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November 6, 1992

Monique Yingling
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U.S.A.

Dear Ms Yingling:

I have been asked to assist in answering a question posed by the American authorities.

QUESTION 10.e.111 : THE SERVICE UNDERSTANDS THAT CRIMINAL LEGAL PROCEEDINGS ARE PENDING IN CANADA. PLEASE PROVIDE A FULL DESCRIPTION, INCLUDING THE CURRENT STATUS OF THE PROCEEDINGS.

Background

Between 1974 and 1978, a tiny handful of members of the Church of Scientology Guardian's Office acted in violation of Church policy and doctrine by committing crimes in Canada. These crimes were designed to be kept secret from parishioners and Church staff for fear of exposure by the Church.

Upon discovery of these crimes, the Church began to investigate and disband the Guardian's Office ("GO"). This included sending missions from CMO INT to Guardian Offices around the United States and in other countries to investigate involvement by GO staff in illegal activities and, based on the findings, to remove guilty staff from Church employ.

Thus the Guardian's Office Canada and Guardian's Office Toronto were investigated and there the CMO mission found that some of the GO staff had been involved in illegal activities. Actions were therefore instituted which ultimately led to their removal from staff.

While the Church was investigating and cleaning out the GO in Toronto, the Ontario

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Provincial Police (OPP) and the Crown Law Office of the Attorney General of Ontario surreptitiously placed one undercover operative in the Church of Scientology of Toronto and one in the Guardian's Office Canada. This undercover operation included an action taken by one of the undercover officers that was later described in police testimony as an attempt to "provoke a possibility of criminal conduct response on the part of Church of Scientology". It was unsuccessful.

One of the police operatives, Constable John Cunha, who had posed as a Church staff member, made it known to Church staff that he had left the Church, that he had removed Church financial documents and that he was going to write a critical book on Scientology. When this produced no response, despite the fact that the Guardian's Office was aware of this threat, Cunha made further contacts. He had provided a phone number and address of where he could be reached. In his further contact, Cunha gave more detail of the documents he had taken and threatened that he would release these documents to the police, and as a result, he having spoken already with the police, Church executives were likely to go to jail.

The police then staked out a hotel, where Cunha had made known he would be, to await an expected response from the Guardian's Office. No response ever came, despite the police's best efforts to precipitate criminal conduct on the part of the Guardian's Office or Church staff.

"Q. It is your expectation, was it not, that there would be some response from the Church of Scientology?

A. Yes.

Q. Was your response the kind of criminal conduct that you were concerned about that you had explained, about break, enter and theft removal of documents, the basis of Count 3 (in the search warrant), that something of that nature would occur?

A. Yes.

Q. Nothing of that occurred, did it?

A. No."

Cross Examination of Ciampini, October 16, 1991, p.43

The most important of the police operatives, Constable Barbara Taylor, worked in an undercover capacity in the Guardian's Office Toronto. Over the course of her tenure as an undercover officer, she regularly reported the ongoing removal of GO staff as, one by one, they were held responsible for their illegal conduct. She also reported that the policy of the Church would not countenance criminal activities and that no criminal acts must take place.

David Miscavige and other senior Scientologists voluntarily came to Canada to testify

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during the trial even though neither they nor the organizations they worked for were parties to the case. They described in detail the ways in which the Guardian's Office had grown separate and autonomous from the Sea Organization. They described the dramatic events when they as Sea Organization executives found out that the GO was involved in illegal activities, and how they immediately acted to reform and ultimately disband the GO.

Despite this, preparations began to obtain the search warrant which was based upon allegations of current illegalities. This search warrant ultimately authorized the largest search and seizure in the history of Canada.

The Canada Raid

In March 1983, one hundred police officers, some armed with axes and sledge hammers, entered the premises of Church of Scientology of Toronto, the Guardian's Office Canada and the Guardian's Office Toronto. They seized thousands of documents - including Scientology religious books and the confidential priest-penitent confessional files of hundreds of innocent parishioners. The largest raid in the history of Canada resulted in the seizure of 2 million pieces of paper filling 950 banker's boxes.

