Memorandum

Meeting on March 5, 1996

To: Ms. Gisella Weisshaus
(f) 718-387-6370

From: Daniel R. Alonso
Assistant U.S. Attorney

I have tried to reach you several times this afternoon and evening by telephone, but have been unsuccessful. Our meeting tomorrow morning is still on, but I need to move it back by one half-hour. Please meet me at One Pierrepont Plaza, 16th Floor, at 10:00 a.m. tomorrow morning.

I'm sorry for any inconvenience this may have caused.
Lawyer v. Client: One of the first plaintiffs in the class action suit against the Swiss banks says he has plans to dismiss his lawyer, Edward Fagan.

The client, Gizella Weisshaus, wrote two letters to the United States district court judge, Edward Korman, who will preside over the matter, complaining that Mr. Fagan did not consult her on issues including the decision to allow gypsy groups to join the class action suit, and that he permitted the other attorneys involved in the dispute "to take charge, prepare documents, [and] accrue legal fees, while our class action rests a remote back seat."

In a letter dated earlier this month, Mrs. Weisshaus wrote, "I am trying, very, very hard to retain another attorney but to date I have been unsuccessful."

Mr. Fagan did not return phone calls seeking comment, but a lawyer involved in settlement talks being conducted at Washington, Melvin Weiss, defended Mr. Fagan, saying, "I have no idea what [Mrs. Weisshaus is] talking about. She shouldn't be getting better representation in this matter from all of us as a group."

Mr. Weiss said he found Mrs. Weisshaus' allegation "sort of surprising." She and Mr. Fagan often appear together at press conferences, and "I always thought the two of them were quite close," Mr. Weiss said. "I think she's just frustrated. She should really be more frustrated with the other side," the Swiss banks, he said.

The settlement negotiations, being discussed under the aegis of the American State Department, have not progressed since the banks' public announcement of a "final offer" of $600 million, which Jewish organizational leaders have rejected as "humiliating." On July 1, a group of state and local finance officers who make up the "executive monitoring committee" on the issue of Holocaust-era assets being held in Swiss financial institutions will hear testimony from the negotiating parties. When asked whether sanctions against the banks were likely, a spokesman for the New York City comptroller and the head of the committee, Alan Hevesi, said Mr. Hevesi "wasn't ruling anything out."

The chairman of the Senate Banking Committee and an advocate for Holocaust restitution, Senator D'Amato, said in a statement that his committee will reexamine the 1945 Washington Accords, the agreement in which the Swiss turned over $151 million in gold to the Allies. "According to captured ledger books it is estimated that the Swiss accepted at least $289 million in gold alone from the Germans," said a statement from Mr. D'Amato's office.

"The $600 million settlement offer the banks have made comes nowhere near rectifying the wrong done," Mr. D'Amato said in a statement.
Swiss Bank Plaintiff Accuses Lawyer

VERENA DOBNIK Associated Press Writer

NEW YORK (AP) - The lead plaintiff in a lawsuit filed by 31,000 Holocaust victims against Swiss banks to recover wartime assets has accused her attorney of lying and keeping his clients "in the dark."

Gisella Weisshaus, a 67-year-old survivor of Auschwitz, accuses attorney Ed Fagan of lying and acting unethically, according to court documents obtained Friday by The Associated Press.

"I suspect she believes there's some deal between the World Jewish Congress and me over who gets the money - and nothing could be further from the truth," Fagan responded.

Mrs. Weisshaus has written to the federal judge in the case, asking him to mediate the dispute.

While three Swiss banks are trying to negotiate a settlement with Jewish groups, Mrs. Weisshaus said she was "trying very, very hard to retain another attorney but to date, I have been unsuccessful," according to a June 3 letter she wrote to Judge Edward Korman in Brooklyn.

That letter and one dated April 26 were both filed at the federal courthouse and faxed to the AP by a source close to the Swiss banks who requested anonymity.

The Romanian-born Mrs. Weisshaus says she and other plaintiffs are facing "a dilemma" to which they "have unethically been subjected by Mr. Fagan."

