

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, DONALD TRUMP)
and TRUMP MANAGEMENT, INC.,)
)
Defendants.)

at file (copy)
CIVIL ACTION NO. 73 C 1529 (EN)

RESPONSE OF UNITED STATES
TO DEFENDANTS' MOTION OF
JULY 26, 1974

The United States of America, plaintiff, responding on its own behalf and on behalf of its attorney, Donna F. Goldstein, to defendants' "Notice of Motion" seeking an adjudication of contempt against said attorney and a "cease and desist" order against the United States, alleges as follows:

1. The United States denies each and every allegation of improper conduct by Donna F. Goldstein or by any other representative of the United States in connection with the interviews of Carol R. Falcone, Thomas Miranda, Paul Ziselman, Paula Ziselman, or any other prospective witness or other person in this case.

2. The United States alleges that said allegations of improper conduct, including allegations of threats and other devices to influence the testimony of prospective witnesses, are false and scurrilous, and consequently constitute an abuse of the processes of this Court.

WHEREFORE the United States prays as follows:

1. That expedited discovery be had with respect to the allegations of misconduct by the United States and its attorney;

2. That depositions taken during said discovery be supervised by a master;

3. That a full evidentiary hearing be held before this Honorable Court on August 16, 1974, as prayed for in defendants' Notice of Motion;

4. That following the evidentiary hearing, the allegations of misconduct by the United States and its attorney be stricken as scandalous, in accordance with Rule 12(f) of the Federal Rules of Civil Procedure, and the motions for contempt and a cease and desist order be in all respects denied; and


5. That following this evidentiary hearing, this Honorable Court determine whether there has been an abuse of its processes and, if so, enter any appropriate disciplinary or other Order.

The United States further prays for such additional relief as the interests of justice may require, together with the costs and disbursements of this proceeding.

Respectfully submitted,

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division


JAMES P. TURNER
Deputy Assistant Attorney General


FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

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| UNITED STATES OF AMERICA, |) | |
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| Plaintiff, |) | |
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| v. |) | CIVIL ACTION NO. |
| |) | 73 C 1529 (EN) |
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| FRED C. TRUMP, DONALD TRUMP |) | |
| and TRUMP MANAGEMENT, INC., |) | |
| |) | |
| Defendants. |) | |
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AFFIDAVIT

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|----------------------|---|----|
| WASHINGTON |) | |
| |) | ss |
| DISTRICT OF COLUMBIA |) | |

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section of the Civil Rights Division, Department of Justice and in supervisory charge of the above-styled litigation on behalf of the United States. I make this affidavit in support of our request that an Order be entered herein directing expedited discovery and designating an officer of this Court to supervise depositions with respect to defendants' motion to hold one of plaintiff's attorneys in contempt and for a cease and desist order against the United States.

2. On or about July 26, 1974, defendants filed with this Court a Notice of Motion praying that Donna Goldstein, one of plaintiff's counsel in this action, be adjudged in contempt of this Court for alleged coercion and threats against

prospective witnesses, and that the United States be ordered to cease and desist from such alleged unlawful conduct. The Notice of Motion is purportedly supported by the affidavits of Carol R. Falcone and Thomas Miranda, former employees of defendants, and by the signed but unsworn statements of two former employees, Paul and Paula Ziselman. Also attached to the motion is an affidavit by Roy Cohn, one of defendants' counsel, which purports to describe a number of events at which he was not present and which did not occur in the manner described by him. The papers filed on behalf of defendant call into question the professional conduct and reputation of Donna F. Goldstein, an attorney on the staff of this Section, with whom I am well acquainted and whom I know to have an excellent reputation, both with respect to her legal ethics and in relation to her professional competence. I am satisfied that the allegations of improper conduct against her are without foundation and therefore constitute an abuse of the processes of this Court.

3. In view of the nature of the allegations against Ms. Goldstein, the United States requests that the matter be expeditiously handled in accordance with 42 U.S.C. 3614 so that the factual issues may be resolved and Ms. Goldstein's reputation cleared. We further ask that the evidentiary hearing be held on August 16, 1974 as scheduled.

