

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA EX	.	Docket No. CA 96-1258
RELATOR ERVIN AND	.	
ASSOCIATES, INC.,	.	
	.	
Plaintiff,	.	Washington, D.C.
	.	December 19, 1996
vs.	.	11:15 a.m.
	.	
HAMILTON SECURITIES GROUP,	.	
INC., et al.,	.	
	.	
Defendants.	.	
	.	
.....	.	

TRANSCRIPT OF STATUS
BEFORE THE HONORABLE STANLEY SPORKIN
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Plaintiff:	BARBARA VAN GELDER, ESQ. U.S. Attorney's Office 555 Fourth Street, N.W. Washington, D.C. 22001
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Tucker Flyer
By: WAYNE G. TRAVELL, ESQ.
1615 L Street, N.W.
Suite 400
Washington, D.C. 20036

For the Defendant:

Court Reporter:	BEVERLY J. BYRNE Official Court Reporter Room 6810 U.S. Courthouse Washington, D.C. 20001 (202) 273-0899
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Proceedings reported by stenomask, transcript produced from dictation.

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THE DEPUTY CLERK: U.S. ex rel Ervin versus Hamilton Securities, Civil Action 96-1258.

THE COURT: All right.

MS. VAN GELDER: Good morning, Your Honor.

THE COURT: Hi, how are you today? Good to see you. I have to pose as Judge Richey to get you to come before me; is that what I've got to do?

MS. VAN GELDER: Your Honor, you can pose as yourself.

THE COURT: Well, this is Judge Richey's case, is it not?

MS. VAN GELDER: It is, Your Honor, and since the judge had some questions on the scope of the stay, according to his Clerk, --

THE COURT: Yes, he doesn't want it open ended, that's his point.

MS. VAN GELDER: Then I would say that we ask the Court to reschedule it and --

THE COURT: How is the government doing its investigation?

MS. VAN GELDER: We are actually proceeding expeditiously. We have about 12 people working on the case, 9 full time, done over 125 witness interviews, have over 30,000 documents that we've accumulated.

1 THE COURT: You mean this looks like it was a pretty
2 good information that you got?

3 MS. VAN GELDER: Your Honor, I think that the
4 information is good. Whether the information goes to an
5 actual criminal violation or contractual violation or an
6 administrative violation is going to result in whether or not
7 we pass through all of that evidence.

8 THE COURT: All right. So all he wants is a
9 specific deadline, is that it, to come back where you're going
10 to tell him whether you're going to or not?

11 MS. VAN GELDER: Well, if he were you, I would have
12 to say, hello, Your Honor, but I would also say that we cannot
13 at this point in time -- we're still in the accumulation of
14 evidence. We have several subpoenas that might need
15 enforcement. So I can't give him a definite time at this
16 time.

17 THE COURT: Well, I think the only thing in a qui
18 tem is for the government to say whether they made a decision
19 to go forward. They're going to take the case. And you can't
20 give any estimate of that?

21 MS. VAN GELDER: Your Honor, I can tell you that as
22 far as the civil matter is concerned, the government will
23 probably take the case. However, we will have to, based on
24 the information we have that the relator didn't have, we're
25 going to have to reorder the case, file an amended complaint,

1 and that is still going to be dependent upon the information
2 that the Criminal Division is bringing in.

3 THE COURT: Where does the -- just for my own
4 edification, what happens with a qui tem if it goes civil and
5 not criminal? Do they still get the percentage of the
6 recovery?

7 MS. VAN GELDER: Absolutely.

8 THE COURT: So it doesn't matter.

9 MS. VAN GELDER: Even if it goes criminal, the
10 government will follow up under probably a collateral
11 estoppel.

12 THE COURT: So he really only collects from the
13 civil end of it anyway?

14 MS. VAN GELDER: Yes

15 THE COURT: In other words, you got to get the -- he
16 doesn't get any money until there is a payoff; is that it? Is
17 that what you're saying?

18 MS. VAN GELDER: That's right.

19 THE COURT: Okay. Well, then would six months be
20 enough time to at least -- well, let me put a status for six
21 months.

22 MS. VAN GELDER: That is fine, Your Honor.

23 THE COURT: Is that all right with --

24 MS. VAN GELDER: We've actually told the Court,
25 Judge Richey, that we will inform him every 45 days, and we

1 will continue to --

2 THE COURT: Want to do 45 days then? Let's do 90
3 days.

4 MS. VAN GELDER: Ninety days is, of course,
5 preferable to the government.

6 THE COURT: Let's do 90 days. I know how the
7 government -- how quickly he gets to things.

8 MS. VAN GELDER: I appreciate it, Your Honor. Merry
9 Christmas, Happy Hanukkah.

10 THE COURT: Go ahead.

11 MS. VAN GELDER: Thank you.

12 THE COURT: Wait. Let me give you a date to report
13 back.

14 THE DEPUTY CLERK: March 10 at 10:30

15 THE COURT: Gee, I had one of these qui tems where
16 the government recovered close to 30 million, and the relator
17 I guess got -- what do they get, a third?

18 MR. TRAVELL: Thirty percent.

19 MS. VAN GELDER: It depends on whether the case goes
20 to trial or whether --

21 THE COURT: He got the full 30 or whatever it is.

22 MS. VAN GELDER: It can go anywhere from 15 to
23 basically 30 percent

24 We've had excellent cooperation from the relator,
25 and I would hope that the relator does not contest the 90 days

1 that we're going to need.

2 MR. TRAVELL: No, Your Honor.

3 THE COURT: Al right. You got a date?

4 MS. VAN GELDER: Yes, we do. We have March 10 at
5 10:30.

6 THE COURT: All right. Thank you. That's before
7 Judge Richey.

8 MR. TRAVELL: Thank you, Your Honor.

9 (Whereupon, the proceedings were concluded at 11:20
10 o'clock a.m.)

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CERTIFICATE

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20 I certify that the foregoing is a correct transcript
21 from the record of proceedings in the above-entitled matter.

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BEVERLY J. BYRNE
Official Court Reporter

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