She said the attorney promised that the federal suit seeking class action, filed in October 1996, would be limited to private claimants. He later added what she calls questionable claims like those by various Jewish organizations and Gypsies whose wartime personal assets were looted.

Meanwhile, she wrote, "nothing is happening on our behalf." Calls to her New York City home seeking comment were not answered Friday.

Fagan said he believes Mrs. Weisshaus is worried that Jewish groups trying to recover the dormant Swiss assets - including the World Jewish Congress - "may end up with the money. I have assured her that I'm going to do everything I can to ensure that survivors get their money."

Switzerland's three biggest banks - Credit Suisse, Swiss Bank Corp. and Union Bank of Switzerland - have offered $600 million to settle lawsuits claiming the banks had failed to return assets from the victims' wartime accounts.

That sum was rejected by claimants and talks in Washington, mediated by Undersecretary of State Stuart Eizenstat, are continuing.

Mrs. Weisshaus said in her June letter that "the Holocaust survivors are outraged to be left in the dark" and that the
Fagan said his client's concerns also may stem from "the fact that because of the negotiations and a confidentiality agreement, there are things we cannot disclose to the plaintiffs."

However, "it is their interest we are looking to protect," said Fagan, whose fee from the case is to be determined after a settlement is reached.

Margaret Zentner, 76, a German-born Holocaust survivor whose relatives had a Swiss account, said she disagrees with her co-plaintiff about Fagan.

"He is very, very ethical," she said. "I have never, ever caught him in a lie. None of us would agree with that."
July 13, 1998

Hon. Janet Reno
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue NW - Suite 4400
Washington, D.C. 20530-0001

RE: JUDGE RICHARD D. HUTTNER
JUDGE/REFEREE JEROME M. BECKER

Dear Hon. Reno:

I am a Holocaust survivor and the first class-claimant against the Swiss Banks
(Associated Press - 6/27/98 - attached)

I searched the Kings County Supreme Court Clerk's file, found Albina Goldbetter who is also involved in fraudulent activity by above captioned and so advised her on November 7, 1997 attaching letter from Jerome M. Becker dated December 19, 1994. (copies attached, respectively)

I had a meeting with Daniel R. Alonso, Assistant U.S. Attorney on March 5, 1998 (copy attached) at which time I discussed with Mr. Alonso the matter of above captioned. I informed Mr. Alonso that I did not have an attorney of record and asked for assistance from the U.S. Attorney's Office. Mr. Alonso was aware of my fraudulent case and suggested I retain an "honest" attorney to continue fighting in Supreme Court and in the future, Mr. Alonso would assist me. Although feverishly trying to find an "honest" attorney whom I could afford to pay, I have been unsuccessful.

Albina Goldbetter forwarded a letter to Judge Richard D. Huttner dated June 16, 1998 and copied your Honor. (copy attached)

Ms. Goldbetter forwarded an additional letter to Judge Huttner dated June 21, 1998 and copied your Honor. (copy attached)

continued......
I also forwarded a letter to Judge Huttner dated July 6, 1998 "FOR THE RECORD". (copy attached - with attachments)

I respectfully demand Justice which I have been denied for more than 50 years. In the pursuit of said Justice, I have shamefully deprived my 81 year old husband (also a Holocaust survivor and in failing health), my six (6) children and 28 grandchildren of my time and attention. I am 88 years old and in failing health.

May I please hear from you.

Thank you.

Very truly yours,

GIZELLA WEISSHAUS

certified mail

Z-595-311-706

copy: Daniel R. Alonso

Judge Richard D. Huttner

Jerome M. Becker, Esq.

Davidoff & Malito

Z-595-311-711

Z-595-311-713

Z-595-311-715
Ms. Gizella Weisshaus
203 Wilson Street
Brooklyn, New York 11211

Dear Ms. Weisshaus:

Your letter dated July 13, 1998, to Attorney General Janet Reno alleging misconduct by several New York state judges was referred to me for response.

