

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
)
) v. No. 1:10cr485 (LMB)
)
JEFFREY ALEXANDER STERLING)

NOTICE

The United States, by and through its attorneys, hereby provides notice of the concurrent public filing of the government exhibits that were admitted at trial on January 16, 2015.

Respectfully submitted,

Jack Smith
Chief

Dana J. Boente
United States Attorney

Eric G. Olshan
Deputy Chief
Public Integrity Section
U.S. Department of Justice

James L. Trump
Senior Litigation Counsel

Dennis Fitzpatrick
Assistant United States Attorney
Eastern District of Virginia

By _____ /s/
Eric G. Olshan
Attorney for the United States of America
United States Attorney's Office
2100 Jamieson Avenue
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(202) 514-3003 (fax)
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DECLASSIFIED

CL BY:
CL REASON: Section 1.5 C
DECL ON: X1
DRV FRM: PER 1-87

NOTE FOR:

6 CIA officers, including David Cohen

James L. Pavitt@DO

Mr. T., Mr. J., Ms. W. 2

A CIA officer

FROM: Ms. S. 2
OFFICE: DDO/COS
DATE: 08/03/2000 08:58:29 AM
SUBJECT: call from mr. sterling

i had a 30 minute phone conversation with jeff sterling ca 1100 2 august. he launched directly into expressing his disappointment that his negotiating paper had been turned down flat with no explanation and no willingness to negotiate. he was surprised that the do was not willing to negotiate on his proposed settlement (he submitted a paper giving two options for either a settlement or a severance package). he complained that he had taken the time to put down his terms on paper, had started that negotiation process without counsel because brustin, the cleared lawyer was the eeo expert and his second, as-yet-uncleared lawyer was the negotiation expert. jeff cited again uncertainty about what he and his lawyer(s) could discuss; this apparently came up because brustin wanted access to other employees.

he advised he had been instructed to report in to NE division which was not what he wanted since he had no intention of working in the DO. however, he did need the income that his continued employment would provide. he noted that his employment would last only long enough to pursue his claim. he commented on the difficulty in finding housing in washington and inconvenience of moving from new york. when i asked if he had considered just resigning and staying in new york, he said that ideally he would have achieved a settlement on his terms, terminated his agency employment and remained in new york. however, because he believes he has a valid claim, can get attention to his case and is not in a financial position to just quit, he will return to washington and continue his employment. he said he would find it very difficult to work in NE because of his "halfway reputation" and because that's where the wrongs were done to him. he was thinking about a community job; when i asked about ogc, he cited his "distaste" for the agency (?)

he warned that given "what had been thrown at" him, his response wasn't likely to be amicable and that he intended to pursue his claims as long and as loud as possible inside and outside the agency. (he did not mention his call on rep. dixon nor did i raise it). he also complained that he had received no satisfaction on the investigation of his damaged headphones; he had asked an officer in new york about it periodically but heard there was no conclusion. jeff also said that while he heard no direct allegations, he had "heard"

EEO complaint

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**GOVERNMENT
EXHIBIT
52
1:10CR485**

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insinuations that he damaged the headphones himself to bolster his harrassment case.

jeff was most exercised when commenting that people who had treated him badly had been rewarded -- one had been promoted and two moved on to other, more senior assignments

the informal eeo process being over, he is now preparing to enter the formal eeo process. he has 15 days to file from the date he received the turndown on his proposed settlement

CC:

Sent on 3 August 2000 at 08:58:29 AM

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JEFFREY ALEXANDER STERLING

1745 Farmcrest Court, #221
Herndon, VA 22071
Phone 703/793-0388


January 28, 2002

Publications Review Board
CIA Gate 5
1J38 IP BLDG
Att: Bruce Wells, Scott Koch
1000 Colonial Farm Road
McLean, VA 22101

Dear PRB,

Per CIA regulation (Agency Review of Material Intended for Non-Official Publication, March 14, 1995) I am submitting the enclosed book proposal package for your review. As I understand, in accordance with the regulation, you are afforded 30 days for review. Please contact me should you have any questions.

Sincerely,


Jeffrey Sterling

02 FEB 7 10:16

GOVERNMENT
EXHIBIT
78
1:10CR485

PRB00002

Central Intelligence Agency



Washington, D. C. 20505

7 February 2002

Jeffrey Sterling
13455 Farmcrest Court, #721
Herndon, Virginia 20171

Dear Mr. Sterling:

On 7 February 2002, the Publications Review Board received your book proposal package entitled, *Spook*. I shall notify you of the Board's decision as soon as the review is complete.

Reviews usually take thirty or fewer days, but may take longer if the issues the submission presents are complex or must be referred to other government entities. Should that be the case with *Spook*, I shall inform you of the delay and give you an approximate completion date. Until the Board makes a determination on the proposal package, however, you are not to show it to editors, literary agents, publishers, reviewers, or anyone else.

The Board appreciates your cooperation with prepublication review.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Scott A. Koch". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott A. Koch, J.D., Ph.D.
Chairman, Publications Review Board

GOVERNMENT
EXHIBIT
81
1:10CR485

PRB00003

Central Intelligence Agency



Washington, D. C. 20505

8 March 2002

Mr. Jeffrey Sterling
13455 Farmcrest Court, #721
Herndon, Virginia 20171

Dear Mr. Sterling:

The Publications Review Board has completed its review of your book proposal for *Spook* and the sample chapter titled "The Shadow of Africa." The Board has determined that, in accordance with the terms of your secrecy agreement, the following information in the proposal and sample chapter is inappropriate for disclosure in the public domain. You must revise or delete it before publication. Most of the changes are minor, and, when made, do not affect the substance of your story.

