



The 'LaRouche case': the bankruptcy seizure that wasn't one

Federal agents who seized the offices of three publishing concerns run by friends of Lyndon LaRouche in Leesburg, Virginia last April, ostensibly as part of a forced bankruptcy proceeding, appear instead to have been seeking information relevant to a Boston criminal proceeding, not inventorying property for bankruptcy liquidation. If so, the "bankruptcy raid" constituted a blatant violation of the rights of criminal-defendant "LaRouche companies" and their officers. The criminal case must be thrown out.

This conclusion inescapably emerges from a 45-minute videotape of the Virginia bankruptcy raid, a videotape made by federal agents themselves. Agents are overheard speaking of "valuable information"—irrelevant to any bankruptcy seizure of real property.

The videotaped statements of the federal agents are cited in a "Supplemental Memorandum of Defendants in Support of 'Motion to Stay Bankruptcy Proceeding or in the Alternative to Dismiss the Instant Case.'" The memorandum was filed on June 15 in federal court in Boston, in the case *United States of America v. The LaRouche Campaign, et al.*, by attorneys for The LaRouche Campaign, four other political and corporate organizations, and numerous individual defendants. The earlier motion to dismiss had asked that the case in Boston be thrown out because the bankrupting of the defendant companies violated their 4th, 5th, and 6th Amendment rights as defendants, or that the bankruptcy proceeding be voided to preserve those rights. The supplemental motion, introducing the videotape evidence for the first time, makes clear that the criminal case must be thrown out, regardless of determinations in the bankruptcy proceeding.

The related criminal and bankruptcy proceedings stem from the most extraordinary law-enforcement action in Justice Department history. At the end of the 1984 election campaign period, Boston U.S. Attorney William Weld launched a political witchhunt against presidential candidate Lyndon LaRouche. Despite an 18-month grand jury investigation, no evidence was turned up of "credit card fraud" or other criminal wrongdoing on the part of LaRouche or related individuals and organizations, and no indictments were handed down. However, in February 1986, Weld persuaded a Boston judge, David Mazzone, to levy an extraordinary \$16.5 million contempt of court fine on three of the companies under investigation, CDI, Inc., Campaigner Publications, and the non-profit Fusion Energy Foundation.

In September 1986, Weld became head of the Criminal Division at the Justice Department, and there followed the largest police raid in American history, on the offices of LaRouche associates in Virginia. The most to emerge from that 400-man, armored personnel carrier assault on the town of Leesburg was a few indictments for credit card fraud and "obstruction of justice" in the federal case, plus a series of state indictments, some representing double jeopardy in respect to the federal case. After millions of dollars and reams of newspaper copy charging "the LaRouche organization" with something criminal, Weld and friends were going to look ridiculous in court back in Boston.

However, to recall Judge David Mazzone's \$16.5 million fine: That was under appeal. Nevertheless, Weld and friends determined to use the fine to complete their witchhunt prior to trial. They proclaimed the federal government, under terms of the Mazzone fine, the "creditor" of the defendant companies, obtained an order in secret turning the defendant-companies over to federal bankruptcy trustees (in their zeal, overlooking even the requirements stipulated in the bankruptcy law), and thereupon, forced the defendants into Chapter 7 involuntary bankruptcy. A raid shutting down the defendant companies CDI, Campaigner, and Fusion Energy, followed on April 21, 1987.

Thus, three corporate defendants in criminal proceedings are being forced out of existence by the prosecutor in the proceeding—before they can come to trial—the prosecutor acting in his self-proclaimed capacity as "creditor" of the defendants. Equally astounding from the standpoint of constitutional law, the "creditor," that is, the "prosecutor," thereby came into possession of all legal documents relating to the intended defense in Boston, inasmuch as the closed offices included the legal offices for the joint defense of those three and other defendants.

Because of the clear threat to defendants' rights to due process and attorney-client privilege, Judge Robert E. Keeton promptly threatened to throw the Boston cases out unless the Justice Department successfully showed that it had built a "Chinese wall" between the criminal and bankruptcy actions.

But—the videotape cited in the defendants' supplemental memorandum not only indicates that the government took no care to keep criminal and bankruptcy matters separate. The two were one and the same. The videotaped statements of

federal agents overheard during the bankruptcy raid establish that the raid was conducted to aid the government's criminal prosecutions—not a bankruptcy seizure at all. The raid was conducted to obtain, for the criminal prosecution, information reserved by law for the defense. The bankruptcy action by the Justice Department thus constituted an irreversible invasion of attorney-client privilege.