The Department of Justice (DOJ) can assume jurisdiction only when there has been a violation of the federal statutes. Because your letter refers to a state case, neither the Attorney General nor the DOJ, an agency of the Executive Branch of the federal government and the federal agency dealing most closely with the criminal justice system, has jurisdiction over state cases prosecuted by state and local authorities. If you have reason to believe there has been a violation of the federal statutes, you should contact the local office of the Federal Bureau of Investigation (FBI), the investigative arm of the DOJ. The telephone number is usually located in the inside front cover of your telephone directory. If the matter is within the investigatory jurisdiction of a federal agency other than the DOJ, the FBI will refer your correspondence to the proper agency.

Additionally, the DOJ does not have the authority to review a court's decision. If you believe the decision is inappropriate, it may be challenged through the court's established procedures. You may wish to seek the advice of private counsel regarding these procedures.
I hope this information is helpful to you.

Sincerely,

Marcia W. Johnson
Legal Counsel

Ms. Gizella Weisshaus
203 Wilson Street
Brooklyn, New York 11211
Milberg Weiss' $50M mistake

The inside story of why jurors didn't buy the firm's testimony.

BY KAREN DONOVAN
NATIONAL LAW JOURNAL STAFF REPORTER

ON MARCH 1990, WILLIAM S. LEARACH signed a complaint that named 100 defendants potentially liable to investors who lost their next eggs in the failure of Lincoln Savings & Loan. Among the defendants was Lexecom Inc., a Chicago-based economic consulting firm that authored reports for Lincoln.

But the complaint went a step further, naming Daniel R. Fischer, a Lexecom principal, as a defendant in the suit—a demand that turned out to be a $50 million mistake for Mr. Learach's firm, New York's Milberg Weiss Barnhill Hynes & Learach L.L.P.

The biggest single factor for us was that they went after Fischer personally," says Vincent M. Fischel, who served as spokesman of a federal jury that returned a $45 million verdict on April 12 against Milberg Weiss on claims that the law firm had abused the legal system.

The next day, Milberg Weiss agreed to pay $30 million to settle the case, rather than allow the jury to consider punitive damages.

About an hour before its verdict, the jury asked to review a July 1997 report by Lexecom responding to the Federal Home Loan Bank Board's conclusions that Lincoln had violated savings-and-loan regulations on risky investments. In this "safe and sound" report, as Milberg Weiss' defense lawyers called it, Lexecom's "suffer than comparable thrills."

[See "Milberg" page 40]

Milberg misjudged punies danger

[MILBERG FROM PAGE A1]

The jury's request alarmed Mr. Fischel's legal team. "I was a little worried," admits Alan N. Salenow, Chicago's Mayer, Brown & Platt. But the jurors were only making sure that the documents did not bear Mr. Fischel's name as its author.

"The majority of us thought it would have been fine to use Lexecom," says Mr. Fischel, who described Lexecom's work for Lincoln as "perhaps suspect."

The jurors concluded that Milberg Weiss added Mr. Fischel to the Lincoln complaint "for all the wrong reasons," says Mr. Fischel. Mr. Fischel was an expert on foreign exchange at a 1985 trial at which Mr. Learach asked for $500 million in damages, which would have been the highest award of its kind. The jury returned a default verdict.

At the time of the Lincoln trial, Mr. Learach allegedly told colleagues that he was using Lexecom to "put the little fucker out of business." The California lawyer who refereed this Learach comment refused to testify at the trial, leaving Mr. Fischel's lawyers to raid the testimony from his deposition to the jurors. On the witness stand, Mr. Learach denied he said this.

But the trial's final testimony contradicted Mr. Learach with huge drama. On April 8, the plaintiff's team played excerpts from the videotaped deposition of Michael F. Shanahan, a lawyer who practiced at a firm that shared office space with Milberg Weiss in San Diego in the early 1990s.

