

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

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| MARIELLE (“MOLLY”) KRONBERG, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| -v- |) | |
| |) | Civil No. 1:09-cv-00947-AJT-TRJ |
| LYNDON LAROUCHE, et al, |) | |
| |) | |
| Defendants. |) | |

**DECLARATION OF JOHN MARKHAM ADDRESSING
CERTAIN MATTERS RAISED IN THE MOTION TO DISQUALIFY HIM**

JOHN J.E.MARKHAM, II, declares, under penalties of perjury, as follows:

(1) I am a member of the Bar of the state and federal courts of Massachusetts, and of various other state and federal courts, and I make this declaration stating matters known to me of my own personal knowledge gained in the manner described below.

(2) For the reasons explained below, I do not have, or have access to, any confidential information gained while employed by the Department of Justice 20 years ago, which remains confidential and which would allow me any advantage over any defendant in this case. I have no access to any of the documentation. Now, 20 years later I recall very little of it. Much of it, I do recall, was made public, and possessed by the defendants in this case. Moreover, apart from the trial testimony given by defendant Kronberg herself (in open court), nothing that I learned 20 years ago gives me any advantage against the defendants as relates to the four issues they enumerate at page 2 of their Memorandum of Points and Authorities In Support of Their Motion to Disqualify. Before setting forth the details of my role with the LaRouche cases between 1986

and 1988, I address each of those four issues as to which they contend I have some unfair advantage based on knowledge I gained.

(3) *The Veracity of Molly Kronberg's 1988 Testimony (Def. Mem p. 2)*

I learned nothing about the veracity of Molly Kronberg during my involvement as a prosecutor. I saw no document relating to that, I saw no “evaluation” (Defense Memo, p. 2) and learned nothing from any other source refuting or corroborating her testimony. I am aware of none. I only learned what I heard in open court when I listened to her testify as she was being questioned by other lawyers. I did not question her so did not prepare any questioning nor review any materials concerning her, then or ever. She testified concerning four subjects at the trial as is shown by the 30 pages comprising the transcript of her testimony which is annexed to her declaration submitted with this opposition:

(i) she testified about her employment position and duties in 1979 and 1980 as Secretary Treasurer of a publishing company that published books at that time for Lyndon LaRouche. *See*, Kronberg transcript pp. 64–67. I learned nothing about that from any source. Yet since she was at the time working with defendants Boyd and LaRouche, they know well whether there is evidence to contradict her on this or any other point on which she testified.

(ii) she next testified about various exhibits, including a check register, check stubs, and several checks written in 1979–1980 by her on a LaRouche-affiliated publishing company's checkbook, and what those checks were written to pay for. I never even saw these exhibits since she was not my witness, and learned of no facts relating to that testimony, other than hearing the testimony when she gave it in open court. Since the checks, her trial testimony showed, were written on bank accounts of the LaRouche

organization, they should know about them, and the accuracy of her testimony relating to them. I do not and saw nothing relating to them while a prosecutor;

(iii) she then testified about several conversations she had with a colleague about whether to write certain checks payable to the order of Lyndon LaRouche (transcript pp. 68–80). I have never spoken to that colleague, Ms. Felice Gelmen, saw any reports mentioning her, any grand jury testimony relating to her, nor did I otherwise learn anything about those conversations from any source apart from Kronberg’s public, trial testimony when she gave it; and

(iv) she also testified about various books LaRouche had written, commissioned, and published (transcript pp. 80–94). Certainly, LaRouche would know all about the accuracy of this subject matter. I came across various of LaRouche’s writings during my involvement, but only those he had published and not as a result of any confidential source.

(4) Ken Kronberg’s Supposed Fears (Def. Mem p. 2)

I never met Ken Kronberg. I never saw any grand jury testimony he may have given, if he gave any. Nor was I ever told of its content. I have no knowledge about any of his sentiments on any subject save for those I have learned from his wife, Molly Kronberg as conveyed to me since we met, fully 20 years after I left the government. I never saw any document involving any tax obligation or violation of Ken or Molly Kronberg, or anything relating to any tax violations of any companies he worked for. Moreover, the late Mr. Kronberg’s fears about taxes, real or not, have nothing to do with the issues in this case. Whatever the reason for his suicide, it is the fact that after he took his life, LaRouche wrote that he had done so because Molly Kronberg had testified against LaRouche. I have no knowledge remotely based on what I learned in my time in

government 20 years ago that sheds light on why a man I never met took his life in 2007. Persons having knowledge of his state of mind in 2007 simply do not include me.

(5) *My “Knowledge” About Gus and Other Witnesses (Def. Mem p. 2)*

I never met any “Gus.” I see no way that this “Gus” relates to whether the defendants defamed Ms. Kronberg when they wrote that she perjured herself when she testified about the four specific subject matters that did not mention him, and particularly since I never met him. As to “other witnesses” that I met during my involvement 20 years ago, this is not specific enough to address. Nor is it possible to address the assertion that I learned something that may affect the substance of the testimony of unnamed persons.

