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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CHURCH OF SCIENTOLOGY OF CALIFORNIA, a California corporation, on its own behalf and on behalf of its members,

Plaintiff,

vs.

ELMER F. LINBERG, FRANK KELLY, HENRY F. SCHUELKE III, RAYMOND BANOUN, ROBERT J. MC CARTHY, RICHARD M. WOOLF, FRANCIS A. CALLEY, KENNETH A. JACOBSEN, JEROME K. CROWE, GARY LINCOLN, JOSEPH T. VARLEY, RICHARD W. NOYES, RICHARD KEITH BELL, JOHN M. CALLAGHAN, ARTHUR G. RICHARDS, JR., JOSEPH A. CHEFALO, DENNIS P. LEVINE, CHARLES E. CORNELISON, RICHARD L. CROMWELL, JAMES A. OPPY, DARRELL W. SHAVER, BRENDAN O. CLEARLY, individually and as officials of the United States Department of Justice, and UNITED STATES DEPARTMENT OF JUSTICE,

Defendants.

CASE NO. CV-77-2654 (WMB)
THIRD AMENDED AND SUPPLEMENTAL COMPLAINT FOR DAMAGES, INJUNCTION AND DECLARATION
JURY TRIAL DEMANDED

JURISDICTION

1. This is an action for money damages, to redress past

1 violations of Plaintiff's civil and constitutional rights, and
2 those of its members, for injunctive and declaratory relief for
3 actions by the Defendants in violation of rights protected by the
4 First, Fourth, Fifth and Ninth Amendments of the United States
5 Constitution. Plaintiff's claims against Defendants in their
6 personal capacities arise directly under the Constitution. This
7 Court has jurisdiction over these claims pursuant to 28 U.S.C.
8 §§1331 and 1343(4). To the extent that the Defendants are sued in
9 their official capacities, Plaintiff's claims arise under the
10 Administrative Procedure Act, 5 U.S.C. §552 et seq. and the Court
11 has jurisdiction pursuant to 28 U.S.C. §§1331 and 1361. The Court
12 is empowered to grant declaratory relief pursuant to 28 U.S.C.
13 §§2201 and 2202.

14 2. The amount of controversy exceeds \$10,000 exclusive of
15 interest and costs.

16 PARTIES

17 3. The Plaintiff CHURCH OF SCIENTOLOGY OF CALIFORNIA is a
18 non-profit corporation organized and existing under the laws of
19 the State of California. It is a religious organization and en-
20 gaged in charitable, humanitarian, civic and community purposes
21 as well. The Scientology religion seeks to enhance a person's
22 understanding of his or her spiritual nature and seeks to promote
23 to its members and to the community at large a theology and
24 religion through which human individuals may gain a greater re-
25 spect for themselves and others. It has approximately three
26 million adherents in the United States and six million throughout
27 the world. This action is brought by the CHURCH on its own be-
28 half and, to the extent it seeks injunctive and declaratory re-

1 lief, on behalf of its members.

2 4. Defendants HENRY F. SCHUELKE III and RAYMOND BANOUN
3 were, during the period 1977-1979, Assistant United States
4 Attorneys in Washington, D.C. They are sued individually and in
5 their official capacities.

6 5. Defendants ELMER F. LINBERG, FRANK KELLY, ROBERT J.
7 MC CARTHY, RICHARD M. WOOLF, FRANCIS A. CALLEY, KENNETH A.
8 JACOBSEN, JEROME K. CROWE, GARY LINCOLN, JOSEPH T. VARLEY,
9 RICHARD W. NOYES, RICHARD KEITH BELL, JOHN M. CALLAGHAN, ARTHUR
10 G. RICHARDS, JR., JOSEPH A. CHEFALO, DENNIS P. LEVINE, CHARLES E.
11 CORNEILSON, RICHARD L. CROMWELL, JAMES A. OPPY, DARRELL W.
12 SHAVERS, and BRENDAN O. CLEARY were, in July, 1977, special agents
13 of the Federal Bureau of Investigation. Each is sued in-
14 dividually and in his official capacity. Defendant UNITED STATES
15 DEPARTMENT OF JUSTICE is an agency of the United States Govern-
16 ment.

17 6. Upon information and belief, other persons, whose
18 identities are unknown to Plaintiff at this time, are affiliated
19 with and acted as agents of the government of the United States
20 and who have organized, directed, incited, and participated in
21 activities against the CHURCH OF SCIENTOLOGY and its members as
22 described herein.