Page 1, Proposal
line 11

Delete the first five words in the line. The Agency has not acknowledged this information despite press coverage.

Page 2, Proposal
line 8

Delete the ninth word in the line.

Page 9, Proposal
line 3

Delete the first and fourth words in the line.

lines 19 – 20

Delete the last eight words in line nineteen and all of line twenty.

Chapter List
line 14

Delete all but the first two words in the line.

Page 1 "The Shadow of Africa"
line 2

Delete the sixth word in the line.

GOVERNMENT
EXHIBIT
84
1:10CR485

PRB00004

Mr. Jeffrey Sterling

Page 2

8 March 2002

line 11

Delete the ninth word in the line. You may wish to substitute a phrase such as "were concerned" or "suspected."

Page 2, "The Shadow of Africa"

lines 3 – 4

Delete the last ten words in line three and the first two words in line four.

Page 3, "The Shadow of Africa"

line 8

Delete the fourteenth word in the line

line 15

Delete the entire line.

Page 4, "The Shadow of Africa"

line 14

Delete the second and third words in the line.

line 18

Delete the twelfth, thirteenth, and fourteenth words in the line. The Board would not object to ending the sentence with a phrase similar to, "are seldom trusted in that part of the world."

lines 19 – 20

Delete the last twelve words in line 19 and the first four words in line 20.

Page 8, "The Shadow of Africa"

line 13

Delete the fourteenth and fifteenth words in the line.

line 14

Delete the fifth word in the line.

Page 16, "The Shadow of Africa"

line 19

Delete the first three words in the line. In this instance and throughout, the problem is you have specifically identified the type and nationality of the target. Generic references are acceptable.

line 20 – 21

Delete the last two words in the line 20 and the first word in line 21.

line 22

Delete the eighth and eleventh words in the line.

Page 17, "The Shadow of Africa"

line 2

Delete the third word in the line.

PRB00005

Mr. Jeffrey Sterling

Page 3

8 March 2002

Page 19, "The Shadow of Africa"

line 13

Delete the twelfth word in the line.

lines 14 – 15

Delete the last two words in line 14 and the first word in line 15.

line 16

Delete the second, seventh, eighth, and ninth words in the line.

line 20

Delete the seventeenth word in the line.

Page 20, "The Shadow of Africa"

line 2

Delete the first two words in the line.

line 6

Delete the first, second, and ninth words in the line.

line 11

Delete the fifth word in the line.

line 13

Delete thirteenth, fourteenth, and fifteenth words in the line.

line 15

Delete the tenth, eleventh, and twelfth words in the line.

Page 21, "The Shadow of Africa"

line 1

Delete the penultimate word in the line.

line 2

Delete the fifth and sixth seventh words in the line. You may wish to substitute the term "office."

line 13

Delete the second word in the line.

Page 23, "The Shadow of Africa"

line 2

Delete the sixth, seventh, and eighth words in the line. You may wish to substitute the word "office."

line 3

Delete the sixth word in the line.

line 6

Delete the tenth, eleventh and twelfth word in the line.

I have enclosed copies of the edited pages for your records.

Mr. Jeffrey Sterling

Page 4

8 March 2002

After making the changes noted above, you need not resubmit the proposal package unless you make substantive changes or additions to it.

This review applies only to your proposal and sample chapter. The Board must still review and approve the entire manuscript—or at least those chapters that deal with your Agency career, intelligence data or activities, or topics to which you had access to classified information. Consistent with the terms of your secrecy agreement, you must not show any material to editors, publishers, literary agents, readers, or anyone not cleared to receive it until you secure Agency approval.

When you have finished the entire book, please send it to us as at the following address. Please do not submit each chapter as you finish it, as piecemeal reviews are inefficient and lead to inconsistent results.

CIA Gate 5
Attention: Scott A. Koch
1J38 IP Building
1000 Colonial Farm Road
McLean, Virginia 22101.

We have had some difficulty with regular mail delivery after the terrorist attack on the United States last September, and if you use this address we will be sure to get your submission.

Please do not hesitate to call me at (703) 613- if you have any questions or if we can be of assistance. Thank you for your participation in prepublication review.

Sincerely,



Scott A. Koch, J.D., Ph.D.
Chairman, Publications Review Board

Encls.

PRB00007

Central Intelligence Agency



Washington, D. C. 20505

28 March 2002

Mark S. Zaid, Esq.
Suite 1175
1501 M Street, N.W.
Washington, D.C. 20005

VIA FACSIMILE 202-371-6643 AND FIRST CLASS MAIL

Re: Mr. Jeffrey Sterling's Manuscript *Spook*

Dear Mr. Zaid:

Thank you for your letter of 26 March 2002. Since we have been unsuccessful in reaching one another by telephone, I thought a letter the most expeditious way of communicating. I have also received the voicemail message you left on the afternoon of 27 March, but I will be in meetings most of today and am afraid that I will miss your call.

I agree that a meeting is in order, and will make the necessary arrangements so that all interested parties can be present. In the past, I have always found personal meetings with authors and their counsel productive. I am sure that the majority of authors would agree.

I do not know how familiar you are with prepublication review, but my job is to ensure that the author can tell his story without revealing information that would damage national security. This is a process of negotiation, and suggested changes of phrase or rewording often will address many of the Board's initial objections. The Board can only remove classified information; it cannot and will not remove things the Agency might find embarrassing or critical. We are able to reach agreements with the overwhelming majority of our authors.