(6) *Unique Personal Relationships (Def. Mem p. 2)*

Apart from the mention of Criton Zoakos, no names are mentioned by the defendants in this the last issue on which they claim I have some special advantage gained from confidential knowledge. As to Mr. Zoakos, I met him once, in 1987, in a brief meeting at his house. I asked him if he had any information concerning the allegation that LaRouche had obstructed justice by sending suspected credit card cheats to Europe in 1985 and Mr. Zoakos told me that he had no such information. This gives me no informational advantage given the issues in this case.

(7) Nor do I have any special information about Molly Kronberg based on my time with the government. I never spoke with her, read any of her grand jury testimony, and do not have access to it. Neither does Ms. Kronberg, as she states in her declaration. The defendants do have access to Ms Kronberg’s grand jury testimony. I do not, nor does Molly Kronberg, she has stated.

My Role in the LaRouche Prosecutions

(8) I was an Assistant United States Attorney from August, 1983 to October, 1989, after which I returned to the private sector. I have not been affiliated with the Department of Justice or any federal agency since 1989.

(9) From May, 1986 to January, 1989, while an AUSA in Boston, I participated personally and substantially in the investigation and prosecution of LaRouche and some of his followers, all as set forth further below in this declaration.

The 1988 Alexandria Trial in Which Molly Kronberg Testified

(10) In October, 1988, LaRouche and six followers were indicted in this District on various counts of loan fraud. LaRouche was also indicted on one count of conspiring to defraud the Internal Revenue Service by hiding taxable income during the years 1979 to 1988. Plaintiff Molly Kronberg's testimony (described in her declaration accompanying this opposition and in this declaration at ¶3) was a small part of the evidence on the tax case presented against LaRouche.

(11) After LaRouche and his followers were indicted in Alexandria in October of 1988, and because I had been involved in a related case in Boston, I was sent by the Department of Justice from Boston to Alexandria to help with the Alexandria trial. I had no involvement in the Alexandria grand jury investigation leading up to the LaRouche Indictment, nor do I believe I even saw the transcripts of any grand jury testimony given in Alexandria, even that given to LaRouche and the other defendants as *Jencks* material.

(12) I never met or spoke with Molly Kronberg before or during the 1988 trial, nor until 2009, when she first contacted me about the harassment she was experiencing by the defendants. I did not present her trial testimony and never saw her grand jury testimony. She states in her declaration that she does not even have a copy of it but that the defendants in this

case do. The only times she saw it, as she explained in her declaration, was when it was lent to her to read by defendant(in this case) Barbara Boyd, then acting as a paralegal helping LaRouche prepare for his criminal trial in 1988, and when Boyd again showed it to her some in 1989 during her criminal trial in New York.

(13) I recall never reviewing any records of defendant EIR News Service except those filed publicly with the Commonwealth of Virginia and some of its publicly disseminated writings. I certainly recall none, nor do I have any, except some of its publicly available publications which contain the statements by the defendants about Ms. Kronberg giving rise to her claims of libel and witness harassment made in this action.

(14) Defendant LaRouchePAC was not in existence until 2004. I therefore saw nothing of it at any time while I was in government until 1989.

(15) I do not recall ever seeing any testimony in any form given by Barbara Boyd. While I was involved in the LaRouche trials in Boston and Alexandria, Boyd was a paralegal for the LaRouche defense team, and I dealt with her from time to time as such. Our conversations are as well known to her as they are to me.

(16) As indicated above, after LaRouche and his codefendants were indicted, I was sent from Boston to work with AUSA Kent Robinson of Alexandria in the presentation of evidence on the loan fraud part of the Alexandria case, presenting the testimony of victims of the loan fraud, none of whom had testified in front of the grand jury, and presenting the testimony of the witnesses who had previously been in the LaRouche organization and had knowledge of facts relevant to the loan fraud. All of these former LaRouche organization witnesses had testified in front of the Boston grand jury (with which I had worked earlier, as explained below) and their grand jury testimony had, under the Jencks Act, been given to defendant LaRouche's counsel,

and to counsel for all the other defendants in the Boston and Alexandria cases, some of it personally handed by me to defendant Barbara Boyd, who had acted as paralegal in the Boston as well as in Alexandria criminal cases.