The Church continued its own measures to disband the GO entirely and to discover the true facts of what had occurred. In an effort to cooperate with the OPP, in March 1984, Church representatives went to the Crown Law Office and offered to help prosecute the expelled individuals who had planned and ordered the crimes. Crown Attorney Casey Hill refused the Church's offer, as OPP Inspector Germaine's notes reveal, saying "You've got no cards to play with."

OPP Officer Ciampini solicited the help of David Mayo and Mayo's attorney, Gary Bright, to approach two of the individuals expelled by the Toronto Church, one of whom was a former GO official, and convince her to talk to Ciampini. Ciampini then used this individual to get others of the former GO officials involved in crime to also agree to join the government's case.

Solicitor/client privileged documents taken in the raid were read by the police and used to convince these former GO officials that the "train was coming both ways" as they showed that the Church was planning to prosecute certain of these individuals. As noted by Justice Southey in his ruling of March 26, 1992:

"Both these documents were obviously covered by solicitor and client privilege but it is apparent that they were used by the police, despite the privilege."

With Mayo's help, these individuals were made aware of the Church's plan to prosecute

Ciampini was aware of Mayo's own lawsuits with the Church of Scientology in the United

States and his own expulsions from the Church. The OPP investigation included interviews with other potential witnesses in the United States. In a June 1983 interview with Boston attorney Michael Flynn, Ciampini proposed a criminal indictment of Religious Technology Center Trustee David Miscavige in order to obtain the cooperation of a potential witness. Mr. Miscavige was the driving force behind the disbandment of the GO. At the time of this suggestion, Ciampini was fully aware that this potential witness was trying to overthrow Mr. Miscavige who had kicked the GO criminals out of the Church.

The actual criminals were embraced by the Crown while the Church and those who were involved in the GO reform and disbandment became the target of the Crown's case.

Involvement by the IRS and Michael Flynn

The hard-line attitude by the Crown and OPP was encouraged in no small measure by the Internal Revenue Service and by Boston Attorney, Michael Flynn.

The OPP and IRS exchanged information. During 1984, OPP officers went to Los Angeles where they copied documents from the IRS which were brought back to Toronto. IRS CID agents Al Lipkin and John Petersell went to Toronto hoping to review the documents which had been seized in the Canada raid. At this time there existed an undertaking between Crown counsel and counsel for the Church that seized documents would not be disclosed to agencies outside those prosecuting in Canada itself.

The Crown Law Office, the OPP and the IRS circumvented this agreement by giving the IRS access to a 2 volume report developed from a review of the seized documents which itself contained extracts from the documents subject to the undertaking. The forensic accountant retained by the Crown to assist in the prosecution aided the IRS in their review of this information. He later testified that he could not remember if the IRS agents also looked at the extracts of the documents.

- "A. There are a number of things included in the report. There is a synopsis, summary of our findings. There are a number of sections in which detailed discussions of our findings are elaborated upon. Those sections contain essentially two things -- one being an overview of that specific area, and secondly extracts from Scientology documents in support of that overview. Those overviews were combined and formed the basis for our summary conclusions.
- Q. When you met with these gentlemen, did they actually see this document, or did you just read it to them, or portions of it, I take it?
- A. We were in the same room. They would have seen it in front of me.
- Q. Did they read from it, or did you refer to it in answering questions?
- A. I definitely referred to it. I don't remember if they read it. Certainly, if I was requested to turn it over to them, you know, I would have...

- Q. There was nothing wrong, so far as you were aware, in them seeing the actual documents during this meeting?
- A. No. I really had no involvement with whether or not documents could or could not be disclosed to them. I was there to answer questions.
- Q. And I take it from time to time in answering the questions you would turn to a page in the brief and read from it?
- A. That's correct."

Cross Examination of Joe Zier, January 16, 1992, pp.56-58

According to a diary kept by Ciampini, Liptin and Petersell briefed the OPP on the IRS CID investigation and offered to assist the OPP in locating L. Ron Hubbard and David Miscavige when the OPP brought charges against them.