Excerpts from that supplemental memorandum follow.

Introduction

This memorandum will discuss the necessity for holding an evidentiary hearing on the defendants' Motion to Dismiss based upon the bankruptcy seizure by the Government. As the Government has conceded in its filings, the key factual issues which must be resolved are whether there has been a breach of the attorney/client relationship between the defendants and their attorneys as a result of the bankruptcy seizure and whether there has been any Government wrongdoing or mis conduct as a result of the seizure.

The Court has before it a series of Affidavits from the Government and a series of Affidavits from the defendants. This memorandum will outline the factual disputes which must be resolved by way of evidentiary hearing in order to properly decide what relief, if any, is appropriate pursuant to this motion.

The [defense] Affidavit of Martha Quinde establishes that the area in the Traveller's Building [Leesburg] seized by the Government pursuant to the bankruptcy proceedings contained a large amount of attorney/client material. The Affidavits of Richard Reynold [federal marshall] make it clear that the legal materials were seized by the Government and held under its custody or control. This establishes a prima facie basis for inquiring as to whether the attorney/client relationship of the defendants was invaded by the Government.

The Government attempts to rebut that prima facie by way of Affidavits which purport to show that the seizure of legal documents was very narrowly designed to prevent the Government from having access to any documents, that a Chinese wall was established between the portions of the U.S. Government which seized the documents and the portions of the U.S. Government which are prosecuting this case and that two protective measures were used to guarantee the integrity of the process; the seizure was videotaped in its entirety, and the trustees supervised the seizure. As this memorandum will set out, there are substantial factual disputes as to each of the claims made by the Government in rebutting the defendants' prima facie case that the attorney/client relationship was invaded.

Factual Disputes as to the Procedure Followed in the Bankruptcy Proceeding

The Government claims initially that the agents who con-

ducted the search were "not interested in the contents of any paper files" (Affidavit of Richard Reynold, paragraph 3) and that they "had no interest in the papers since paper was not the sort of thing which was an item of value to the inventory" (Affidavit of John F. Clark, paragraph 6).

The videotape of the search which the Government has provided the defendants casts substantial doubt on the accuracy of these representations in the Affidavits of the marshalls. As set out in the [defense] Affidavit of Barbara Boyd, some Government Agent on the tape is heard during the search to indicate ". . . thirty-five percent of it is valuable information . . . (inaudible) . . . it's like walking through a gold mine" (Boyd Affidavit, paragraph 9). In the Traveller's Building, which was the location of the legal office, Ms. Boyd sets out that the tape contains the following language by Government Agents: "This is CDF [Constitutional Defense Fund], I know that. . . . If you have a moment, key in on this stuff on the bulletin board here . . . income . . . this is good." At a later point in the Traveller's Building, Miss Boyd quotes the tape as recording, "I like this . . . LaRouche for President . . . I can see why they didn't want us in here . . . look Fusion [magazine] subs . . . don't call people who gave more than \$200.00. . . ." All of these quotes suggest that the marshalls conducting the search were clearly doing more than inventorying the physical real property in the location. They were conducting a substantive search of the area to be seized.

Additionally, the content of the videotape indicates that the concern of the Government was not simply to inventory real property. As the Court will see when it reviews the tape, it is not, as set out in the Government's response, a recording of the inventory method. It instead seems to be an attempt to preserve substantive evidence as to the operation of the various defendants. Throughout the tape, the operator continually focuses in on blackboards containing substantive information which would be irrelevant to any bankruptcy seizure of real property assets but extremely relative to the ongoing Government investigation into the financial structure of the defendant organizations.

A third piece of evidence which undercuts the Government's claim that the seizure was not seeking substantive information is the actions of Special Agent Huff of the Virginia State Police. He indicates that deputies brought to his attention an organizational chart of the defendant groups and address books with names and telephone numbers of what appear to be contacts of various persons within the Federal Government. He further indicates that he copied those documents and brought them back to the Virginia Bureau of Criminal Investigation and prepared an intelligence report which was forwarded to the Criminal Intelligence Division. This course of action makes it clear that the marshalls and the Virginia State Police were involved in more than simply inventorying physical property.