23 CLAIM FOR RELIEF

24 THE GOVERNMENT'S CAMPAIGN AGAINST SCIENTOLOGY

25 7. For a period of more than 25 years, beginning in the
26 mid-1950's, agencies of the United States government have engaged
27 in continual attempts to attack, discredit and suppress the
28 CHURCH OF SCIENTOLOGY through misuse of federal regulatory,

1 taxing and police powers. The impetus for this effort has been
2 a refusal of the government to countenance, or accept as sincere,
3 practices and beliefs which do not comport with established
4 notions of a proper religion. Those in the government charged
5 with administering government benefits and the rules and
6 regulations restricting private activity reacted with animosity
7 toward the "new" religion founded by L. Ron Hubbard. This grew into
8 an entrenched government policy whose ultimate aim was to prevent
9 the CHURCH OF SCIENTOLOGY from flourishing, growing and, finally,
10 surviving. The means employed by government agencies included
11 many of those used against other dissident groups.

12 8. From 1958 to 1963, the JUSTICE DEPARTMENT directed other
13 agencies in the use of informants, mail covers, bugging devices
14 and cooperated in two raids on CHURCH headquarters by the Food
15 and Drug Administration. Those searches had no legitimate law
16 enforcement or regulatory purpose. After the 1963 raids by the
17 F.D.A., it and other agencies infiltrated the CHURCH, used en-
18 trapment techniques, seized CHURCH mail, gathered personal re-
19 cords of CHURCH members, and defamed the CHURCH in the media, in
20 correspondence with private organizations and individuals, and in
21 communications between United States government agencies and
22 foreign governments.

23 9. At the same time, the Internal Revenue Service and its
24 prosecutorial arm, the Justice Department Tax Division, began a
25 series of overt assessments, audits and suits depriving the
26 CHURCH of its religious tax exemptions, a revenue collecting
27 device otherwise infrequently used by the I.R.S. Litigation was
28 outstanding against many affiliated SCIENTOLOGY CHURCHES from the

1 early 1960's until 1975. While that litigation was pending,
2 I.R.S. sought to make a case against the CHURCH because of its
3 "unorthodox" religious practices protected by the First Amendment,
4 and to use the litigation and taxations to weaken SCIENTOLOGY.

5 10. In order to obtain information it sought, the I.R.S.
6 used techniques such as infiltration of the CHURCH with infor-
7 mants who instigated illegal activities and stole documents for
8 which they received funds from the I.R.S.; dissemination of false
9 and unverified allegations to other agencies and the media; and
10 application of "jeopardy seizures" of CHURCH assets. By the
11 early 1970's, the I.R.S. labeled the CHURCH a political "enemy"
12 and "subversive", despite the complete absence of any evidence to
13 support that allegation. It cooperated with the C.I.A., the
14 F.B.I., the Drug Enforcement Administration and other American
15 and foreign government agencies in data collection, informant
16 infiltration, even though there were no grounds to believe that
17 the CHURCH was a foreign intelligence, domestic subversive, or
18 illicit drug trafficking organization. In 1974, the JUSTICE
19 DEPARTMENT attempted to use pending litigation between the CHURCH
20 and the I.R.S. as the means to subpoena L. Ron Hubbard to question
21 him on matters having nothing to do with the litigation.

22 THE LOS ANGELES SEARCHES AND THEIR AFTERMATH

23 11. By 1975, the government decided the only way to stop
24 SCIENTOLOGY was an "all agency" "government-wide approach"
25 against the CHURCH, coordinated through the JUSTICE DEPARTMENT.
26 During the same period, federal agencies cooperated with state
27 and local government and private groups such as the American
28 Medical Association and the American Psychiatric Association,

1 which opposed the religious practices of SCIENTOLOGY, for the
2 purposes of restraining and interfering with the legitimate
3 and constitutionally protected activities of the CHURCH.

4 12. As part of that continuing effort by the JUSTICE DEPART-
5 MENT, agents of that DEPARTMENT, including all Defendants herein,
6 on July 8, 1977, engaged in what may have been the largest search
7 in the history of the United States. Warrants were directed at
8 two premises of the CHURCH OF SCIENTOLOGY OF CALIFORNIA, one a
9 seven story residence and chapel known as Fifield Manor, and
10 another a former hospital composed of six buildings and occupying
11 a city block, known as the Cedars Complex. In each search,
12 Defendants had a warrant to seize specific items of property,
13 but the warrants were in fact used as part of the government's
14 continuing effort to interfere with the First and Fourth Amend-
15 ment rights of the CHURCH and its members.

