

Date **23 JAN 1985**

ROUTING AND TRANSMITTAL SLIP

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3. DDA	<i>[Signature]</i>	<i>28 JAN 1985</i>
4.		
5. <i>DDA Request (file)</i>	<i>[Signature]</i>	<i>28 JAN</i>

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12	Compt				
13	D/Pers				
14	D/OLL				
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SUSPENSE _____
Date

Remarks

Executive Secretary
22 Jan 85

Date

STAT

Executive Registry	
85-	232

AMERICAN LEGAL FOUNDATION

1705 N STREET, N. W.
SUITE 300
WASHINGTON, D. C. 20036
202-857-0400

85-0279

January 15, 1985

Mr. William J. Casey
Director
Central Intelligence Agency
Washington, D.C. 20505

60-1

Dear Mr. Casey:

When we spoke over the telephone last November, I remarked that the American Legal Foundation believed in the rightness of your action against ABC and that we would take whatever legal action we could to help bring ABC to task for the shoddy "investigative" reports it broadcast against the CIA.

As you are aware, since that conversation we have given advice on numerous occasions to your lawyers regarding the disposition of the CIA's complaint and have worked diligently on researching and writing our own complaint against ABC. I'm happy to report that five days ago, on January 10, 1985, the American Legal Foundation did in fact submit a 45-page complaint with supporting exhibits and affidavits against ABC over the World News Tonight broadcasts regarding Ronald Rewald and Scott Barnes. As the enclosed articles indicate, now the liberal media is not only displeased with the CIA but also with ALF.

I just wanted you to know that we are as good as our word; whatever we promise, we deliver. Moreover ALF is going to keep the legal pressure on ABC as much as possible through additional filings at the FCC. We will also do whatever else we can to alert the public to ABC's irresponsible behavior concerning this matter when, for example, ALF representatives appear in public or on television or radio.

You're a real fighter Mr. Casey, however I know that other less hearty souls in the Administration must by now be counselling you to drop the entire matter. Whatever decision is ultimately reached on this question, rest assured that the American Legal Foundation will pursue its complaint against ABC beyond the Commission directly into federal court if necessary

Mr. William J. Casey

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to vindicate the viewing rights of those who were clearly misled and deceived by ABC about the CIA's involvement with Bishop Baldwin.

Finally, you should know that as I attend high level conservative meetings I often discuss what you're doing. The response is always strong and genuinely in your favor. In short, your friends support you.

I hope we shall soon have the opportunity to meet one another to discuss this and other matters. Until then, best wishes in all your endeavors.

Sincerely,

A handwritten signature in cursive script that reads "Michael P. McDonald". The signature is written in dark ink and is positioned to the right of the typed name.

Michael P. McDonald
General Counsel

Enclosures:

The New York Times

Founded in 1851

ADOLPH S. OCHS, *Publisher 1896-1935*
 ARTHUR HAYS SULZBERGER, *Publisher 1935-1961*
 ORVIL E. DRYFOOS, *Publisher 1961-1963*

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Newsmakers Can't Be News Censors

The Central Intelligence Agency cannot sue a news organization for libel, for the courts have long held that prosecutions for "libel on government" have no place in American jurisprudence. So the C.I.A., feeling aggrieved by an ABC News report, complained instead to the Federal Communications Commission. Charging news distortion and unfair attack, it asked the commission to investigate the network, perhaps even strip it of some broadcast licenses.

Seven weeks later, with lightning speed for the commission but hardly for a news organization, the F.C.C.'s staff dismissed the complaint — for the wrong reason. Instead of ruling that government has no standing to ask government to censor and discipline a broadcaster, the staff said that such pleadings would be entertained just like anyone else's. The only thing wrong with the C.I.A.'s complaint, it found, was the agency's failure to fit any of the regulatory cubbyholes of the F.C.C.'s fairness or "personal attack" doctrines.

The network had already acknowledged, on the air, that it could not corroborate the most serious charge from one of its sources: that the C.I.A. ordered the killing of a Hawaii businessman whose

company had intelligence connections. But the C.I.A. wants more than such a retreat: it wants a network to be worrying about its licenses whenever it weighs news stories that officials won't like.

No sooner was the C.I.A.'s complaint dismissed than a private organization, the American Legal Foundation, filed its own. The foundation's pleading may be more in order, since it specializes in putting broadcasters and publishers in the toils of the law. But the effect of this intervention is the same as the C.I.A.'s and it, too, should be denied.

Whatever the merits of F.C.C. regulation of "fairness" in broadcasting, news organizations should not have to answer to government for the way they report on government. A powerful Federal agency needs no such help in defending itself from inaccuracy. Nor can government be a reliable judge of whether it is treated fairly. Constitutional and legal safeguards are designed to protect the private sector from government, not vice versa.

Whether at the C.I.A.'s behest or someone else's, the F.C.C. should not allow itself to be used, even temporarily, to intimidate a news broadcaster.

Tuesday, January 15, 1985

ABC HIT WITH A SECOND 'SLANTING' COMPLAINT

By DAVID CROOK,
Times Staff Writer

ABC News has been slapped with another complaint charging it with deliberate "news suppression" and distortion in reporting CIA involvement with a Honolulu investment firm, including the charge that the agency plotted to kill an American citizen.

The new filing was made to the FCC on the same day that the commission dismissed a similar CIA fairness-doctrine complaint against the network.