The Mayer Brown lawyers did not know that Mr. Shanahan had read an April 9 account of the proceedings in this newspaper and had told one of his partners at Los Angeles Alshuler, Grossman, Stahl & Kahan L.L.P. that he had evidence relevant to the case. The partner contacted Mr. Salenow, on claims that the defense had a close friend. On the witness stand, the jurors, Mr. Sherman testified about a Milberg Weiss party he attended after the firm won a $100 million verdict in a class action against Apple Computer Corp. Mr. Fischel had been the defense expert, and Milberg raised the Lincoln case to question his credibility. Several Milberg partners at the party, including Mr. Learach, "made estimates to the effect that that little fuck is dead, and he'll never testify again."

"It was highly dramatic and very effective," says Mr. Fischel of the video that was "dazzling."

Throughout the trial, another piece of evidence was also on jurors' minds. Mr. Fischel: a March 21, 1990, memo to Milberg lawyers from Leonard B. St. Milberg lawyers from San Diego of Mr. Fischel's lawyers called this document a "bad-idea memo," repair the jury that Milberg never turned it to the plaintiff, who learned of it in passing a former Milberg associate.

In the memo, Mr. Simon stated that the firm had "discovered some work" Lexecom did for Lincoln and was a Lexecom as a defendant in the Lexecom. The information should be extremely useful in cross-examining one of the jurors, he wrote.

"We couldn't get the memo out of our minds," says Mr. Fischel. The lawyers introduced no documentation at preparation of the lawsuit again. In a March 2006, he said that jurors as
Lawyers And The Holocaust

Atorneys handling cases dealing with compensation for survivors are at the same time battling criticism over taking money for their efforts issue which he referred to as moral de- leterious. It isloss that I depart from Mr. Kent, respectively, because in my view, the idea that we are talking about legal closure for monetary obligations will never and can never amount to moral closure. There will never be moral closure for the Holocaust, because how can that be?

Abraham Cooper, associate dean of the Simon Wiesenthal Center, which was involved in the Swiss banks case, says lawyers who can work for free would be the ideal situation, but not always a realistic one.

"Not every lawyer who has a good idea or who can represent his clients in a good way can afford to go pro bono," Cooper says. "But there is also no denying that our initial lawsuit in the Swiss thing was enhanced from a moral point of view by virtue of the fact that you had these guys rolling up their sleeves and going into it and spending hundreds of thousands of hours pro bono. On the other hand, it’s not a sin to be compensated."

Moreover, Cooper says, it’s the very presence of the lawyers that has achieved results.

"Whatever victories there have been and will be in terms of slave labor is an American victory based on American law, as well as the motivation, the gesture and the brilliance that a lot of people put into it to cobble this stuff."

The only reason the Swiss were at the table, the only reason these guys (in the other cases) are raising it because lawyers came in and things moved forward.

"If you’re not giving them all the credit, but there’s no question (that) without lawyers getting involved in these issues, there wouldn’t be a lot to be talked about in the past 10 years." Nevertheless, Cooper says that a certain awareness by the lawyers should be brought to bear on the hate because of the very nature.

Some of the lawyers believe that they charge may be far for the costs for class-action suits, but there are also lawyers going to the survivor community and saying ‘we want to represent you. There’s nothing wrong with lawyers being compensated for their work. On the other hand, when dealing with this issue, and with the survivor community, it would be nice to see sensitivities from certain lawyers to the victims.

Levin says none of the hundreds of individual survivors he has spoken with has ever voiced any criticism against lawyers taking a fee, and that it only comes from institutional organizations. One of his clients is Eva Kor, a Holocaust survivor who has filed a class-action suit against Bayer for medical experiments conducted in Auschwitz.

"I am eternally grateful to any lawyer who is willing to work as hard as she [Kor] and the other attorneys are working on my behalf and behalf of the other survivors," Kor said from her home in Terre Haute, Indiana. "We could never afford to hire somebody and pay them I am very aware that people cannot work without getting paid. The fact that they are going to make some money, that is perfectly OK. That is the way the world is working everybody."

"I do not know what their expenses are, but I am sure it’s more than a couple of thousand dollars. These lawyers are picking up it even without knowing when they started out if they would ever get paid."