You have asked whether you can see Mr. Sterling's unredacted submission. I can certainly make it available to you, but before I do I need Mr. Sterling's written permission. All of our authors have proprietary, copyrighted interests in their manuscripts, and we are careful to ensure that only those directly involved in the normal course of review have access to them. This policy protects the integrity of prepublication

GOVERNMENT
EXHIBIT

86

1:10CR485

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Mark S. Zaid, Esq.

Page 2

28 March 2002

review and assures authors that unauthorized people do not see their work before publication.

I shall let you and Mr. Sterling know the date, time, and place of our meeting once I am able to coordinate them with all interested parties. In the meantime, please feel free to call me at 703-613- if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott A. Koch", with a long horizontal flourish extending to the right.

Scott A. Koch, J.D., Ph.D.
Chairman, Publications Review Board

X00182

Central Intelligence Agency



Washington, D. C. 20505

16 April 2002

Mark S. Zaid, Esq.
Suite 770
1275 K Street, N.W.
Washington, D.C. 20005

VIA FACSIMILE 202-371-6643

Re: Jeffrey Sterling

Dear Mr. Zaid:

This letter will confirm our meeting on Thursday, 18 April 2002 at 9:00 a.m. at Headquarters to discuss the Publications Review Board's redactions to your client's sample chapter. When you get to the front gate, your contact will be G at 703-482-

I have verified that both you and Mr. Sterling will be able to enter the compound. Should there be any problem whatsoever, please call G .

I will be out of the office on Wednesday, 17 April. If you need anything before our meeting, please call Board Executive Secretary Bruce Wells before noon at (703) 613-

I look forward to meeting you both.

Sincerely,

A handwritten signature in black ink that reads "Scott A. Koch".

Scott A. Koch, J.D., Ph.D.
Chairman, Publications Review Board

GOVERNMENT
EXHIBIT

87
1:10CR485

PRB00008

JEFFREY STERLING

13455 Farmcrest Court, #721
Herndon, VA 20171
703/793-9388

October 22, 2002

CIA
Att: Bruce Wells
Publications Review Board
1H11 IP Bldg
1000 Colonial Farm Road
McLean, VA 22101

02 OCT 25

Dear Mr. Wells,

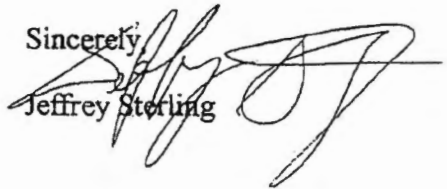
As per our recent telephone conversation, here are the chapters from my book. The chapters I have included are the only ones that deal with the Agency or classified information in my completed manuscript. I have also included a page with the new chapter names I will be using.

I decided to re-submit the "Shadow of Africa" chapter after making edits based on your previous review. Along with edits (which are in red) I also deleted some of the information in the chapter, but I think you should have no difficulty in comparing it with the previous version. I still may just leave the book with your review areas blacked out, but I'll decide that later once I see the result of this review.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Jeffrey Sterling



GOVERNMENT
EXHIBIT

89

1:10CR485

PRB00009

Central Intelligence Agency



Washington, D. C. 20505

2 December 2002

Mr. Jeffrey Sterling
13455 Farmcrest Court, #721
Herndon, Virginia 20171

Dear Mr. Sterling:

The Publications Review Board has completed its review of the six chapters of your memoirs that dealt with your CIA career. As I mentioned to you on the phone we had to delay our response beyond the normal 30-day deadline when a question about one aspect was raised at the eleventh hour. Since it now appears that Wednesday, 5 December, will be the earliest we will be able to get together to discuss the question, I am sending you an interim response covering chapters 5, 6, 7, and all but the last paragraph of chapter 8. I will advise you of any changes the Board will seek in the remaining material. I appreciate your understanding and apologize for any inconvenience.

The Board has determined that, in accordance with the terms of your secrecy agreement, the following information in your manuscript is inappropriate for disclosure in the public domain and must be revised or deleted prior to publication:

Chapter 5, Page 1

line 14

Delete the first eight words in the line. You may wish to substitute the phrase "U.S. diplomat."

Chapter 5, Page 20

lines 13 - 14

Delete the last eleven words in line 13 and the first nine words in line 14.

line 16

Delete the first word in the line.

Chapter 6, Page 3

line 5

Delete the fourth and fifth word in the line. You may wish to substitute "Middle East."

line 7

Delete the tenth word in the line. If you need to elaborate, a phrase like "operations in that part of the world" would address the Board's concerns.

GOVERNMENT
EXHIBIT

90

1:10CR485

PRB00010

Mr. Jeffrey Sterling

Page 2

2 December 2002

line 17

Delete the fifth word (sixth, if you count the word you blacked out) in the line. The Board had redacted that word in the original review. You may substitute the word "targets."

Chapter 8, Page 12

lines 8 – 9

Delete the last two words in line 8 and the first thirteen words in line 9. You may wish to substitute a phrase like "that offer access to the diplomatic community, I was given a low-level military administrative position."

line 17

Delete the first four words in the line. You may wish to substitute a word like "CIA chief" or "my boss."

line 18

Delete the ninth through twelfth words in the line. You may wish to substitute a phrase like "CIA chiefs."

line 20

Delete the thirteenth through sixteenth words in the line. You may wish to substitute like "his boss" or "the CIA chief."

Chapter 8, Page 13

line 16

Delete fifth through thirteenth and the last three words in the line. You may wish to substitute the phrase "with fewer than twenty."

Copies of the edited pages are enclosed for your records.

After making the changes the Board requires, you must resubmit the manuscript for final Agency review. In lieu of resubmitting the entire manuscript, you may return only the affected pages or you may verify in writing that you have made all the deletions and revisions.

