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21 May 1965

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting With Lawyers Regarding HEINE Case

1. On 11 May 1965 a meeting was held with Attorneys [ ] in order to discuss the current status of the case and to plan for future action. Attending for the Agency were [ ] who has taken over the case vice [ ] in Office of General Counsel, and the undersigned.
2. [ ] asked [ ] to give us his reading of the case as it now stands including his suggestions for handling, with particular respect to intervention by the Department of Justice. [ ] stated that no legal action had transpired since the deposition of HEINE and that Raskauskas had made no move to depose RAUS or to file an interrogatory. At a recent social activity attended by Raskauskas the latter had stated to [ ] that his course of action would be very simple: he would put HEINE on the stand, ask whether he was a Soviet agent, get a denial, and then rest his case. [ ] stated that this very simple offense would create certain difficulties with respect to getting material into the record which will reflect adversely on HEINE. [ ] was hopeful that Raskauskas might be having second thoughts as to the integrity of HEINE as a client, and he felt that there was a good possibility that the case might never come to trial. However, since this is only a surmise he wants to be fully prepared to defend the case as vigorously as possible when and if it should go to trial and for this reason he would very much like to continue further investigation of a number of people who may have information to reveal which may prove to be very useful on the witness stand. (We had previously asked him to stand down on further investigations

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until we had reviewed the case in our own offices.) ( ) stated that there would be an expenditure of \$2500 to \$3000 for this further investigation. ( ) interjected that they had sent their private investigator to do one job in Wisconsin (Tanmark) since it was so vital to the case that they were both sure that we would approve the expenditure. We asked that they hold off on further investigation for a little while longer in order to give us the opportunity to review the case and arrive at a decision re further action.

3. Once again we went over the problem of protective action to insure that the Agency's interest would be well cared for when RAUS is asked either in deposition or during the trial precisely from which Agency and from what individual he had received this information. ( ) pointed out a number of possibilities in this regard. RAUS could take the Fifth Amendment and plead incrimination, and this would probably withstand any effort by the opposition to elicit the information, but it would also make RAUS appear to be protecting himself and might result in losing the case, which is presumably not the object of the exercise. There was further discussion of the pleading of privilege in its various ramifications, and ( ) stated that he was in contact with the Department of Justice and hoped to get some concrete reading from them on precisely when and how they would step in to affirm that revelation of this information would be contrary to the interests of the U.S. Government. ( ) made a strong point that he would like to be able to sit down in a three-cornered meeting with ( ) and the Department of Justice attorney so that he would know the ground rules and what he could expect when making a motion to the judge. Failing that he said he could see a "Mickey Mouse" in the courtroom, with signals being missed and protection previously promised not forthcoming. (Comment: It should be emphasized here that from the very start, ( ) and ( ) have made it clear that they would play this game and conduct the case in any way which we felt was necessary in order to protect the Agency's interests. They understand completely that there are certain facts we will not reveal and certain positions which we can not take, and they are

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fully willing to observe whatever ground rules we set up. They ask only that they know beforehand precisely what we will permit to be said and what is out of bounds so that they can conduct themselves accordingly.) The question of the manner of intervention by the Department of Justice was left in abeyance for further exploration by ( )

4. ( ) advised us that they had an accounting for us which we should perhaps know about since the bill was "substantial". The charges are based on legal fees for the senior lawyer ( ) and lesser fees for the junior lawyer ( ) and they have together put in something like 250 hours on the case to date. There is a further charge for research work down by junior people in the firm and this runs to something like \$1000. The total to the best of ( ) recollection was \$10,900 for services to date. (Comment: This is of course a far cry from the original estimate which had been discussed by OGC when the case was in its initial stages, and when ( ) had believed that the entire defense would run into the hundreds of dollars.) ( ) emphasized that they were not pressing for payment now and would leave it to us whether the charges should be paid on an interim basis or at the conclusion of the entire case. There is something to be said for the latter alternative in that RAUS if asked could truthfully say that he has not yet paid any legal fees, and has no idea as to how he will meet this obligation when it comes due.

5. We advised the attorneys that we would have further discussions of the case in our own offices in order to get a reaffirmation of the Agency willingness to proceed with the defense as it now stands. We agreed that we would ask for approval to indemnify RAUS for any judgment which might be levied against him in case the case goes to trial and he loses, the reasoning being that we have no right to proceed with the case unless we are willing to live up to our obligation to RAUS for any damages which he might suffer. It was further agreed that we would advise them as to the precise manner in which the Department of Justice would intercede in the proceedings to insure against revelation of any information detrimental to the Agency. Finally, we would give them the go-ahead for the next phase of the investigation after our discussions in our organization.

[ ]  
Chief, SR/O/AC

cc: Office of General Counsel

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