

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.
	.	March 29, 1999
vs.	.	2:15 p.m.
	.	
HAMILTON SECURITIES GROUP,	.	
INC., et al.,	.	
	.	
Defendants.	.	
	.	
.....	.	

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

APPEARANCES:

For the Plaintiff:	ANTHONY ALEXIS, 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.  
DANIEL M. HAWKE, ESQ.  
1615 L Street, N.W.  
Suite 400  
Washington, D.C. 20036

JUDITH HEATHERTON, ESQ.  
Department of Housing & Urban  
Development  
Suite 8260  
451 Seventh Street, S.W.  
Washington, D.C. 20410-4500

For the Defendant:

Court Reporter:

BEVERLY J. BYRNE  
Official Court Reporter  
Room 6810 U.S. Courthouse  
Washington, D.C. 20001  
(202) 273-0899

Proceedings reported by stenomask, transcript produced from dictation.

P R O C E E D I N G S

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

THE COURT: All right. The usual suspects didn't look usual.

Is this one of these qui tems?

MR. ALEXIS: Yes, Your Honor.

THE COURT: This is Hamilton Securities. I remember this. Where are we on this thing here? Where's the government going? Do they know yet?

MR. ALEXIS: No.

THE COURT: You don't know where you want to go?

MR. ALEXIS: I kind of know which direction I want to go in terms of who I want to speak to, but there's -- well, obviously the documents, which Ms. Heatherton can speak to, which is before the special master. My understanding is he's about to -- in the process of ruling on the claims of privilege.

THE COURT: Oh, I see. He hasn't ruled on them yet? Which special master?

MS. HEATHERTON: This is Mr. Storch and Mr. Pollak.

THE COURT: And they have not ruled yet?

MS. HEATHERTON: They have a draft of that order, and they're doing other matters. They've also --

THE COURT: They're not dragging their feet, are

1 they?

2 MS. HEATHERTON: No.

3 THE COURT: Okay.

4 MR. ALEXIS: And then I heard that the plaintiff --  
5 not the plaintiff, but Hamilton filed a notice of appeal on  
6 part of the -- but putting that all aside, they've also  
7 contracted -- they, being HUD OIG -- has contracted for some  
8 of the electronic base which will take some time.

9 Lastly, in terms of who we actually want to  
10 interview, we've approached some people, but we've come up  
11 against the proverbial stone wall, and there is no way that at  
12 this particular time I can evaluate until we a) have some  
13 documents and --

14 THE COURT: What do you mean by stone wall?

15 MR. ALEXIS: They are just not going to talk.

16 THE COURT: What?

17 MR. ALEXIS: They're not going to talk, based on  
18 advice of counsel, and we can't give them immunity, because we  
19 may be giving the wrong person immunity. And if I sit them  
20 down for a civil --

21 THE COURT: Well, let me tell you, these things take  
22 time. There is no question about it.

23 MR. ALEXIS: If I give them --

24 THE COURT: And the more stone walls you hit, as a  
25 prosecutor, the more determined you've got to be. You can't

1 let the stone wall get you.

2 MR. ALEXIS: We do need a little bit more  
3 information before I can start breaking down the stone wall.  
4 I don't want to put someone in a deposition that they take the  
5 Fifth Amendment on.

6 THE COURT: No, you're right. You're absolutely  
7 right. So what do you need, more time?

8 MR. ALEXIS: At this time the government still needs  
9 more time.

10 THE COURT: Is there any objection?

11 MR. HAWKE: Your Honor, the relator -- Dan Hawke for  
12 the relator, Ervin and Associates. We have no objection. We  
13 would just like to keep sort of the regular statuses going  
14 because we are actively trying to provide information to the  
15 government to facilitate the investigation, but I really feel  
16 it's important.

17 I mean, the investigation has been pending for 33  
18 months.

19 THE COURT: These are not easy investigations. I  
20 don't know whether you -- nobody knows whether there is a case  
21 yet or not, but the more stone walling you get, the more you  
22 get -- the curiuser and curiuser it becomes the more than  
23 you get -- who invented that phrase, but it becomes more  
24 curious obviously.

25 But is everything going smoothly? That's the only

1 issue here that I want to make sure that everything is going  
2 smoothly, and that nobody is --

3 MR. HAWKE: We believe everything is going smoothly.  
4 We are operating somewhat in the dark. I mean, because we are  
5 plaintiffs in another action against the government, we've had  
6 to be very careful in our communications with each other, but  
7 we're not --

8 THE COURT: All right. Let's give another, what,  
9 three months. When will that take us?

10 MR. ALEXIS: Your Honor, could we have 60 days?

11 THE COURT: All right, 60 days. April, May, so that  
12 gives you what, May 1? No, June 1. Is that a good day?

13 THE DEPUTY CLERK: June 1 is a good day.

14 MR. ALEXIS: I will say, just to give the Court  
15 notice, that's the day after Memorial Day.

16 THE COURT: Oh, no, all right. Let's not. Never on  
17 the day after Memorial Day do you get a qui tem status call.  
18 It's against the law.

19 Let's do it the second day after Memorial Day.

20 THE DEPUTY CLERK: The 2nd at -- do you want morning  
21 or afternoon?

22 THE COURT: Afternoon is fine, 2:00 o'clock. All  
23 right, folks. I just want to make sure everything is going  
24 smoothly. Is the special master working out all right from --  
25 let me speak to counsel. Is that system working out all

1 right?

2 MS. HEATHERTON: Yes, Your Honor.

3 THE COURT: They're good people. I've known Mr.  
4 Pollak for 40 some years. You know he's in -- don't let him  
5 know I'm telling you, but he's over 80 years old now. But you  
6 wouldn't know it working with him. He's an amazing human  
7 being, and he spent, I would say, a good portion of that time  
8 in federal service, about 40 some years I think. He's a good  
9 man. All right.

10 (Whereupon, the proceedings were concluded at 2:25  
11 o'clock p.m.)

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CERTIFICATE

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

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BEVERLY J. BYRNE  
Official Court Reporter