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PX 2571 A

5 Dec. 1951

DRAFT

Mr. A. R. Mackey  
Commissioner, Immigration and Naturalization Service  
19th and East Capitol Streets, N. E.  
Washington, D. C.

Dear Mr. Mackey:

This letter is being addressed to you in accordance with a suggestion made at a conference I had this morning with one of your Operations Advisors, Mr. Edward Duggan.

I am the attorney for Mr. Alexandre Cretzianu and Mr. Constantine Visoianu, both of this city. Both Mr. Cretzianu and Mr. Visoianu were formerly citizens of Rumania and both Mr. Cretzianu and Mr. Visoianu have had their status adjusted to that of permanent residents in this country pursuant to the provisions of the Displaced Persons Act.

Sometime last spring an investigator from the Immigration and Naturalization Service called at the homes of Mr. Cretzianu and Mr. Visoianu in connection with the application of Mr. Nicholas Malaxa also formerly a Rumanian citizen, to have his status adjusted under the Displaced Persons Act. Your investigator called on Mr. Cretzianu and Mr. Visoianu because both of these gentlemen had known Mr. Malaxa in Rumania. The visit by your investigator was not solicited by either Mr. Cretzianu or Mr. Visoianu.

As a result of these calls certain information evidently appeared in the official investigation reports in connection with Mr. Malaxa's application, and sometime during the months of June or July, 1951 both Mr. Cretzianu and Mr. Visoianu were served with subpoenas from the Immigration Service directing them to appear at the Washington Office of the Service and be examined at a hearing on the Malaxa application. Neither Mr. Cretzianu nor Mr. Visoianu wished to so appear but they were required to do so in response to your subpoenas. Both Mr. Cretzianu and Mr. Visoianu appeared twice at the hearing, one to give so-called "direct" testimony and one to be "cross-examined" by Mr. Malaxa's attorney. I was out of the city when Mr. Cretzianu and Mr. Visoianu appeared at the hearing and therefore neither Mr. Cretzianu and Mr. Visoianu were represented by counsel either time they appeared. When I returned to the City in September 1951 Mr. Cretzianu called upon me and told me that he considered that both he and Mr. Visoianu had been subjected to a very unfair cross examination by Mr. Carusi the attorney for Mr. Malaxa when they appeared the second time pursuant to your subpoena. At Mr. Cretzianu's suggestion, I requested and was given an opportunity to examine the transcript of the hearing at which Mr. Cretzianu was crossed examined by Mr. Carusi. In my opinion as an attorney, the transcript of this cross examination discloses the fact that Mr. Carusi at this hearing was permitted by your examiner to ask questions which had no bearing upon the matter at issue namely, Mr. Malaxa's application. Mr. Carusi was permitted to make insinuations

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and innuendos and to otherwise conduct himself in a manner which was highly prejudiced to Mr. Cretzianu. I do not believe Mr. Carusi would have been permitted to conduct himself in the manner that the transcript indicates had I or another attorney been present to represent Mr. Cretzianu's interest.

Be that as it may, when Mr. Cretzianu called on me in September of this year he stated to me that while he understood that the hearings at which he and Mr. Visoianu were cross examined were supposed to be confidential, he felt that it would be only a question of time until attacks upon himself and Mr. Visoianu appeared in various Rumanian publications, all of which would be based on the cross examinations at the above mentioned hearings.

I informed Mr. Cretzianu at the time that I did not believe such would be the case since it was my understanding that the records and transcript in the above mentioned hearings were not public documents.

Early last week Mr. Cretzianu came to my office and brought with him two publications issued in the Rumanian language. One of these publications is a magazine published in Paris, France, the particular issue being No. 7 dated September 1, 1951; the other publication is published in Munich, Germany, and is a newspaper entitled "Patria" and is dated July-August 1951. Both of the above publications carry news stories concerning the Malaxa hearings and in particular the cross examinations at which Messrs. Cretzianu and Visoianu appeared. I am enclosing translations of these articles which have been furnished to me by Mr. Cretzianu and at your request I can furnish to you the original texts of the articles in Rumanian for your information, if you wish to see them. If you will read the attached articles you will see that they are both malicious and that they are full of slanderous and libelous statements concerning Mr. Cretzianu and Mr. Visoianu. Both of these articles purport to give exact quotations and both go into very complete detail concerning the cross examinations of Mr. Cretzianu and Mr. Visoianu at the Malaxa hearings.

Obviously this information was made available to the two mentioned publications by someone who had access to the records of the hearing. The persons who had access to these records were my clients, the Immigration and Naturalization Service officials and Mr. Malaxa and his attorney, Mr. Carusi. I do not believe that the officials of the Immigration Service made this information available and neither Mr. Visoianu nor Mr. Cretzianu who are my clients did so. Obviously, then the information must have been made available through Mr. Malaxa and his attorney, Mr. Carusi.

In my opinion the publication of these articles not only does a grave injustice to my clients but it does a disservice to the Immigration Service since it would appear to members of the Foreign Community in the United States that access can be had to what are supposed to be confidential records of the Service.

It is, of course, up to the Service whatever disciplinary action it wishes to, or feels it is proper to take in connection with this matter.

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However, so far as the effect of these articles upon my clients Mr. Cretzianu and Mr. Visoianu, it will be necessary for us to answer the charges and allegations contained in these publications, and I hereby wish to ask for answers to certain specific questions for this purpose as follows:

1. Is it true that the transcript of the hearings at which Mr. Cretzianu and Mr. Visoianu were examined and cross examined is confidential in nature?

2. Was a transcript of Mr. Cretzianu's and Mr. Visoianu's testimony at the above hearings made available to Mr. Malaxa or his attorney Mr. Carusi either at their expense or without cost to them.

3. If a transcript of the testimony at the hearings was made available to Mr. Malaxa or his attorney it is hereby requested, and this letter will serve as a request, that the Service make available to me as Mr. Cretzianu's and Mr. Visoianu's attorney a copy of the transcript of the hearings containing their testimony (both their direct testimony and their "cross examination"). If a copy of this transcript can only be made available provided the witness pays the cost of such copy, this letter will advise you that we are willing to pay whatever the cost of such transcript involves.

4. If the transcript of Mr. Cretzianu's and Mr. Visoianu's testimony is not to be made available to me as their attorney and if a sufficient basis can be sustained for refusal of the Service to make such transcript available, then it is my intention to request that the Service furnish me with a letter which would in effect state that both Mr. Cretzianu and Mr. Visoianu appeared at the hearings in question subject to subpoena and not voluntarily, and further that the purported transcript as it appears in the articles mentioned is false, incorrect and is not a true reflection in any respect of the testimony as it appeared.

As I mentioned to Mr. Duggan, both my clients and myself consider this to be a very serious matter and we would welcome another opportunity to discuss it with either yourself or any other member of your staff.

Very truly yours,

Samuel E. Neel

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