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23 October 1966

MEMORANDUM FOR THE RECORD

SUBJECT: Erik HEINE Involvement in Libel Case in Canada

1. On Friday evening, 21 October, [redacted] (Juri RAUS' attorney) called Mr. Houston to inform him that he had just received a telephone call from a Toronto lawyer with what might be a "break" in the Erik HEINE case. [redacted] was to call the lawyer in an hour for a more detailed discussion and wanted someone from the Agency familiar with the HEINE case to be with him for this call. Mr. Houston asked me to call [redacted] and proceed to his home.

2. [redacted] [redacted] briefed me of the content of the first call and suggested that I participate in the return call on his extension telephone as an (unnamed) CIA official. I said no to this, for obvious reasons, and we agreed that I would merely listen on the extension. Following is the gist of the story.

3. The lawyer, Mr. Donald Keith, represents two Canadian-Estonians in a libel suit against a third. His clients are Mr. Harry PARKMA, employed by the Canadian Trust Company, President of the Board of the Estonian Central Council, and Dr. Olaf TRASS (B.S. Princeton, PhD MIT), Assistant Professor of Science at University of Toronto. They are suing an Estonian lawyer, Mr. Mart TARUM, for libel in a Toronto court in that he circulated four scurrilous and libelous anonymous "bulletins" concerning them in late 1964. On Friday, the fourth day of the trial, Erik HEINE was suddenly disclosed as the author and writer of the bulletins.

4. The background of the case goes back to September 1964. Among a Soviet cultural delegation then visiting Canada was Rudolf SIRGE, a well-known Soviet-Estonian author. A Canadian-Estonian, Karl EERME, then Vice-President of the Estonian Central Council Board, had been a boyhood friend and schoolmate of SIRGE and he invited SIRGE to his home to meet a few Canadian-Estonians for a social evening. The

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invitation and the so-called "secret meeting" in EERME's home were subsequently severely condemned by right-wing ultra-nationalist Estonian emigros, including Eerik HEINE. PARKMA, as President of the Council Board, demanded that EERME explain his actions. EERME presented his report and resigned as Vice-President. The affair grew into a "cause celebre," with the Council Board of seventeen divided between the right-wing faction (led by HEINE) which condemned the others as supporting co-existence and being soft on Communism, and the moderates (including PARKMA and TRASS) who opposed this ultra-nationalist position.

5. Shortly afterward there appeared a series of four, anonymous "ETA Bulletins" in Estonian denouncing PARKMA, TRASS and others for allegedly having abandoned the struggle against Communism and having deserted the cause. ("ETA" was a pre-war free Estonian press service.) There was considerable speculation as to the authorship of these bulletins and many suspected HEINE. Knowledgeable Estonians who analyzed the bulletins detected skilled propaganda style and a few curious Soviet expressions and turns of speech. The Estonian lawyer, Mart TARUM, who was close to HEINE, proceeded to distribute these bulletins, once at a public gathering, other times to private individuals. PARKMA and TRASS promptly initiated suit against TARUM for libel, mainly to attempt to find out who was behind this disruptive action. The suit came to trial before a jury in a Toronto court last week. On Friday, TARUM's lawyer put him on the stand in defense. In direct examination he asked TARUM whether he knew who the author of the bulletins was in 1964. Answer: "No." In 1965? "No." Now? "Yes. On October 18th in your (the lawyer's) office Eerik HEINE confessed that he was the author."

6. Keith is confident that he is winning the case and has no intention of calling HEINE to the stand, but strongly feels that the defense will do so after he finishes cross-examination of TARUM on Monday, 24 October. The defense has weakly attempted to prove truth, but without success. Non-suit was denied by the judge. "Qualified privilege" may stand up for one publication of the libel at a public meeting, but not for other occasions. "Fair comment" was out. Keith was confident that he could show "express malice." What he was concerned about was that the defense would call HEINE and present his long heroic biography to the jury, paint him as an anti-Communist fighter and expert on Communism, and leave Keith without ammunition to counterattack. Keith

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wanted to show that HEINE's action in clandestinely authoring and disseminating the anonymous bulletins and disrupting the Estonian emigration was proof of the RAUS (CIA) thesis that HEINE was an agent provocateur in the emigration with the mission of division, disruption, and subversion. He wanted [redacted] to come to Toronto with whatever background information he could provide which would enable him to destroy HEINE's credibility on the stand, and he at first appeared to suggest that [redacted] join him in the courtroom. As further background, there appeared last week in the Sunday color supplement of the Toronto Telegram a story with color photos on the HEINE-RAUS case with HEINE as the obvious source, in terms highly laudatory of HEINE. The second part of the story, mainly HEINE's biography, will appear this Sunday, 23 October. Thus, if HEINE appears in court it will be immediately after these very favorable press stories.

7. [redacted] explained to Keith that the CIA undoubtedly has a great deal of information on HEINE which it hasn't disclosed to him and that all he had was what had been developed via the lengthy deposition in 1965 plus results of his own investigations. Keith said that this was precisely what he wanted, and that he would be most grateful for any help. [redacted] told him that he would have to reflect and consult and promised to call back later.

8. We then called RAUS and got confirmation from him of some details of the background of this suit. From the long, lucid and lawyer-like telephone briefing by Keith, and I were moderately certain that the call was genuine, not some sort of provocation. We examined the alternatives open to us, principally whether to accede to Keith's request or not, and if so in what manner. We were very aware of the "kiss-of-death" aspects of any involvement by CIA or a "CIA lawyer," as [redacted] might be labelled, in a Canadian court. We recognized, on the other hand, that whether we liked it or not, HEINE might appear in court and come out triumphantly as a hero. [redacted] was particularly concerned that in such an event, Keith might announce to the press that he had called on RAUS' lawyer and the CIA for anything they could give him against HEINE and had gotten absolutely nothing. We tentatively concluded that either [redacted] or [redacted] should go to Toronto and consult with Keith in his office, taking with him only the "overt" file material (pleadings, deposition, transcripts of hearings, etc.), but should stay out of the courtroom and, of course, avoid any open involvement in the

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case. We called Mr. Houston late that night and briefed him fully on the status. Mr. Houston felt that this might be a favorable break in the HEINE case and that we would be wrong not to take advantage of it. He was in agreement with and approved the course of action outlined above.

9. On Saturday, 22 October, [redacted] and I met in their offices for a further long go-round. [redacted] checked Donald Keith in Martindale-Hubbell and found him to be an Attorney and Queen's Counsel, age 55, and to have the highest rating (a v). We called RAUS and got him to read us translations of a couple of the ETA Bulletins. In speculating why HEINE had injected himself into the case at this particular juncture we were inclined to tie it in with the pro-HEINE stories in the Toronto Telegram and guessed that he might be riding the wave of favorable publicity. Since [redacted] was tied up on another case and unable to leave Washington, [redacted] was elected to go, and he selected the overt material from their files and made plans to depart on Sunday. It was agreed that there would be nothing clandestine about his trip, so that there could be no charge of secret involvement of RAUS' lawyers if the press should learn of it, but that he would limit himself to consultation in Keith's chambers. He would be in touch with [redacted] by telephone if the tactical situation should require some further decisions. I reported this to Mr. Houston by telephone in the late afternoon.

CSB/O/AC

cc: Office of General Counsel (Mr. Houston)
Chief, SB Division
C/EU/BC/C
C/CI/BOVSAT
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RAUS

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