

RELATED CORRESPONDENCEDOCKETED
USNRC

Tuesday, April 9, 1985

Jack R. Newman
Newman & Holtzinger, P.C.
1515 L Street, N.W., Suite 1000
Washington, D.C. 20036

85 APR 10 AIO:25

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Dear Mr. Newman:

Attached to this letter are copies of the correspondence between Mr. Joseph Yenouskas and the Selective Service System which I recently received. I am struck by the fact that Mr. Yenouskas' letter of November 20, 1984 is on plain paper, i.e. with no letterhead identifying Mr. Yenouskas as associated with your law firm. Notably, Mr. Yenouskas carefully omitted any mention of your law firm, or the client he was acting on behalf of, from the body of his letter. Mr. Yenouskas even used his home address as a return address thereby disguising even further the origin of the inquiry.

Mr. Yenouskas' letter of January 9, 1985 is also on plain paper. But this time, Mr. Yenouskas is aided by a secretary - initials MB - who I assume works in your law office. As you know, correspondence from a law firm is virtually always on firm letterhead. I find it very significant, therefore, that Mr. Yenouskas resorted to such abnormalities in order to disguise the true source of his inquiry. Moreover, as with the letter of November 20, 1984, Mr. Yenouskas carefully avoided mentioning in the body of the letter the fact he is employed by your law firm.

I also note that Mr. Yenouskas provided the Selective Service System with an address and date of birth for me. Obviously, he made inquiries concerning me prior to his communication with the Selective Service System.

So here we have two letters apparently prepared in your law office by a paralegal in your employ that are "laundered" to remove the link between your law firm and the inquiry being made. Obviously, your firm did not in fact view this inquiry as a routine matter but rather as a less than ethical endeavor whose origin you preferred to keep hidden.

I assume that since your offices are in the District of Columbia that you are a member of the District of Columbia Bar. I encourage you to review the Code of Professional Responsibility and Opinions of the D.C. Bar Legal Ethics Committee. If you do, you will find the following:

An "obligation of lawyers is to maintain the highest standards of ethical conduct." Preamble and Preliminary Statement at 1.

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The "Canons, Ethical Considerations and Disciplinary Rules cannot apply to non-lawyers; however, they do define the types of ethical conduct that the public has a right to expect not only of lawyers but also of their non-professional employees and associates in all matters pertaining to professional employment. A lawyer should ultimately be responsible for the conduct of his employees and associates in the course of the professional representation of the client." Id.

Obviously, you are responsible for the inquiry made concerning me by Mr. Joseph Yenouskas and that inquiry is an obvious failure on your part to maintain the highest ethical standards.

Furthermore this conduct on the part of your law firm is in contradiction to the guidance provided by the Ethical Considerations adopted in the D.C. jurisdiction.

"Every lawyer owes a solemn duty ... to strive to avoid not only professional impropriety but also the appearance of impropriety." EC 9-6.

When I first called you and asked who Mr. Joseph Yenouskas was, you stated that he was a paralegal in your office. When I asked why he was investigating me, you stated that he was not investigating me. I then stated that I knew he was, at which point, you admitted that Mr. Yenouskas had made an inquiry to the Selective Service System about me. You then spoke of your concerns about such investigations and stated that you had "tried to turn this kind of thing off."

I take your statement, particularly in light of Mr. Yenouskas' deliberate efforts to hide his affiliation with you, as a clear admission that you recognized the impropriety involved in such an inquiry but proceeded to conduct it anyway in a manner designed to conceal what you were doing.

"The duty of a lawyer to represent his client with zeal does not militate against his concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of needless harm." EC 7-10.

In your letter of February 1, 1985, you stress that only publicly available information was requested. This does not explain why this inquiry was made in the first place. Of what possible relevance to the licensing proceedings is my background of fifteen years ago? I represent the intervenor in the licensing proceeding before the NRC; I am not a witness whose background you might legitimately examine.

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What did you intend to do with the "publicly available information?" Were you just curious and spending your client's money on a lark to gather information you had no intention of using? Or were you in fact acting under instructions from Houston Lighting and Power to find something you could use to discredit me publicly? The attempt to hide the fact of Mr. Yencuskas' employment with you only confirms my original conclusion that the purpose of this inquiry was to seek out information harmful to me personally or professionally.

Furthermore, the choice of whether or not to follow your client's instructions was clearly in your discretion, even if you thought smearing me would be in your client's best interest.

Areas of legal representation not affecting the merits of the cause or substantially prejudicing the rights of a client call for the lawyer to make his own judgments. EC 7-7.

"In assisting his client to reach a proper decision, it is often desirable for a lawyer to point out those factors which may lead to a decision that is morally just as well as legally permissible. ... In the event that the client in a non-adjudicatory matter insists upon a course of conduct that is contrary to the judgment and advice of the lawyer but not prohibited by Disciplinary Rules, the lawyer may withdraw from employment." EC 7-8.

"[W]hen an action in the best interest of his client seems to him to be unjust, he may ask his client for permission to forego such action." EC 7-9.