If you add material to or change the manuscript the Board has reviewed, you must submit these additions or changes to us before giving them to your publisher or anyone else. Please mark or otherwise indicate the new material clearly so that we can expedite our review. Additional items that require submission include but are not limited to photographs, photograph captions, illustrations, diagrams, tables, maps, or charts.

You must submit any additional galley proofs of the final manuscript as it will appear in book form so the Board can verify that the published version is the approved version. Your responsibility as the author is to ensure that the publisher releases only the Board-approved version. We will work promptly to complete this final review but please ensure that the publishing schedule permits adequate time for the Board to complete its

Mr. Jeffrey Sterling

Page 3

2 December 2002

work. The Board gives galley reviews high priority because it knows that authors and publishers have firm deadlines.

The Board encourages you include the following disclaimer. "This material has been reviewed by the CIA. That review neither constitutes CIA authentication of information nor implies CIA endorsement of the author's views."

The Board is always pleased to buy copies of books former Agency employees publish. Please let us know when your memoirs will be commercially available so that we can add a copy to the Board's research library.

Please do not hesitate to contact me if you have any questions or if we can be of assistance.

Sincerely,



C. Bruce Wells
Acting Chairman, Publications Review Board

Central Intelligence Agency



Washington, D. C. 20505

23 December 2002

Mr. Jeffrey Sterling
13455 Farmcrest Court, #721
Herndon, Virginia 20171

Dear Mr. Sterling:

As we discussed on the telephone last week, the Publications Review Board has not finished reviewing chapters 9 and 10 of *Spook*. We are making every effort to complete the review as soon as possible and will notify you immediately when it is done. I apologize for the delay and inconvenience.

The Board appreciates your cooperation in this review process.

Sincerely,

A handwritten signature in cursive script that reads "C. Bruce Wells".

C. Bruce Wells
Acting Chairman, Publications Review Board

GOVERNMENT
EXHIBIT

91

1:10CR485

PRB00013

Central Intelligence Agency



Washington, D.C. 20505

3 January 2003

Mr. Jeffrey Sterling
13455 Farmcrest Court, #721
Herndon, Virginia 20171

Dear Mr. Sterling:

The Publications Review Board has completed its review of the material from your memoirs not covered in our letter of 2 December 2002 and has determined that, in accordance with the terms of your secrecy agreement, the following information in your manuscript is inappropriate for disclosure in the public domain and must be revised or deleted prior to publication:

Chapter 5, Page 20
lines 8 – 9

Delete the last four words in line 8 and the first twelve words in line 9. The precise numbers in these units are not acknowledged. You may give a generic or comparative number like "smaller than the normal class by a third." We overlooked this redaction in the first review and apologize for any inconvenience.

Chapter 8, Page 20
line 19

Delete the fifth, sixth, and ninth words in the line.

line 20

Delete the fourth through ninth word in the line. You may wish to substitute the phrase "an Iranian expert" or "like me, he had a lot of experience on Iran."

lines 20 – 21

Delete the last five words in line 20 and the first two words in line 21. You may wish to substitute the phrase "he was."

Chapter 8, Page 21
line 5

Delete the last four words in the line. You may wish to substitute a phrase like "wasn't overseas."

line 8

Delete the second through sixth words in the line.

GOVERNMENT
EXHIBIT

92

1:10CR485

PRB00014

Mr. Jeffrey Sterling

Page 2

3 January 2003

Chapter 9, Page 3

lines 11 – 12

Delete the last five words in line 11 and the first word in line 12. You may wish to substitute the phrase "I would be working for."

Chapter 9, Page 6

line 14

Add the word "working" between the fourth and fifth words in the line.

lines 16 – 17

Delete the last eight words in line 16 and the first four words in line 17.

Chapter 9, Page 7

line 3

Delete the eighth, ninth and tenth words in the line.

line 7

Delete twelfth and thirteenth words in the line.

line 12

Delete the first four words in the line. You may substitute a phrase like "I'll never forget the day." Also, add the phrase "at Headquarters" at the end of the first sentence.

Chapter 9, Page 9

lines 3 – 4

Delete the last word in line 3 and the first word in line 4. You may wish to substitute the phrase "my group."

lines 4 – 5

Delete the last nine words in line 4 and the first eight words in line 5. You may wish to substitute a phrase like "and clearly this . . ."

line 6

Delete the first two words in the line. You may substitute a phrase like "had risen to the most senior ranks in the DO."

lines 6 – 7

Delete the last three words in line 6 and the first eleven words in line 7.

lines 17 – 20

Delete the last six words in line 17 and all of lines 18 – 20. The Board would withdraw its objection if you rewrote this anecdote in a way that it takes place in Headquarters.

Chapter 9, Page 10

lines 4 – 5

Delete the fifth, thirteenth and fourteenth words in line 4 and the first five words in line 5.

Mr. Jeffrey Sterling

Page 3

3 January 2003

lines 11 –12

Delete all of line 11 and the first word in line 12.

line 13

Delete the fourth, fifth and sixth words in the line. Use the guidance provided for page 12 of chapter 8.

Chapter 9, Page 11

line 3

Delete the fifth, sixth and seventh words in the line. You may wish to substitute the phrase "by the Agency."

line 5

Delete the eleventh word in the line. You may wish to substitute the word "me."

Chapter 9, Page 12

line 1

Delete the eighth, ninth and tenth words in the line.

line 2

Delete the seventh through twelfth words in the line.

line 18

Delete the fifth through ninth words in the line.

Chapter 9, Page 13

line 1

Delete the seventh through eleventh word in the line.

line 18

Delete the first five words in the line.