The new 45-page complaint by the Washington-based American Legal Foundation, a conservative public-interest law firm, charges that the network violated FCC rules by "deliberately distorting, slanting and falsifying" news broadcasts, deceived viewers about the accuracy of information broadcast and presented "only a single viewpoint" on the controversial issues raised in the disputed Sept. 19 and 20, 1984, "World News Tonight" reports.

ABC had no comment on the foundation's complaint.

The new charges are similar to ones raised by the Central Intelligence Agency in a complaint denied Thursday by the staff of the Federal Communications Commission. The new filing will be considered separately from the CIA's, the FCC said Monday.

"We're handling it as a routine fairness complaint that will be handled at staff level," said Bill Russell, director of the FCC's office of congressional and public affairs.

In the new complaint, the foundation asked the commission to conduct a full-scale investigation of the ABC broadcasts and to "revoke the licenses of all of ABC's owned and operated television stations" if the FCC finds that ABC violated the terms of its broadcast licenses. Also named in the complaint was WJLA-TV, ABC's affiliated station in Washington.

Most significantly, the foundation's complaint raises the novel legal argument that ABC violated FCC regulations by engaging in deliberate suppression of information "in an attempt to concoct a sensational 'investigative' news story that would attract viewers even as it misled them."

The foundation's filing cites 15 "flagrant instances of news distortion and/or news suppression" in the ABC broadcasts.

Michael P. McDonald, general counsel of the foundation, said Monday that the news-suppression argument was advanced because ABC purposely did not report information that undercut charges of illegal CIA activities through the

now-bankrupt Honolulu investment firm of Bishop, Baldwin, Rewald, Dillingham & Wong.

In the news reports, ABC said that the CIA used Bishop, Baldwin as a cover for clandestine agency activities throughout Asia and the Pacific, including illegal arms shipments to Taiwan and efforts to destabilize the economies of a number of foreign countries. ABC also charged that the CIA plotted to murder investment counselor Ronald R. Rewald.

Information contrary to ABC's charges was reported widely by Hawaiian newspapers and TV stations as well as national news media prior to the disputed broadcasts, McDonald noted in a telephone interview.

The CIA has acknowledged a limited involvement with Rewald and his company, but denied that it

'ABC deliberately suppressed public information in order to enhance charges of CIA wrongdoing,' says the American Legal Foundation.

had anything to do with any illegal activities. The agency has denied ABC's murder charge, which was the key issue in the CIA's unprecedented complaint filed with the FCC in November.

The FCC staff concluded that the CIA's complaint "fall(ed) to establish prima facie complaints sufficient to initiate a commission inquiry or sanctions."

McDonald said that the foundation's filing has a "better legal argument" than the CIA's and more fully satisfies the FCC's procedural requirements for fairness-doctrine complaints.

"ABC deliberately suppressed public information in order to enhance charges of CIA wrongdoing," McDonald said. The network's action, he said, violated ABC's "implied fiduciary obligation to its viewers to present accurate information."

McDonald said that the principal example of ABC's news suppression was in its reporting of the charge raised by former prison guard Scott T. Barnes that he was made privy to a CIA plot to kill Rewald. ABC had a two-year history of dealings with Barnes, McDonald noted, and Barnes' credibility was suspect both within and without the network.

ABC first encountered Barnes in 1982, when he charged that the CIA ordered the killings of two Caucasians in Laos. The Times reported last month. After investigating that charge, ABC "Nightline" anchor Ted Koppel subjectively concluded that Barnes' story could not be believed.

ABC was obliged, McDonald said, to tell its viewers that there were

serious doubts about Barnes' credibility.

"It wasn't enough for ABC correspondent Gary Shepard to put a camera on Scott Barnes and roll the film," McDonald said. "He (Shepard) was under an obligation to add other information. It's suppression of the news in the sense that ABC denuded Barnes' statements of their proper context. They (ABC) wittingly enhanced the credibility of his charges."

According to the foundation's filing, "Many of ABC's top news officials... were aware of the lack of credibility of Scott Barnes, ABC's 'star witness' on the existence of a CIA murder conspiracy."

"However, despite the widespread knowledge within the ABC news department that such allegations were unfounded, the (sic) ABC 'World News Tonight' went ahead with the scheduled broadcasts and, by suppressing all contrary evidence absolving the CIA of wrongdoing, perpetuated a fraud upon the millions of viewers who watched these programs."

The foundation's complaint did not note, however, that there was a major disagreement about Barnes' 1982 story within ABC. William Lord, then executive producer of "Nightline" had a "strong difference of opinion" with Koppel over Barnes, David Burke, ABC News executive vice president, said in an interview with The Times last month.

Lord later was named executive producer of "World News Tonight" and was in charge of the nightly news program at the time of the disputed September, 1984, broadcasts.

"That didn't strengthen our position," McDonald said about the filing's omission of the Koppel-Lord disagreement.

The American Legal Foundation was established in 1980 and describes itself as a conservative public-interest law firm dealing with media-related issues. Last year, it set up the Libel Prosecution Resource Center in Washington to aid persons in suits against the news media. The foundation claims 40,000 individual supporters across the country as well as corporate and nonprofit financial backing.

The foundation has two other complaints currently under consideration at the FCC—a 1983 filing against the CBS documentary, "The Uncounted Enemy: A Vietnam Deception" (currently the subject of a widely publicized \$120-million libel suit) and a 1984 complaint against a segment of CBS' "Our Times With Bill Moyers" entitled "Pentagon Underground." In the past, the foundation has also filed against NBC.

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