

Exhibit 2



Tax Division

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April 3, 2001

Robert E. Heggestad, Esquire
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Suite 600
1320 19th Street, N.W.
Washington, DC 20036

Re: United States v. Stonehill, et al.
Civil No. 65-127 (USDC CD Calif.)

Dear Mr. Heggestad:

You asked me in your March 26th letter to advise you "whether the documents attached to [Herbert J.] Miller's Declaration . . . and the documents attached to your November 8, 2000 letter were also found in the safe at the Criminal Division." As we said at p. 48 of our initial brief, the documents attached to the Miller declaration (and in Government Ex. 525) came from a Criminal Division file. Because some of the documents in the two folders from that file that we looked at were classified or otherwise confidential, the two folders were stored in a safe. Any confidential or classified documents were declassified or determined no longer to be confidential before copies were provided to Mr. Miller, the Court, and you.

I am unclear as to what you mean by your statement, in quotation marks, about documents being "apparently forgotten about." That is not something I ever said to anyone, and is not something I have any knowledge of. I assume that you are referring to Thomas McIntyre's speculation regarding why some portions of a Criminal Division file have not yet been destroyed. As Mr. McIntyre stated in his March 30th letter to you, "the fact that some of the documents were originally classified may be the only explanation for why they are still maintained in the Criminal Division. Obviously, classified documents—and any unclassified documents that may have been attached to a classified document—would have been stored separately from wholly unclassified materials."

You have also asked whether "the documents attached to your November 8, 2000 letter were also found in the safe at the Criminal Division." As my November 8th and 29th letters stated, the documents enclosed with those letters also came from the same Criminal Division file. Because some of the documents in the two folders from that file that we looked at were classified or otherwise confidential, the two folders were stored in a safe. Any confidential or classified documents were declassified or determined not to be confidential before copies were provided to you.

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Finally, you have also asked “whether all documents from the Criminal Division files which you reviewed related to the Stonehill case have been provided or whether there are additional documents other than those which were attached to you [sic] Opposition Brief and forwarded separately on November 8 and 29, 2001 [sic].” We did not (and did not purport to) provide to you copies of all of the documents in the Criminal Division file. Rather, we provided the Court and you with all documents of which we are aware that we believe are useful to resolving the issues raised by your motion.

Your clients, of course, had an opportunity to obtain documents from this Criminal Division file in connection with the FOIA request submitted by their lawyer, Hans Nathan, in 1979. I do not know whether that FOIA request covered this particular Criminal Division file. If it did, I assume that copies of pertinent documents were provided to Mr. Nathan at that time or were identified as not being produced for appropriate reasons under FOIA. I understand that when you started working for Messrs. Stonehill and Brooks you were unable to obtain from Mr. Nathan the FOIA documents he had earlier received, and you were unable to obtain any information indicating what he had or had not received in connection with the 1979 FOIA request. Furthermore, I am informed that under its standard document-destruction policies, the Criminal Division also does not currently have any such information for FOIA requests that it processed some 20 years ago.

As you know, the Tax Division does keep such records, which show that the Tax Division released many documents to Mr. Nathan in 1985. I understand that you have previously advised the Tax Division’s FOIA lawyers that Mr. Nathan did not turn those documents over to you, which is why you submitted a new FOIA request to the Tax Division in February, 2000.

In any event, if any documents from the Criminal Division were not provided to Mr. Nathan back in 1979 or the early 1980s, it appears that neither your clients nor Mr. Nathan took any further action to obtain them until you recently made a FOIA request to the Criminal Division. I understand that the Criminal Division is now processing that recent request.

Sincerely yours,



Seth G. Heald