Chapter 9, Page 14

lines 3 – 10

Delete the last six words in line 3 and all of lines 4 through 10. If you rewrite to disguise the locale the Board will reconsider its objection.

lines 16 – 17

Delete the last two words in line 16 and the first word in line 17.

Chapter 9, Page 15

line 19

Delete eighth, ninth and tenth words in the line.

Chapter 9, Page 16

line 2

Delete the second through fifth words in the line.

line 4

Delete the eleventh, twelfth and thirteenth words in the line.

Mr. Jeffrey Sterling

Page 4

3 January 2003

line 8

Insert the phrase "at Headquarters" after the fourth word in the line.

Chapter 10, Page 5

line 14

Delete the sixth through tenth words in the line.

line 18

Delete the first three and the twelfth words in line 18. This individual is still under cover. You may use first name and last initial.

Chapter 10, Page 6

line 5

Delete the eighth word in the line.

line 6

Delete the third, fourth and fifth words in the line. You may wish to substitute the phrase "regarding New York" or "in this case."

Chapter 10, Page 7

line 1

Delete the thirteenth, fourteenth and fifteenth words in the line.

lines 16 - 17

Delete all of line 16 and the first word in line 17. The Board would pose no objection to the first sentence elsewhere provided it is not associated with the locale of the events depicted in the paragraph.

line 17

Insert the phrase "at Headquarters" after the tenth word.

line 20

Delete the twelfth, thirteenth and fourteenth words in the line. You may wish to substitute a word like "onboard."

line 21

Delete the fourth, fifth and sixth word in the line. You may wish to substitute the word "effort" or "group."

Chapter 10, Page 8

line 1

Delete the fourteenth word in the line. You may wish to substitute the word "diplomatic."

Copies of the edited pages are enclosed for your records.

After making the changes the Board requires, you must resubmit the manuscript for final Agency review. In lieu of resubmitting the entire manuscript, you may return

PRB00017

Mr. Jeffrey Sterling

Page 5

3 January 2003

only the affected pages or you may verify in writing that you have made all the deletions and revisions.

If you add material to or change the manuscript the Board has reviewed, you must submit these additions or changes to us before giving them to your publisher or anyone else. Please mark or otherwise indicate the new material clearly so that we can expedite our review. Additional items that require submission include but are not limited to photographs, photograph captions, illustrations, diagrams, tables, maps, or charts.

You must submit any additional galley proofs of the final manuscript as it will appear in book form so the Board can verify that the published version is the approved version. Your responsibility as the author is to ensure that the publisher releases only the Board-approved version. We will work promptly to complete this final review but please ensure that the publishing schedule permits adequate time for the Board to complete its work. The Board gives galley reviews high priority because it knows that authors and publishers have firm deadlines.

The Board encourages you include the following disclaimer: "This material has been reviewed by the CIA. That review neither constitutes CIA authentication of information nor implies CIA endorsement of the author's views."

The Board is always pleased to buy copies of books former Agency employees publish. Please let us know when *Spook* will be commercially available so that we can add a copy to the Board's research library.

Please do not hesitate to contact me if you have any questions or if we can be of assistance.

Sincerely,



C. Bruce Wells
Acting Chairman, Publications Review Board

PRB00018

UNCLASSIFIED//AIUO

Charles B. Wells

01/07/03 03:21 PM

To:

Five CIA employees

cc:

Two CIA employees

Scott A. Koch@DA

Subject: Phone Call from Jeffrey Sterling

THIS MEMORANDUM PREPARED IN ANTICIPATION OF LITIGATION

I called Jeffrey Sterling today around noon in response to his phone message. He was calling to express his extreme unhappiness with the redactions—and particularly information he was asked him to add— the Board had made in the final two chapters. The phrases "absolutely disgusted" and "absolutely reprehensible" were used on more than one occasion.

Mr. Sterling wanted to know by what authority the Board could require that language be added to change the truth of what he was portraying. I commented that I was not sure that the Board had such authority but that we were offering a way to get around what we did regard as classified. He also expressed dismay with the "inconsistencies" with what he had allowed in his earlier book proposal. I said that redactions were basically consistent with the verbal guidance he had gotten, i.e. that we would allow him to portray himself as a singleton working for the Agency in that locale.

At one point in the conversation I told him that if he felt the Board was off base he should come back in writing with his counterargument and/or evidence and the Board would reconsider its positions. If he was still not happy he could then initiate a formal appeal to the EXDIR. He concluded with the statement that it was clear to him that the Agency was going to fight him on every point and that we were treating him differently from other authors. He said that as a result he would be coming "at us with everything at his disposal." He concluded that his lawyer would be giving us a call to set up a meeting and I said he should contact the Board legal representative, who Mr. Zaid knows.

This is a record.

Program Files - Pre-Publication Review (PR-PRGRM-
PRB-)

-Sterling, Jeffrey; Spook;

UNCLASSIFIED//AIUO



FILED

MAR - 4 2003

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JEFFREY STERLING
13455 Farmcrest Court, #721
Herndon, Virginia 22171

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20505

Defendant.

*
CASE NUMBER 1:03CV00603

JUDGE: Emmet G. Sullivan

DECK TYPE: Administrative Agency Review

DATE STAMP: 03/04/2003
4

* * * * *

COMPLAINT

Plaintiff Jeffrey Sterling brings this action against defendant Central Intelligence Agency for injunctive and declaratory relief pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, the Administrative Procedure Act, 5 U.S.C. § 701 et seq., the All Writs Act, 28 U.S.C. § 1651, the Central Intelligence Agency's internal regulations and the First Amendment to the Constitution of the United States. The Central Intelligence Agency has unlawfully imposed a prior restraint upon Jeff Sterling by infringing on his right to publish his memoirs.