16 13. Defendants BANOUN, SCHUELKE, LINBERG, VARLEY, JACOB-
17 SEN, MC CARTHY, and CALLEY directed and supervised the searches.
18 They agreed among themselves and with others not known to
19 Plaintiff to use the warrant to conduct a general search, without
20 regard to the authority conferred on them by the warrant. Rather
21 than comply with the specific directive of seizing specific
22 documents mentioned in the warrant, these Defendants agreed, with
23 the complicity and cooperation of the other Defendants and
24 approximately 160 other agents of the F.B.I., to use the
25 opportunity of entry into SCIENTOLOGY premises to obtain infor-
26 mation useful to the government in litigation and to private
27 parties hostile to SCIENTOLOGY; to obtain information concerning
28 the CHURCH OF SCIENTOLOGY's recruitment, training and organization,

1 in order to better enable public agencies and private in-
2 dividuals to oppose its growth; to aid the I.R.S. in its effort
3 to deny tax exempt status to SCIENTOLOGY affiliated churches; to
4 physically disrupt the activities of the CHURCH; and to in-
5 timidate and harass CHURCH members for the purpose of deterring
6 their participation in SCIENTOLOGY.

7 14. Consistent with these purposes, the agents totally
8 disregarded the limitations imposed on them by the warrant with
9 respect to geographic areas subject to search and documents sub-
10 ject to seizure. Whereas the warrant was limited to specific
11 geographical areas in the two premises and specific documents,
12 Defendants BANOUN, SCHUELKE, LINBERG, VARLEY, CALLEY, JACOBSEN,
13 and MC CARTHY directed that the scope of the search would be
14 the entire building and all documents within it. So flagrant
15 was this disregard of the warrant that, at the Cedars Complex,
16 approximately 50 agents engaged in the seizure of documents under
17 the supervision of Defendants SCHUELKE, CALLEY, VARLEY, LINBERG
18 and JACOBSEN who were not even provided with copies of the
19 warrant and incorporated affidavit, which was supposed to govern
20 their seizure actions. Instead, these Defendants issued verbal
21 instructions concerning which documents should be seized, which
22 had little to do with the warrant.

23 15. Notwithstanding the absence of any authority conferred
24 by the warrant, Defendant LINBERG instructed agents to seize any
25 documents concerning F.B.I. agents, and Defendants BANOUN, CALLEY,
26 VARLEY, SCHUELKE, JACOBSEN and MC CARTHY, upon information and
27 belief, instructed agents to seize any documents relating to
28 litigation with the I.R.S., including attorney-client

1 correspondence, documents concerning litigation with federal
2 agencies, and other documents which would enhance the govern-
3 ment's ability to investigate and litigate against the CHURCH.
4 Thousands of such documents were seized by Defendants and agents
5 accompanying them. Similar instructions were given by these
6 Defendants to seize documents relating to state, local and private
7 organizations hostile to the CHURCH. Thousands of documents
8 described in this paragraph were seized by Defendants and by the
9 agents accompanying them.

10 16. Defendants BANOUN, SCHUELKE, VARLEY, CALLEY, LINBERG,
11 MC CARTHY, and JACOBSEN instructed agents to seize documents
12 relating to financial records, organizational charts, identity
13 cards, attorney-client correspondence, and personal records of
14 Scientologists. These Defendants also directed that over 600
15 photographs be taken on the search scene, the majority of which
16 had nothing to do with recording the condition of the premises,
17 but rather using the photographs as an illegal investigatory
18 tool.

19 17. Defendants BANOUN, SCHUELKE, VARLEY, CALLEY, LINBERG,
20 MC CARTHY, and JACOBSEN, with the complicity of the other
21 Defendants, directed the total occupation of the premises
22 searched, thus significantly disrupting the ability of the CHURCH
23 and its members to conduct daily religious worship and study.
24 This occupation and disruption furthered no legitimate law en-
25 forcement purpose, as the areas so occupied were not locations in
26 which documents were located or seized.

27 18. Defendants engaged in a deliberate attempt to intimidate
28 CHURCH members present on the scene for the purpose of deterring

1 and chilling their participation in the CHURCH OF SCIENTOLOGY.
2 Defendants BANOUN and SCHUELKE issued subpoenas to individual
3 members of the CHURCH OF SCIENTOLOGY on the premises of the
4 search for a Grand Jury sitting in Washington, D.C. without any
5 basis, probable cause or good faith belief that the individual
6 possessed any knowledge relevant to any Grand Jury investigation.
7 Defendant BANOUN also used the threat of subpoena against CHURCH
8 members during the search to intimidate and harass them.
9 Defendants CROWE and LINCOLN, with the cooperation, approval and
10 complicity of Defendants BANOUN, SCHUELKE, CALLEY, VARLEY,
11 MC CARTHY and JACOBSEN, demanded that every person entering the
12 premises during the search state his or her name and religious
13 affiliation. These names were taken without any authority and
14 solely for the purpose of intimidation, harassment and further
15 investigation. Other agents unknown to Plaintiff (because the
16 agents wore no identification tags and refused to identify
17 themselves) physically intimidated CHURCH members both at
18 Fifield Manor and at Cedars.