Instead, you chose to proceed with gathering information about me. Such activity as requested by your client and as authorized by your law firm has no place in our society or within the legal profession.

"In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feelings should not influence a lawyer in his conduct, attitude, and demeanor toward opposing lawyers. ... [O]ffensive tactics by lawyers interfere with the orderly administration of justice and have no proper place in our legal system." EC 7-37.

The Ethical Considerations further state:

"The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations." EC 7-1.

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Your actions are not only offensive to the Ethical Considerations. They also stand in violation of Disciplinary Rules.

"In his representation of a client, a lawyer shall not:
(1) ... take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another ...
(8) Knowingly engage in other illegal conduct or conduct contrary to a disciplinary rule." DR 7-102(A).

Knowing that what your client had in mind was a violation of the Disciplinary Rules or at least likely to lead to such a violation, you had an obligation to refuse to cooperate, an obligation you willingly violated.

Withdrawal of employment is warranted when the client
"(1)(c) Insists that a lawyer pursue a course of conduct that is illegal or that is prohibited under the Disciplinary Rules" or
"(2) His continued employment is likely to result in a violation of a Disciplinary Rule." DR 2-110(C)

Viewing your letter of February 1 in the light of this latest discovery, I find there is a need to set the record straight on at least one matter. You knew the minute I first brought it up that Mr. Yenouskas had made such an inquiry; there was no need for you to "check" about that fact, as your February 1 letter states. Consequently, I hold you personally responsible for the fact this inquiry was made and for the intentions implicit in the inquiry.

You seemed to find it very significant to the licensing proceeding that your client supposedly responded promptly with remedial action when the NRC discovered violations. I submit that the discovery of the Newman and Holtzinger, P.C. investigation also calls for some remedial action.

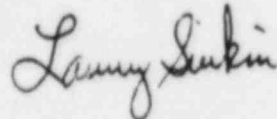
Thus far, you and your client have chosen the path of false excuses and stonewalling. While your client may be ignorant of the ethical rules governing the behavior of lawyers and may have no independent commitment to ethical behavior which would motivate them, as members of the Bar, you and your colleagues have an obligation to repair the damage you have done to the legal profession by your actions. I would suggest, therefore, that a public apology and a promise not to engage any further in such activities is in order.

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In addition, you should advise your client, Houston Lighting and Power that a similar apology and promise is in order from them.

I await your response within ten days of the date of this letter before taking any further action on this matter.

Sincerely,



Lanny Sinkin
3022 Porter St., N.W. #304
Washington, D.C. 20008
(202) 966-2141

c.c. See Service List

RELATED CORRESPONDENCE

November 20, 1984

DOCKETED
USNRC

85 APR 10 AIO:30

Registrar
Selective Service System
1023 31st Street, N.W.
Washington D.C. 20435

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

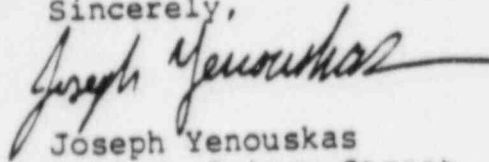
Dear Sir :

I am writing to request that you release to me a copy of all publically available draft records concerning the following individual:

Name: Lanny Alan Sinkin
Home Address: 215 Crescent Avenue
San Antonio, Texas.
Date of Birth: February 6, 1946.

Thank you for your prompt attention to this matter.

Sincerely,



Joseph Yenouskas
1020 N. Quincy Street
Apt. 505
Arlington, VA. 22201

RELATED CORRESPONDENCE

DOCKETED
USNRC

January 9, 1985

'85 APR 10 110:30

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

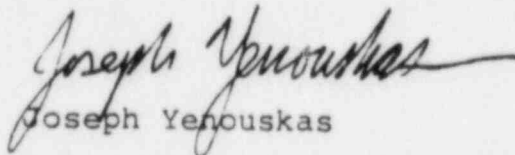
Mrs. Bishop
Records Office
Selective Service System
1023 31st Street, N.W.
Washington D.C. 20435

Dear Mrs. Bishop :

In accordance with our telephone call which took place today, I am resubmitting my letter of November 20, 1984, requesting any and all available draft records which are publically available concerning Lanny Alan Sinkin.

Thanks for your help and attention to this mixup.

Sincerely,


Joseph Yenuoskas

JY/mb
Enclosure

NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

RELATED CORRESPONDENCE

HOUSTON LIGHTING AND
POWER COMPANY, ET AL.
(South Texas Project,
Units 1 and 2)

Docket Nos. 50-498 OL DOCKETED
50-499 OL USNRC

'85 APR 10 AM 10:30

CERTIFICATE OF SERVICE

I hereby certify that copies of the letter from
to Jack Newman dated April 9, 1985 were served by deposit in the
U.S. Mail, first class postage paid to the following individuals
and entities on the 9th day of April 1985.

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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Washington, D.C. 20555

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Washington, D.C. 20555

Lanny Sinkin

Lanny Sinkin