JURISDICTION

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 702 and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate in the District under 5 U.S.C. § 703 and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff Jeffrey Sterling was formerly employed by the Central Intelligence Agency as an Operations Officer. He is required by virtue of a secrecy agreement to submit all writings for prepublication review. He is a citizen of the United States and resides in the Commonwealth of Virginia.

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DOCUMENT**

I hereby attest and certify that this is a printed copy of a document which was electronically filed with the United States District Court for the District of Columbia.

Date Filed: 03-04-03

NANCY MAYER WHITTINGTON, CLERK

By: Michael Darby 8-29-06



4. Defendant Central Intelligence Agency ("CIA") is an agency as defined by 5 U.S.C. § 701. Its actions have prevented Sterling from publishing portions of his manuscript.

FACTS

5. Sterling was formerly employed by the CIA as an Operations Officer from 1993-2001.

6. In early 2002, Sterling submitted, pursuant to one or more secrecy agreements, several chapters of and a proposal for his memoirs to the CIA's Office of Prepublication Review ("PRB") for prepublication review. The CIA is required to issue decisions regarding submissions within thirty days of receipt of the document.

7. In April 2002, Sterling and his counsel, Mark S. Zaid, Esq., attended a meeting with PRB officials to discuss CIA concerns regarding some of the contents of Sterling's memoirs. Mr. Zaid presently holds a SECRET level clearance from the Department of Justice, and has what is called limited security approval to SECRET level information at the CIA and Defense Intelligence Agency. As part of his representation of Sterling, he has been approved by the CIA to have access to certain classified information including the memoirs in question. As a result of this meeting, the parties mutually agreed upon certain modifications to the manuscript and an understanding on how to draft the document so as to avoid future classification concerns.

8. In or around October 2002, Sterling submitted additional chapters of his memoirs for classification review. He followed the guidelines presented to him at the April 2002 meeting and the draft was written consistent with prior CIA classification decisions. Although the CIA PRB initially informed Sterling that it would issue its final decision within the thirty-day required time frame, the CIA PRB notified Sterling in late November 2002, that additional concerns had arisen with respect to contents of the manuscript.

9. Upon information and belief, the CIA's Office of General Counsel ("OGC") and other CIA policy offices became involved in the PRB declassification review of Sterling's manuscript. The specific involvement of OGC, in particular, was unusual for manuscript reviews due to the authority provided to the PRB, which has its own attorney, to resolve classification reviews. Indeed, in this particular case, OGC became involved solely to ensure the CIA retained a litigation advantage in a pending unrelated discrimination lawsuit - Sterling v. Tenet et al. 01 Civ. 8073 (S.D.N.Y.), brought by Sterling against the CIA. Thus, information that would otherwise have been cleared by the PRB as unclassified in Sterling's manuscript was ordered to be considered classified so that the CIA's position would be consistent with its litigation strategy in the other lawsuit.

10. By letter dated December 2, 2002, the CIA notified Sterling of its initial decisions regarding his October submission and informed him that certain information within his manuscript was considered classified. Some of the CIA's new decisions conflicted with its prior classification decisions.

11. By letter dated January 3, 2003, the CIA notified Sterling of additional decisions regarding his October submission. Sterling was not only notified that the CIA considered certain information in his manuscript to be classified, which also conflicted with earlier decisions, but the CIA informed Sterling that he should add information into the manuscript that was blatantly false. Upon information and belief, the CIA instructed Sterling to knowingly include false information within his manuscript solely to maintain a litigation advantage against Sterling in the unrelated discrimination lawsuit.

FIRST CAUSE OF ACTION
(FIRST AMENDMENT - RIGHT TO PUBLISH -
CLASSIFICATION CHALLENGE)

12. Sterling repeats and realleges the allegations contained in paragraphs 1 through 11 above, inclusive.

13. Sterling properly submitted, pursuant to one or more secrecy agreements, his draft memoirs.

14. The CIA has identified classification concerns in the manuscript and denied Sterling the right to publish certain information within his draft memoirs.

15. The CIA has failed to show that Sterling's First Amendment right to publish is outweighed by the government's interest in efficiently carrying out its mission by minimizing harms that are real, not merely conjecture.

16. The CIA has failed to demonstrate the existence of substantial government interests that would enable it to prohibit the publication of certain information within Sterling's memoirs. Moreover, they have imposed unreasonable restrictions on Sterling's activities that are protected by the First Amendment.

17. The CIA's restrictions imposed upon Sterling have been unduly vague and were not narrowly confined to avoid infringement of his First Amendment rights. They have unnecessarily restricted speech that does not serve to protect any substantial government interest.

18. Most importantly, the CIA has failed to produce explanations with reasonable specificity that demonstrate a logical connection between the information to be deleted and the reasons for classification. The reasons for classification are neither rational or plausible. In fact, some or all of the decisions were made solely for the CIA to gain a litigation advantage against Sterling in another lawsuit. Thus, they cannot support the CIA's attempt to censor Sterling's memoirs.

19. Because the CIA has impermissibly infringed upon Sterling's right to publish the information contained within his manuscript, they have violated Sterling's First Amendment rights. Thus, Sterling has suffered actual adverse and harmful effects, including, but not limited to, possible civil or criminal penalties, a delay in being able to report in a timely fashion on credible news stories, and/or lost or jeopardized present or future financial opportunities, which impairs his ability to serve the public.