4. In order to assure that no "surprise" witnesses be called by defendant to further attack Ms. Goldstein's reputation,

plaintiff has propounded brief interrogatories to defendants inquiring into the identity and prospective testimony of all witnesses to alleged misconduct by agents of the United States. Adequate preparation for the hearing will not be possible unless this information is disclosed to the United States in time to take the depositions of possible witnesses in advance of the hearing. Paragraph 3 of the affidavit of Roy Cohn states that defendants have attached the statements of only "some" former employees as to whom Ms. Goldstein is alleged to have acted improperly, which suggests that there are supposed to be others. Accordingly, we ask that the defendants be required to answer these interrogatories within five days, unless defendants voluntarily disclose this information to plaintiff earlier.

5. The essential thrust of defendants' allegations on this motion is that Ms. Goldstein used threats and other unfair tactics in an attempt to influence the testimony of prospective witnesses. The position of the United States is that the allegations of misconduct on Ms. Goldstein's part are false and scurrilous. In order to resolve this issue, it is essential that the testimony of all witnesses, both on deposition and at the hearing, be free of threats, undue influence, or other interference from the parties or from their counsel, and that each party's right to examine and cross-examine witnesses without interruption or disruption be fully protected.

6. The most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of the Court. At least one of the witnesses to be deposed -- Mr. Miranda -- has expressed fear of reprisal from defendants on two separate occasions, to attorneys for plaintiff -- once to Elyse Goldweber and once to Donna Goldstein, as reflected in their respective affidavits. At a hearing on May 3, 1974, Honorable Vincent Catoggio, United States Magistrate, reprimanded counsel for defendants for failing to carry out their responsibilities relating to discovery and to expedite the action. Accordingly, the most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of this Court.

WHEREFORE I respectfully request on behalf of the United States that an Order to Show Cause be entered herein as prayed for. No previous application has been made for the relief here requested.

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 2 day of August, 1974.

Valerie Pruthi
NOTARY PUBLIC

My commission expires: *January 31, 1977*

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| Defendants. |) | |

AFFIDAVIT

| | | |
|----------------------|---|----|
| WASHINGTON |) | |
| |) | ss |
| DISTRICT OF COLUMBIA |) | |

DONNA F. GOLDSTEIN, being duly sworn, deposes and
says:

1. I am an attorney in the Civil Rights Division of the Department of Justice and one of the counsel for the United States in the above-styled action. I am a member of the bar of the State of Pennsylvania. I make this affidavit in response to defendants' motion and supporting papers which accuse me of threatening prospective witnesses and of other improper conduct in the discharge of my responsibilities in this case.

2. I have read the affidavits of Carol R. Falcone and Thomas Miranda and the signed statements of Paul and Paula Ziselman. While I interviewed each of these individuals to determine if they had information pertinent to this case, I did not do any of the unlawful or improper things alleged

in their statements, and, on the contrary, interviewed each in a fair and objective way to ascertain the facts. While a complete response to the statements of these individuals must await the hearing on the pending motion I think it important to immediately respond at least briefly, to the principal allegations, and I do so as follows:

(a) I never harassed Ms. Falcone, nor did I threaten her with perjury, jail, or with anything else. I did not accuse her of any misconduct with regard to her business or money, or of dating Donald Trump, and have no information about these matters. In fact, I made no accusations at all. I did not tell Ms. Falcone that any phones were tapped, or that she was guilty, and in fact, I have no knowledge of any tapped phones and I am sure that the Civil Rights Division does not tap phones or cause them to be tapped. I did not act in a hostile manner towards her. In fact, the interview appeared to me friendly on both sides at all times.

(b) I never harassed Mr. Miranda, and I never called upon him "to go against Trump Management" by lying. On the contrary, I asked him to tell the truth. I did not tell him that unless he cooperated he would be thrown in jail, nor did I discuss my "ambitions" or winning my case. I did not persecute him, nor did I make "unyielding" threats or any other kind. While Mr. Miranda was reluctant to relate the facts because he expressed fear that Mr. Fred Trump would destroy him, or words to that effect, he described to me some racially discriminatory housing

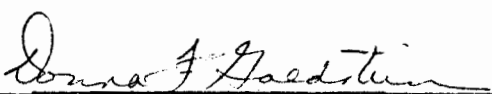
practices in which defendants have engaged. Plaintiff's answers to interrogatories filed in the case of United States v. Fred C. Trump, et al., and sworn to by Elyse Goldweber, previous counsel for plaintiff in this suit, discloses that Mr. Miranda had also provided information about discriminatory practices before I was assigned to the case. My interview with Mr. Miranda seemed to me to be friendly on both sides.