19 19. Defendants SCHUELKE, JACOBSEN, CALLEY, VARLEY AND
20 LINBERG directed, with the complicity of other Defendants, the
21 wanton and needless destruction of CHURCH property through the
22 forcible breaking of doors, locks, safes through the use of
23 sledge hammers, battering rams and crowbars, when such
24 destruction could easily have been avoided. The amount of damage
25 to CHURCH property amounted to tens of thousands of dollars.

26 20. Subsequent to the search, upon information and belief,
27 Defendants BANOUN and VARLEY used information gained in the
28 search to continue the coordinated effort between the JUSTICE

1 DEPARTMENT and private individuals to interfere with the CHURCH's
2 religious freedom. Upon information and belief, Defendant BANOUN
3 has met with and distributed copies of documents seized in the
4 searches to private litigants seeking massive damage awards
5 against the CHURCH OF SCIENTOLOGY. Upon information and belief,
6 Defendant VARLEY has attempted to assist persons participating or
7 engaged in litigation against the CHURCH OF SCIENTOLOGY for the
8 purpose of contributing to the destruction of the practice of the
9 religion of Scientology and the existence of the CHURCH as a
10 religious institution.

11 21. The conduct of Defendants BANOUN, SCHUELKE, CALLEY,
12 LINBERG, MC CARTHY and JACOBSEN, as set forth above, in directing,
13 coordinating and agreeing to use the opportunity afforded by a
14 search warrant to continue the government's attempt to interfere
15 with legitimate activities of the CHURCH OF SCIENTOLOGY, and the
16 complicity and participation in such attempts by the remaining
17 Defendants, violated the rights of Plaintiff and its members as
18 guaranteed by the First, Fourth, Fifth and Ninth Amendments of
19 the United States Constitution. In carrying out these acts,
20 Defendants acted in bad faith and for the purpose of harassing
21 the CHURCH and its members in the exercise of their First Amend-
22 ment right and with the intent, arbitrarily and capriciously, to
23 deprive the CHURCH and its members of due process of law and
24 equal protection of the laws, as well as specific intent to de-
25 prive Plaintiff and its members of their rights to be secure
26 from unreasonable searches and seizures and freely to practice
27 their religion.

28 22. Unless restrained by this Court, Defendants will con-

1 to engage in the unlawful, unconstitutional conduct previously
2 set forth and will continue to cause Plaintiff and its members
3 great, immediate and irreparable injury for which there is no
4 adequate remedy at law.

5 23. By reason of the unlawful and unconstitutional conduct
6 of Defendants, Plaintiff has suffered damages in the sum of
7 One Hundred Million Dollars(\$100,000,000). The wrongful and un-
8 constitutional conduct of Defendants was done against Plaintiff
9 in malice and in bad faith and for the express purpose of
10 harassment and suppression of Plaintiff's exercise of con-
11 stitutional rights, thereby entitling Plaintiff to exemplary and
12 punitive damages in the sum of not less than Four Hundred Million
13 Dollars(\$400,000,000).

14 WHEREFORE, Plaintiff requests the following relief:

15 1. For a preliminary and permanent injunction restraining
16 the Defendants, their agents and employees, from further harassing
17 the Plaintiff CHURCH or its members in the exercise of their
18 aforesaid constitutional rights and from carrying on any further
19 unlawful or unconstitutional searches, seizures and conduct as
20 heretofore described.

21 2. For a declaration that the aforesaid conduct of the
22 Defendants violates the rights of Plaintiff CHURCH and its
23 members secured to them by the First, Fourth, Fifth, Ninth and
24 Fourteenth Amendments to the United States Constitution.

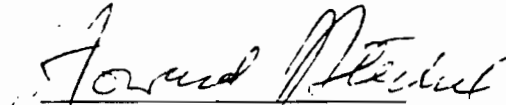
25 3. For general damages in the sum of not less than
26 \$100,000,000.

27 4. For exemplary and punitive damages in the sum of not
28 less than \$250,000,000; and for further exemplary and punitive

1 damages in the sum of \$100,000,000 against Defendant RAYMOND
2 BANOUN and in the sum of \$50,000,000 against Defendant JOSEPH T.
3 VARLEY.

4 5. For reasonable attorney's fees, costs of suit, and such
5 other and further relief as this Honorable Court deems just and
6 proper.

7 Dated: September 2, 1980


8 HOWARD J. STECHEL
9 Attorney for Plaintiff

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