WHEREFORE, plaintiff Jeffrey Sterling requests that the Court award him the following relief:

- (1) Issue a permanent injunction to block the CIA from restraining the publication of portions of his memoirs;
- (2) Enjoin the CIA from initiating civil or criminal proceedings against Sterling for future publication of any information within his memoirs;
- (3) Declare that Sterling possesses a First Amendment right to publish the information within his memoirs;
- (4) Declare that the CIA violated the Administrative Procedure Act and its internal regulations governing prepublication review;
- (5) Award Sterling the costs of the action and reasonable attorney fees under the Equal Access to Justice Act or any other applicable law; and
- (6) grant such other relief as the Court may deem just and proper.

Date: March 4, 2003

Respectfully submitted,



Mark S. Zaid, Esq. 440532
Krieger & Zaid, PLLC
1133 21st Street, N.W., Suite 800
Washington, D.C. 20036
(202) 223-9050

Attorney For Plaintiff

CLERK'S OFFICE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CO-932
Rev. 4/96

NOTICE OF DESIGNATION OF RELATED CIVIL CASES PENDING
IN THIS OR ANY OTHER UNITED STATES COURT

FILED

Civil Action No. **03 0603**
(To be supplied by the Clerk)

MAR - 4 2003

NOTICE TO PARTIES:

Pursuant to Rule 405(b)(2), you are required to complete this form at the time of filing any civil action which is related to any pending cases or which involves the same parties as the cases to the same subject matter of any dismissed related cases. This form must be prepared in sufficient quantity to provide one copy for the Clerk's records, one copy for the Judge to whom the cases is assigned and one copy for each defendant, so that you must prepare 3 copies for a one defendant case, 4 copies for a two defendant case, etc.

NOTICE TO DEFENDANT:

Rule 405(b)(2) of this Court requires that you serve upon the plaintiff and file with your first responsive pleading or motion any objection you have to the related case designation.

NOTICE TO ALL COUNSEL

Rule 405(b)(3) of this Court requires that as soon as an attorney for a party becomes aware of the existence of a related case or cases, such attorney shall immediately notify, in writing, the Judges on whose calendars the cases appear and shall serve such notice on counsel for all other parties.

The plaintiff, defendant or counsel must complete the following:

I. RELATIONSHIP OF NEW CASE TO PENDING RELATED CASE(S).

A new case is deemed related to a case pending in this or another U.S. Court if the new case: [Check appropriate box(es) below.]

- (a) relates to common property
- (b) involves common issues of fact
- (c) grows out of the same event or transaction
- (d) involves the validity or infringement of the same patent
- (e) is filed by the same pro se litigant

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Date Filed: 03-04-03

NANCY MAYER WHITTINGTON, CLERK
By: Michael Darby 8-2

2. RELATIONSHIP OF NEW CASE TO DISMISSED RELATED CASE(ES)

A new case is deemed related to a case dismissed, with or without prejudice, in this or any other U.S. Court, if the new case involves the same parties and same subject matter.

Check box if new case is related to a dismissed case:

3. NAME THE UNITED STATES COURT IN WHICH THE RELATED CASE IS FILED (IF OTHER THAN THIS COURT):

4. CAPTION AND CASE NUMBER OF RELATED CASE(S). IF MORE ROOM IS NEED PLEASE USE OTHER SIDE.

Danny Stillman v. Department of Defense et al. C.A. No. 01-1342 (EG)

3-4-03
DATE

Michael Darby
Signature of Plaintiff/Defendant (or counsel)

Central Intelligence Agency



Washington, D.C. 20505

25 August 2003

Mr. Jeffrey Sterling
13455 Farmcrest Court, #721
Herndon, VA 20171

Dear Mr. Sterling:

In conjunction with the preparation of a motion for summary judgment in response to the lawsuit that you have brought challenging the Publication Review Board's review of your manuscript, the Board has identified additional information in your manuscript that, in accordance with the terms of your secrecy agreement, is inappropriate for disclosure in the public domain and must be revised or deleted prior to publication. This information was inadvertently overlooked in our prior review. To reiterate, these are changes in addition to ones we have conveyed to you earlier.

Book Proposal, Page 7

line 5

Delete the fourth through seventh words in the line. If you have provided a copy of the Book Proposal to anyone, you must inform the Board, undertake to retrieve it and replace it with a Book Proposal ~~redacted~~ consistent with this additional guidance.

line 13

Delete the last three words in the line.

Chapter 8, Page 2

line 21

Delete the second word in this line. You may wish to substitute "assignments" or "jobs."

Chapter 8, Page 6

lines 10 - 13

Delete the last 16 words in line 10, all of lines 11 and 12, and the first eight words of line 13.

GOVERNMENT
EXHIBIT
116
1:10CR485

PRB00020

Mr. Jeffrey Sterling

Page 2

25 August 2003

line 15

Delete the third through seventh words in the line.

lines 16 – 17

Delete the last six words in line 16 and the first word in line 17. You may wish to substitute the phrase "Northern Europe."

lines 17 – 18

Delete the twelfth word in line 17 and the fourteenth word in line 18. You may wish to substitute a word like "job" in both places.

line 22

Delete the ninth word in the line.

Chapter 8, Page 10

line 1

Delete the third through sixth words in the line.

Chapter 8, Page 12

line 6

Delete the sixth word in the line.

line 9

Initially the Board had deleted the entire reference to your cover job. On further review, we have determined that you may refer to your job as it currently appears in line 9, Chapter 8, page 12, provided you still delete the first five and the eleventh, twelfth and thirteenth words in the line.

line 11

Delete the ninth word in the line.

line 17

Delete the first four words in the line. You may substitute the phrase "the supervisor for my work in Germany."

lines 18 – 21

Delete the last eleven words, all of lines 19-20, and the first five words of line 21.

line 21

Delete words nine to eleven. You may wish to substitute the words "in his hotel room."