Another entry to Ciampini's diary, in October 1984, when the Crown was preparing its formal charges against the Church of Scientology of Toronto and Church members, stated that Michael Flynn had called to say that he wanted to know when the OPP charges were to be laid "because he has 30 - 35 people inside [the Church] who are immediately going to take physical control of the Church of Scientology California and then ASI [Author Services, Inc.] - then file suit in court - turn over all documents to IRS CID for their investigation." He further stated his hope that the OPP would move soon and that the "momentum of [the OPP's] charges will cause Scientology to collapse."

Sergeant Ciampini was questioned at trial about his connection to those seeking to take over the Church.

- "Q. And did you know his clients were trying to take physical control, to take over the Church of Scientology in the United States and around the world?
- A. I heard, as you can see from my notes here, that it was people within the organization that felt that they wanted to take over the organization. Certainly I had no control over that.
- Q. But you knew that they were doing that?
- A. I knew it as of October 9, 1984, yes."

Cross Examination of Ciampini, January 10, 1992, p.111

- "Q. If I read this note correctly that you made, the takeover of the Church of Scientology of California and ASI is going to follow immediately upon your arrest, your laying of charges. Isn't that so?
- A. That's what he is saying, yes.
- Q. Well, surely you said to him, 'Listen, you can't tie this takeover of these church institutions to my laying of charges in Canada. You must have nothing to do with this.'

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- A. I had nothing to do with this.
- Q. You must have told him you must have nothing to do with this. Surely you said, 'Don't involve me in this.'
- A. I gave him no instructions.
- Q. Am I wrong in suggesting to you that the sense of this now is that you were quite content to let this all happen?
- A. I had no control over it, Mr. Ruby."

Cross Examination of Ciampini, January 10, 1992, p.117

This testimony above corroborates the plan exposed in late 1984 in a police authorized video tape of IRS CID operative Gerry Armstrong in which Armstrong planned to plant phony documents in the Church that could be seized in an IRS CID raid designed to topple the Church hierarchy so that Armstrong and Flynn could seize control.

On December 12, 1984 (6 days before charges were laid), OPP Inspector Ormsby wrote in his diary that he returned a call from Lipkin, and that Lipkin was interested in doing a joint investigation with Revenue Canada. Lipkin wanted to be notified if charges were laid and if they could have access to the financial records.

There were three allegations made against the Church in the search warrant that authorized the Toronto raid: tax fraud, consumer fraud, and conspiracy to commit indictable offenses.

The Charges

Contrary to the assertions set out in the Information to the Search Warrant, no charges were ever laid in relation to tax fraud, consumer fraud or indeed conspiracy.

In December 1984, 18 months after the raid, charges were brought by the Ontario Provincial Police against the Church of Scientology of Toronto and 19 named individuals. The charges dealt with theft of confidential information and property, breach of trust, and possession of stolen information and property, alleging the removal of information and documents in government and private agency files by GO operatives for use by the Guardian's Office. All of these incidents were alleged to have occurred between 1973 and 1983.

The Guardian's Office executives who were in charge at the time of the alleged thefts and who actually directed the individuals involved were given immunity by the government (Crown) so they could testify against their former subordinates. These government witnesses were all individuals who had been removed from GO staff for their activities, and some had been excommunicated from Scientology -- all well before the raid and before the Church had any knowledge of the OPP investigation or infiltrators.

The lower-level individuals who had obeyed the orders of these government witnesses were charged along with the Toronto Church corporation. By this time, these individuals who were charged had already performed hundreds of hours of independent community service at the direction of the Church to make amends to society for their wrong-doing. This was the first time, anywhere in the free world, that a church was criminally prosecuted by the state for the wrongdoing of a tiny handful of its former members.

During the preliminary hearing, on June 15, 1988, a judge in the Ontario Provincial Court dismissed 4 counts of theft of information, thereby leaving only 15 outstanding charges. On September 21, 1990, this same judge dismissed all counts of possession of stolen property leaving 7 counts of theft and 5 counts of breach of trust, to proceed to trial.