Those who concede that lawyers should be paid are overwhemed by the amount being tossed about. The 10 lawyers involved in the Swiss case have agreed not to request more than 1.8 percent, which would still mean over $20 million in legal fees. But while that sounds high to the layman, it’s actually quite low for such class-action cases.

"In terms of the specific settlements, you have a federal judge who lives in town," Cooper says, "so that the figures may seem completely outrageous to the average guy in the street like us, but not in the American Jewish community."

Lawyers in standard civil litigation usually receive one-third of money recovered. In this case, however, was filed under separate rules governing civil-rights cases, and in those cases there’s a sliding scale of between five percent and 25 percent.

Levin says that, of the 1.8 percent in legal fees that are being sought, "if the judge gave 100 percent of that which was requested, it would be to my knowledge the lowest percentage of fees ever awarded for a case of that size in the history of American litigation."

Levin is involved in a few ongoing cases, including suits against German insurance companies, slave-labor cases against companies like Siemens, KHD, and I.W. Wagoner and others, German banks, and French banks. What irks him is the misdirected criticism when it comes from some of the Jewish organizations.

"I’m afraid that the last sound bite of the century will be that the Holocaust was just property. A few weeks ago, Fozman, national director of the ADL in New York, said, "And I don’t want to see an individual’s claim of $600 million [they ended up getting] paid by Rolf Kant and other lawyers. That’s enough."

"It is our position that lawyers should not be making a profit from this. We are opposed to lawyers’ fees being paid out of these proceeds, which were intended for Holocaust survivors’ benefits."

Levin dismisses such criticism, saying it’s easy for organizations to pick on lawyers instead of directing their attention at the goal, or the heretofore missed opportunities.

"The WJC has many accomplishments that it is not, but one of the accomplishments that it does not have is obtaining money from the Swiss or the Germans or from others, for slave labor. They have not been able to do that, for all the money that we have now gotten," says Levin, his voice rising. "We worked hand-in-hand against the Swiss banks with the World Jewish Congress, and they had 50 years to try and get that money before we filed the lawsuits, and they couldn’t do it. Remember, the Swiss swore that they would never pay more than $600 million, and they ended up paying $1.5 billion.

There’s, however, one particular Jewish lawyer who has been an ally to Levin, and not because he is taking money from the Holocaust survivors for arguing their case, but because he is arguing against them.

Kenneth Bialkin is a well-known attorney who is representing the General Accounting Office in the deliberations now taking place in the Eagleburger Commission. He thus finds himself sitting next to representatives of Jewish organizations and the State of Israel, advocating for the lowest amount of insurance companies should pay survivors.

Bialkin isn’t just any Jewish lawyer; he has been a government advocate and influence in Jewish organizations and the Anti-
Lawyer's heart is too big for his suits

By CYNTHIA R. FAGEN

If anyone told Melvyn Weiss it was time to slow down after a lifetime of good deeds because he's turning 68, it would be adding insult to injury — and boy, does he know both: He's a top class-action lawyer.

Weiss, who hails from The Bronx, loves to fight for the underdog. "I'm just a city boy," he said modestly, sitting in the Midtown office suite of his law firm, Milberg Weiss Bershad Hynes and Lerach LLP.

Whether he's working pro bono and winning $1.25 billion from Credit Suisse Group and UBS for Holocaust survivors, or suing Wall Street banks for billions for manipulating the markets, Weiss makes corporate Goliaths tremble when he comes calling.

"I have always had a belief that if you have been successful in life you have an obligation to pay back to the community in a substantial way," he said.

And that he has.

Along with his wife, he has created the Melvyn and Barbara Weiss Public Interest Foundation at New York University Law School. It provides funds for graduates to help pay back their student loans in exchange for taking lower-income public-interest jobs.

As a young lawyer straight out of NYU Law, Weiss pioneered the uncharted terrain of class-action law. That was more than 40 years ago.

Employee Brigitte Bloch has given him the nod for the Liberty Medal Lifetime Achievement award.

"He has just helped so many people. He's the kind of guy you always want to be around," she said.

Nomination form

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