The 1986 Boston Prosecution

(17) Before I was sent to Alexandria in late October, 1988 to help with the presentation of trial evidence there, I was an AUSA in Boston. Between May, 1986 and August 1988, I participated personally and substantially in the criminal investigation and prosecution of Lyndon LaRouche, some of his associates, and various organizations affiliated with him. Specifically, between May and October 1986, I participated in a Boston grand jury investigation into:

(i) Whether, during 1984, some LaRouche followers had made criminal, unauthorized use of credit cards belonging to others,

(ii) Whether, in 1984 and 1985, LaRouche and others had borrowed money from persons under criminal false pretenses, and

(iii) Whether, in 1984 and 1985, LaRouche and his followers had obstructed justice by impeding the credit and loan fraud investigation by burning subpoenaed documents and hiding those with whom the Boston grand jury had subpoenaed.

(18) This Boston grand jury investigation led to an indictment in Boston of LaRouche and others on those charges in 1986. LaRouche's Boston trial, in which I participated personally and substantially, commenced in December 1987 and it ended in a mistrial in May 1988. I then went to Alexandria from October through December 1988 to help with that trial. After guilty verdicts were rendered in Alexandria and the defendants were sentenced in January 1989, the Boston case, scheduled for retrial, was dismissed. I moved to the San Francisco United States

Attorney's Office in April 1989 to work with the Organized Crime Drug Enforcement Task Force and left the Department of Justice for teaching and private practice in October, 1989.

(19) During the grand jury investigation in Boston, between May and October 1986, I called a number of former LaRouche members and Mr. LaRouche himself to the grand jury for testimony. Their grand jury testimony was transcribed and given to counsel for LaRouche and his fellow defendants, since it was *Jencks* material or Rule 16 Material. Also, most of the witnesses had testified publicly in Boston before the mistrial was declared, and many also testified in the later Alexandria trial. Their Boston grand jury and trial testimony was available to LaRouche counsel to cross-examine these witnesses in the Alexandria trial. I do not have any of those transcripts now.

(20) While I obviously cannot now remember all or even much of the testimony given in Boston, and do not now have any of the transcripts, there was no testimony at all that I recall concerning Molly Kronberg, Ken Kronberg, or any matters relating to them—much less, quite obviously, any testimony relating to the substance of Molly Kronberg's testimony in the later Alexandria trial in 1988. She was neither the subject nor a target in Boston. She was not a witness. She did not appear in the grand jury. There was no testimony about her at the public trial that I can recall. There was also, obviously, no testimony related to the decision of Lyndon LaRouche and the other defendants to publish, starting in 2007, numerous articles stating that Molly Kronberg's 1988 Alexandria trial testimony was perjury, given in order to frame LaRouche, and falsely send him to jail, nor, obviously, testimony related to the 2009 assertion by the defendants LaRouche, Boyd and others that Molly Kronberg's husband killed himself in 2007 because of her testimony in the LaRouche trial held in 1988.

(21) The Boston investigation generated FBI 302 Reports and reports of other agencies. These were primarily of victims who told the FBI that their credit cards had been used without authorization, persons who said they were lied to, to obtain money, and various others. I do not remember any specific content of these. There were also 302's of others. I produced these to the defendants just as I had the *Jencks* material. In any event, I recall nothing in any of the 302s of the victims or anyone else that dealt even remotely with any issues surrounding the truth of Molly Kronberg's testimony, or with the reasons that the defendants in this civil action chose, in 2007-09, to make the statements they made in their publications.

(22) Because of various *Brady* requests made by defendants in the Boston case, I was required by the court to cause searches through various government files, for materials that some classified and some not. The order from the court was that any matters material to the defense were to be turned over. The Court did its own *in camera* inspection. Material documents were turned over. Documents not material to LaRouche's case were not turned over. As the "Government's Status Report Re Searches," served April 8, 2008, makes plain, the search requests of the LaRouche defendant were honored in that the agencies, not I, searched their files for documents mentioning defendants and those which did were reviewed by the court and, if exculpatory, turned over. "Any potentially Brady information was declassified and turned over to the defendants. All other information was determined by the court to be non-exculpatory and properly classified." Moreover, the defendants point to no file searched (e.g. the files of the office of Vice-President George Herbert Walker Bush see *Id.* p. 9), which, even had I seen the documents which I did not, would somehow give me some advantage in this case given the issues. This gives me no advantage because (1) by definition those documents were not relevant, (2) I do not have them, and I did not see them.

(23) I was not involved in the state prosecutions nor did I see any non-public documents generated by those prosecutions, although the LaRouche group had full access to the discovery provided by those states, I assume. Indeed, the disclosure under New York criminal procedure, where many of the LaRouche followers were prosecuted, requires, I know, of all matters possessed by the government, grand jury generated and all. I received none of the discovery in the New York or Virginia state cases, yet the LaRouche group did, including defendant Barbara Boyd, who was a paralegal in both the Virginia and New York State prosecutions.

I declare under penalties of perjury that the forgoing is true and correct.

Executed this 21st day of December, 2009 in Boston, Massachusetts.

/s/ John J.E. Markham, II
John J.E. Markham, II