Chapter 8, Page 13

line 6

Delete the eleventh through the fifteenth words in this line.

line 10

Delete the fifth, sixth and seventh words in the line.

line 11

Delete the second through the fifth words.

lines 15 – 17

Mr. Jeffrey Sterling

Page 3

25 August 2003

Delete the last two words in line 15, all of line 16, and the first two words in line 17.
line 18
Delete the eleventh word in the line.

Chapter 8, Page 14

lines 2 – 3

Delete the last ten words in line 2 and the first seven words in line 3.

line 5

Delete the thirteenth, fourteenth and fifteenth words in the line.

line 8

Delete the fourth word in the line. You may wish to substitute the word "Agency."

lines 8 – 9

Delete the last ten words in line 8 and the first four words in line 9.

Chapter 8, Page 15

lines 11 – 12

Delete the last five words in line 11 and first five words in line 12. A phrase like "of not being allowed the opportunity to do what I was trained for" would address the Board's concern.

lines 13 – 14

Delete the thirteenth, fourteenth and fifteenth words in line 13 and the same phrase in line 14.

lines 18 – 19

Delete the last word in line 18 and the first two words in line 19. You may wish to substitute the phrase "the supervisor for my work in Germany."

Chapter 8, Page 17

line 22

Delete the tenth through fourteenth words in the line. You may wish to substitute the phrase "the supervisor for my work in Germany."

Chapter 8, Page 18

line 1

Delete the eighth word in the line. You may wish to substitute the word "the supervisor for my work in Germany."

Chapter 9, Page 10

line 15

Delete the twelfth word in the line. You may wish to substitute the word "target."

line 17

Mr. Jeffrey Sterling

Page 4

25 August 2003

The Board had initially sought the deletion of third, fourth and fifth words in the line. Upon further review and to be consistent with earlier modifications, you need to delete only the fourth word in the line.

line 18

Delete the ninth and tenth words.

Chapter 9, Page 11

line 20

Delete the sixth word in the line. You may wish to substitute the word "target."

Chapter 9, Page 12

line 2

Delete the fifteenth word in the line. You may wish to substitute the phrase "this target."

Chapter 9, Page 13

line 12

Delete the fourth and fifth words in the line. You may wish to substitute the phrase "operational targets."

line 18

Delete the fourteenth word in the line. You may wish to substitute the phrase "operational target."

line 19

Delete the third through eighth words in the line.

Chapter 9, Page 14

line 22

Delete the fourth and fifth words in the line.

Chapter 9, Page 17

line 4

Delete ninth word in the line. Substituting the word "there" would address the Board's concerns.

line 10

Delete the tenth word in the line.

line 10

Delete the last word in the line.

line 12

Delete the seventh word in the line. Substituting the word "there" would address the Board's concern.

Copies of the edited pages with redactions are enclosed for your records.

PRB00023

Mr. Jeffrey Sterling

Page 5

25 August 2003

After making the changes the Board requires, you must resubmit the manuscript for final Agency review. In lieu of resubmitting the entire manuscript, you may return only the affected pages. You are reminded of your Secrecy Agreement obligations not to disclose the manuscript to anyone who is not authorized by the Agency to have access to it until it has been approved for release by the Agency.

If you add material to or change the manuscript the Board has reviewed, you must submit these additions or changes to us before giving them to your publisher or anyone else. Please mark or otherwise indicate the new material clearly so that we can expedite our review. Additional items ~~that require submission include~~ but are not limited to photographs, ~~photograph~~ captions, illustrations, diagrams, tables, maps, or charts.

You must submit any additional galley proofs of the final manuscript as it will appear in book form so the Board can verify that the published version is the approved version. Your responsibility as the author is to ensure that the publisher releases only the Board-approved version. We will work promptly to complete this final review but please ensure that the publishing schedule permits adequate time for the Board to complete its work. The Board gives galley reviews high priority because it knows that authors and publishers have firm deadlines.

The Board encourages you to include the following disclaimer: "This material has been reviewed by the CIA. That review neither constitutes CIA authentication of information nor implies CIA endorsement of the author's views."

Please do not hesitate to contact me if you have any questions or if we can be of assistance.

Sincerely,



Paul-Noel Chretien, J.D.
Chairman, Publications Review Board

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JEFFREY STERLING,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:03CV00603
)	
)	Hon. Thomas Penfield Jackson
CENTRAL INTELLIGENCE AGENCY,)	
)	
Defendant.)	
_____)	

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Fed. R. Civ. P. 41(a)(1), Plaintiff Jeffrey Sterling and Defendant Central Intelligence Agency hereby jointly stipulate to the dismissal of this action with prejudice, including all claims of Plaintiff against Defendant in the above-captioned case, with each party bearing its own legal fees and costs and without any obligation to pay any of the fees and costs of the other party.

Respectfully submitted

PETER D. KEISLER
Assistant Attorney General, Civil Division

KENNETH L. WAINSTEIN
United States Attorney

VINCENT M. GARVEY
Deputy Branch Director

**ECF
DOCUMENT**

I hereby attest and certify that this is a printed copy of a document which was electronically filed with the United States District Court for the District of Columbia.

Date Filed: 7-30-04

NANCY MAYER-WHITTINGTON, CLERK

By: Michael Darby 8-29-06

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EXHIBIT
127
1:10CR485**

_____/s/_____
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COUNSEL FOR DEFENDANT CIA

Dated: July 30, 2004