Raid Declared Illegal

On December 2, 1991, Judge Southey of the Ontario Court of Justice, who presided over the trial, ruled that the Church's constitutional right to be free from unreasonable search and seizure had been violated. The judge further found that the OPP officers "conducting the search did not act in good faith". To remedy these violations, he ordered all the documents seized by the OPP to be excluded from trial.

On January 27, 1992, the OPP returned the bulk of the 2 million seized documents to the Church, save those kept by the Crown for possible appeal purposes. On March 26, 1992, the judge ruled that the testimony of the ex-GO officials, who had been granted immunity, be excluded in relation to all counts of theft.

He noted,

"The breach (of the Charter) was a serious one. The loss of the documents in the illegal seizure caused substantial hardship to the Church."

Ruling by Southey, J., March 26, 1992, p.20

The Trial

Almost a decade after the raid and more than 15 years after the alleged acts that were the subject of the case, a trial on 5 counts of breach of trust commenced in the Ontario Court of Justice on April 23, 1992, against the Church of Scientology of Toronto and 5 individuals.

On June 26, 1992, the Church and 2 individuals were acquitted on 3 counts of breach of trust. The Church and 3 individuals were convicted on 2 counts of breach of trust. In a

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separate jury trial held on June 25, 1992, the Church and 7 named individuals were acquitted on all 7 counts of theft of documents.

On September 10, 1992, the Church was sentenced to pay a fine of \$250,000 Canadian total for the 2 counts on which it was convicted. The individuals were fined, but no jail terms or probation or community service was imposed: the court recognized that they had already done thousands of hours of community service to society.

Janice Wheeler was fined \$2,000 for breach of trust in respect to the Attorney General's Office of Ontario; Don Whitmore was fined \$2,000 for a breach of trust in respect to the Royal Canadian Mounted Police; Jacqui Matz was fined a total of \$5,000 for a breach of trust in respect to the Attorney General's Office of Ontario and the Ontario Provincial Police.

The fact that Scientology is a religion was not questioned by the Crown during this trial. This was the first time in Canada that a recognized non-profit corporation was charged respecting the actions of individuals under what, in my opinion, was an unconstitutional application of the law. Thus the convictions of the Church of Scientology of Toronto are presently under appeal and the payment of the fine has been ordered stayed by the Court of Appeal for Ontario.

The Ontario Court of Justice did not dispute:

- (1) that Church doctrines never condoned these criminal acts;
- (2) that all criminal activity within the Guardian's Office ceased in 1978, years prior to the raid, and that all those responsible were removed from positions of
- (3) that none of the present directors of the Church were directors at the time of the offenses; and
- (4) that vast numbers of the Church's present parishioners were not even parishioners then.

The Court acknowledged that the Guardian's Office itself was disbanded in 1983 by senior Church management who had discovered what these wrongdoers had done as described by David Miscavige and other senior Scientologists. And indeed, in dealing with sentence, Justice Southey concluded that specific deterrence respecting the Church was not needed.

In his Charge to the Jury, Justice Southey said:

"There is no evidence that the Church of Scientology authorized the Guardian's Office in Toronto, either expressly or by implication, to participate in the unlawful plant operations..."

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He had earlier ruled on August 2, 1991:

"...there is no suggestion that the stealing of documents or the breaches of trust by government employees, if they occurred, were acts condoned by the religious doctrines of the Church. Indeed, quite the reverse, the Church has vigorously repudiated the conduct of persons who have engaged in such acts and has expelled such persons from its organization."

The raid and the prosecution must have involved years of court time and tens of thousands of man-hours on the part of the Attorney General's Office of Ontario and the Ontario Provincial Police and may have cost over 15 million dollars of taxpayer's money. All of this time and expense was to prosecute a Church which had long since cleaned its own house.

The unprecedented conviction of the Church of Scientology of Toronto on theories of vicarious criminal liability is under appeal.

Yours very truly,



Clayton C. Ruby

/mm