

Victor Jokell

MEMORANDUM--

To: Barry Hirsch July 7, 1991  
From: Victor Jokell  
Re: Twentieth Century Fox et al.

The document concerning Twentieth Century Fox and addendum concerning my recent meeting with Strauss Zelnick, President and COO of Fox, which you agreed to receive in the course of our last telephone conversation, has been ready for dispatch since that time. I have delayed sending same in the belief that I should place these events in their wider context, an unavoidable exposition somewhat painful emotionally, however, to commit to text. When I was Director of British Amnesty International, we found it difficult at times to elicit information from torture victims. They felt humiliated, shamed by what had occurred. The same applies to rape victims. To a lesser extent, I feel some of that in having to assume, even to myself, the identity of a victim. But I recognize that this prideful denial, while it has allowed me to continue to function at a fairly high level of professional activity whatever the impediments sent my way,

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also has served, in silencing me until now, as the co-conspirator to those who have professionally and personally occasioned a great deal of harm to me. I hope therefore that you will bear with the following introductory material prior to the more specific bill of particulars.

"WHAT'S THE ACADEMY  
GOT TO DO WITH IT?"

If you remember the motion picture, ON THE WATERFRONT, Karl Malden, as Father John Corrigan, emotes outrage on hearing a resigned dock worker complain that corruption is so endemic on the docks, "I haven't got a chit (work voucher) in eleven years." "Demand a chit," Karl exhorts, eyes fierce with indignation, "even if you must take it out of their hands." As a member of an industry where the occasional ideal on celluloid is honored in our working life mainly in the breach, I telephoned Karl, now President of the Academy of Motion Picture Arts and Sciences and, without any real expectation, said: "Karl, this past year I have submitted six projects to the Studios and Networks, to executives I know well. All six projects were refused for a variety of stated creative reasons yet, within a few weeks, sometimes a very few months, all six projects were placed in development at the same Studios or Networks (AGAINST ALL HOPE and THE MIDWICH CUCKOOS at Universal, SAY KIDS, WHAT TIME IS IT? at

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Fox Television, THE NEW ROGUES and THE FACE OF FEAR at CBS, and AMNESTY at TNT). The explanations extracted from the Studio and Network executives - I did not bring in a specifically-named second-echelon director (Tom Pollock), I should have discussed the project with another member of the staff instead (Peter Chernin, to whom I had pitched the project), the new administration could not take responsibility for the sins of the old (Jeff Sagansky, relayed through John Metoian), I submitted the project on a Tuesday rather than a Thursday, etc - are of interest solely for the sophistry they betray." "What's more, Karl," I continued, "What happened this past year also happened in the prior, granted not to this obscene extent, and has happened just about every year for the past eleven. Eleven years with hardly a chit, during which time, I have been allowed to earn but \$12,000 while at least one of the Studios earned millions from my work." Summarizing my long-term experience in most of the creative facets of the industry and my close involvement with it and its leadership, I added, "I think there may be a problem here that I would welcome discussing with you as Academy President and also with some of your colleagues on the Board." After some hesitation and a guttural noise or two of sympathy, Karl said: "What's the Academy got to do with it?" I told him what the Academy should have to do with it,

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but that is not the point of the anecdote. In contemporary Hollywood, Karl's reaction is not only a succinct statement of the Academy's de facto charter but that of the Unions as well, and that of the few individuals with whom I tentatively and with good humor attempted to share my situation. Ringing the tocsin therefore is probably futile in a community where moral smugness, greed, and denial are raised to the level of psychosis which, in turn, leads and has led to the blacklist and economic lynching.

TOM POLLOCK: "VICTOR, THIS IS  
AMERICA, THERE'S ALWAYS WELFARE."

A few examples: When Tom Pollock, recently accorded a humanitarian award (granted a devalued currency in our town somewhat like the German Mark of the twenties), breaks up two years of work in the creation of VMJ Entertainment (an effort I initiated and led in partnership with John Veitch, Ron Miller, Joseph Fischer, with Tom Pollock affording legal counsel, at which time you and I first met) by inviting Joe Fischer to join Universal at a crucial time in VMJ's creation, thereby interfering with advantageous economic relations, and reacts to my being left financially greatly embarrassed, not by validating Joe Fischer's expectation that I would be offered some small consolatory development

