

LAW OFFICES

ALEXANDER S. GORDON, P.A.

1206 ALFRED L. DUPONT BUILDING - MIAMI, FLORIDA 33131

(305) 374-8159, 371-3437

January 12, 1977

Malcolm S. Mason, Esquire
4740 Connecticut Avenue, N. W.
Washington, D. C. 20008

Irwin Langbein, Esquire
804 Comeau Building
West Palm Beach, Florida 33401

Dear Malcolm and Irwin:

I was nearing completion of reading the copy of the transcript, which you forwarded, when I received your follow-up letter of January 8th, Malcolm. I had already noted, with much consternation, the slipshod job done in the typing of the transcript, particularly with respect to the substitution of Guthrie and Ginsberg as appearing for the SEC, rather than correctly identifying Knowles. More pertinent than serious, as pointed out by you, which I also noted.

Particularly disturbing is the garbling of the testimony at the bottom of Page 198 and the top of Page 199. I have a distinct recollection that my question wound up by paraphrasing Judge Mehrtens' to the effect that "Would you accept \$47,000 a year?", to which Mr. Kirkland answered "yes". This I thought was the most telling point made in cross examination.

Although I cannot place it sequentially, I have a vivid recollection of Judge Mehrtens' caustic remark as to the members of the Fifth Circuit not being born smart. It may very well be that the Judge sanitized this transcript. This also holds true as to my memory of the Judge's remarks concerning the impact of Fifth Circuit's remand capitalized on the second page of your letter, no reference to which I can find in the transcript.

I now appreciate the value of your consistent and continuous note taking. Altogether I have not seen as shoddy a transcript in thirty years. After reading it, my first impulse was to get hold of a court reporter who was a substitute and whose name I cannot recall.

Upon reflection, however, I felt that better, as we have done in the past, would be to lean back, wait, confer and adopt a joint course of action after consultation amongst us. I concur with the thinking that an affidavit suitable for filing

Malcolm S. Mason, Esquire and Irwin Langbein, Esquire
Page 2 - January 12, 1977

in the procedures, if ultimately found advisable, should be prepared by you with a prefatory recitation that the matters set forth therein are based on your detailed note-taking and supplemented by your memory. It might even be wise to attach, by reference, those portions of your handwritten notes covering the errors of the transcript pointed out in the affidavit.

I would then personally discuss the affidavit with the court reporter, asking him to review his record and make corrections as found. If this proves unsatisfactory or is refused by the court reporter, then we might subpoena him, together with his notes (I believe they were stenotyped) and have our own stenotypist court reporter read and record them.

Finally, if the foregoing does not result in a satisfactory correction of the record, then I suggest we file the affidavit and move for a hearing before Judge Mehrtens for an Order correcting the record. Upon his denial of the same, we can make it a point on our appeal. These are my suggestions. Please let me have both of yours.

Best wishes for the New Year to you all and may it bring us a satisfactory termination of these proceedings.

Sincerely,

Alex S. Gordon

ASG:ri

(dictated but not read)
so as to expedite mailing