(c) I did not threaten or intimidate Mr. Ziselman, and the contents of his affidavit suggest that there must have been a misunderstanding. Prior to my interview with Mr. Ziselman, the Department of Justice had, in accordance with our normal practice, requested the FBI to interview a number of former Trump employees. Mr. Ziselman was one of them. When I was interviewing Mr. Ziselman, I mentioned that a request had been made for the FBI to contact him, but I told him that I would try and contact the FBI in time to have the agents cancel their interview with him, since it was now unnecessary. After I had completed my interview with Mr. Ziselman, I interviewed a prospective witness for plaintiff who provided details as to a rental transaction with Mr. Ziselman which differed from Mr. Ziselman's account. Accordingly, I telephoned Mr. Ziselman and asked him if he would permit me to see him again for a short time since there were now a few more matters I wished to discuss with him. He refused my request and stated that he considered it to be harassment. I responded that


I was sorry he felt that way, since it was not intended to be harassment.

(d) Mr. Manley's letter of June 13, 1974, and Mr. Cohn's affidavit completely distort the facts leading up to the records inspection in June 1974. Mr. Cohn was not present at the Trump office and has no direct information as to these events, a fact omitted from his affidavit. The facts with respect to this incident are described in detail in Appendix C to plaintiff's Report on Discovery, a copy of which is attached hereto and made a part hereof.

3. In conclusion, I wish to state that the attacks in defendants' papers on my conduct and integrity as an attorney are entirely without foundation. I hope that the matter can be disposed of at the earliest practicable date.


DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Sworn to before me this
2nd day of August, 1974.


NOTARY PUBLIC

My commission expires: *January 31, 1977*

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AFFIDAVIT

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| STATE OF NEW YORK |) | |
| |) | ss |
| COUNTY OF NEW YORK |) | |

I, ELYSE S. GOLDWEBER, being duly sworn do depose and say that:

1. I am presently employed as an examining attorney with the New York City Department of Investigation located at 111 John Street, New York, New York.

2. I was formerly employed as an attorney with the Civil Rights Division, Department of Justice, Washington, D. C. from September 19, 1972 until May 24, 1974.

3. While employed by the Department of Justice, I participated in the preparation and the pre-trial stage of United States v. Fred Trump, et al., Civil Action No. 73 C 1529 (EN).

4. Prior to the institution of the above-mentioned lawsuit, I interviewed Mr. Thomas Miranda who was formerly

employed by Trump Management, Inc. as a superintendent at Kendall Hall Apartments, 41-10 Bowne Street, Flushing, New York. The purpose of this interview was to determine what, if anything, Mr. Miranda knew about discriminatory practices on the part of Trump Management, Inc.

5. Mr. Miranda related to me that Mr. Hyman, Mrs. Williams & a woman called Sophie whose name he did not recall, all of Trump Management, Inc. had instructed him to attach a separate sheet of paper to all applications received from prospective black apartment seekers and that he was to write a big "C" on such attachment so as to indicate to Trump Management, Inc. that the application being considered was from a "colored" person. Furthermore, Mr. Miranda stated to me that he did this every time a black person applied for an apartment.

6. Mr. Miranda also stated to me during this interview that he was afraid that the Trumps would have him "knocked off", or words to that effect, because he told me about their allegedly discriminatory practices. He was reluctant to have his name disclosed.

7. After this interview, which was in all respects friendly, I had no further personal contact with Mr. Miranda. When it became necessary to disclose his identity, I sent a letter in the form attached hereto to him and to the other

persons who had provided information about Trump Management, Inc. The letter was run off on an MTST machine, and while in accordance with Justice Department practice, only one sample copy was retained (the one addressed to Phyllis Kirschenbaum), Justice Department records disclose that an identical letter was sent to Mr. Miranda and fourteen others.

ELYSE S. GOLDWEBER

Subscribed and sworn to before me
this day of August, 1974.

NOTARY PUBLIC

My commission expires: