Dear Mr. Malmborg,

Each of the two paragraphs of your letter of the 16th presents a different indefiniteness. However, I think neither presents an insuperable problem.

Your first says "I have tried to find what material is available on your case without success." If I knew what you lack, perhaps I could help locate it for you. Certainly it cannot be that something like what I was caught up in came to pass without the Department keeping records on it. There were several different actions. There must be records of those. The government does preserve, if not in its active files, records of payments to employees. They can be retrieved. If you need the exact dates, they can be found at the Library of Congress with ease. If you need other information, perhaps the law firm that represented me and others can provide them. At some point the basic facts are something both the Department and I will both need, because I am not of a disposition to drop this matter. So, if you will please let me know what "material" you want, I'll undertake to do what I can to help.

I am not a lawyer, I have not researched the law, and I have no way of citing the Department's regulations, so I cannot really address that which is not indefinite in your second paragraph. It has been my experience, however, that given the will to rectify error, the means are usually and easily found. I would like to believe that after the terrible thing the Department did to a number of us and with the consequences that were inevitable on our subsequent lives, the one thing it would want to do is correct its own error. This is to say, what it can still correct. What it did it can never undo or make good.

Because I am not a lawyer and because I do not have the text of the decision, I cannot allege with certainty that there had been a recent decision the import of which is that the Department is not "estopped by lapse of time." It has to do with a very recent award to men for administrative error going back to their work in Siberia at the end of World War I. If this is not directly in point, I believe it enunciates a policy that is applicable. If, as I believe, the Department had the responsibility for the proper application of its own regulations having to do with paying employees, then it must have the authority to correct its own errors. Without such authority, no part of government could function. On this basis that may seem simplistic, I think the authority can be found. But it does require that the Department be willing. I would like to hear from you that it is willing, which is separate from finding the means. If it is not, that will change everything and because of my needs, which are urgent, I will have to re-assess my situation and course.

It may help you to know who represented me. It was the firm now known as Arnold & Porter. The lawyer who did most of the work is Milton Friedman. They are, or recently were, at 19 and N Sts., NW. They may still have files on this that can help you. If you are in touch with them and they do dig out these files, they have an honor I was awarded for my work in intelligence in World War II that I would like to have, if you would please tell them.

There is something else we should both have, a computation of how much pay to which I was entitled that I did not receive. Could you please have this made?

Sincerely,
= Harold Weisberg



DEPARTMENT OF STATE

Washington, D.C. 20520

October 16, 1973

Mr. Harold Weisberg
Route 8
Frederick, Md. 21701

Dear Mr. Weisberg:

I regret the delay in replying to your letter of March 19, 1973, but I have tried to find what material is available on your case without success.

I am very doubtful that the Department of State has administrative authority to pay you on a claim which has now legally been estopped by lapse of time. In the circumstances, I do not believe I can pursue the matter further.

Sincerely yours,

A handwritten signature in cursive script that reads "K. E. Malmberg".

K. E. Malmberg
Assistant Legal Adviser for
Management and Consular Affairs