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deal, but with the advice "Victor, this is America, there's always Welfare," then, one is definitely not in Kansas any more; when Pat Faulstisch at CBS tells me that "CBS, as far as you are concerned, is a closed shop. You are too political (?), stubborn (?), all four members of my staff dislike you (I had met only one who happened to alert me to the blacklisting). We thought you'd have enough by now," then, we are no longer even in distant sight of Title VII; when a lawyer from the New York offices of ABC tells me over the telephone "we just don't want to work with you, pure and simple," without at least informing me of the crime I am alleged to have committed, then, basic civil rights are being trampled through the agency of the government license which ABC enjoys; when Hanna-Barbera, in concert with the Gersh Agency, blatantly purloins a project of mine and the latter's lawyer, Neal Tabachnick, rationalizes the theft by rhetorically asking me "who the hell are you to trust us?" and correctly assesses the potential of litigation: "If you want to go to Court, we'll see you there in five years, if you can afford it", then, we inhabit a predatory world where the protection of law is so inconsequential as to become merely the parting sarcasm from a confident thief; and, finally, in this selected brief sequence, when, soon after Tom Pollock's above-mentioned callous counsel, on a late afternoon near Christmas at that, in the midst of a

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telephone conversation with Senator Hatch concerning my initiative for U.S. Advocacy for a World Court of Human Rights (I was, at the time, sponsored by a number of Senators, Congressmen, our own Governor, and others for Assistant Secretary of State for Human Rights and Humanitarian Affairs), the Marshalls knock at my door and, with barely five minutes to gather wife and three children and a suitcase, I am evicted and standing in the street, compliment of the Studios and Networks who stole my livelihood, possibly my career, then, for all practical purposes, one is no longer a citizen of the U.S. but subject of some Kafkaesque dominion, like the West Bank for instance, where the guarantees of freedom, dignity, reward for one's labor have been usurped by the abuses of guilt by unspecified suspicion and the brutal rule of a virulent spoils system.

"MINDLESS EVIL, UNAWARE  
EVEN OF ITSELF."

Am I the subject of a focused conspiracy? Not likely in a community the members of which could not agree that the earth is round if their lives depended on it, let alone premeditatively and expressly conspire to destroy anybody. Whatever my failings, paranoia is not one of them. Besides, one must not underestimate the manic delight of this

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community in screwing people, nor what Bob Altman said to me in a recent conversation. I had remarked that the town reminded me of Chicago in the twenties, Bob said, "That's not it. It's more like Emelda Marcos: mindless evil, unaware even of itself."

#### A VERY RAW NERVE

Only the unmistakable repetition of the pattern and the accumulated weight and evidence of incidents would lead me to search for a reason, a slight of some kind which might have occasioned the abrogation of the right to work and to one's own creativity, and I mentioned one such seemingly insignificant occasion as a possible hypothesis in my conversation with Strauss Zelnick, as related below. It would not be the first time that a seemingly insignificant occasion, a rumor, a cloud of suspicion attached to an individual and was used by the lesser of our community as license for their dishonesty and by the rest as rationale for their passive witness and acquiescence. All the more so in our professional community, the protected ethnic homeostasis of which is a source of great sensitivity and aggressive denial. All groups in dominance seek to protect and further their dominance, however benignly they believe it is achieved. To question that dominance and any of its

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attendant mores is to touch a very raw nerve indeed. The overwhelming preponderance of one group in our industry can no more be the result of chance or natural selection than can the sidewalk hustle of a three-card monte. It is the unarguable, open secret of our community. Nor is it benign but coercive and discriminatory. Nothing is sadder than to occasionally witness a public complaint by a Marla Gibbs and others only to have it retracted in a letter to the Los Angeles Times within days of the utterance. It follows as night does day. The complainants wish to continue to work and the muting of free speech seems, in extremis, an acceptable payment. One need look no further than the last few weeks for examples: Who in our 'liberal' community has publicly risen to the defense of an admittedly politically eccentric Vanessa Redgrave, recently fired by the Schubert Organization for her exercise of free speech? Who in our community would dare to disagree with a powerful but morally vacant David Geffen's warning to all would-be Julia Phillips: "Only a person who wants to get fired would do this." What he is talking about is the publication of a book and, by extension, the First Amendment which is not meant as an either/or alternative to the right to work. There are those few in our community concerned with this pattern of violation, as exemplified by Kirk Douglas's acceptance upon receiving an award a few weeks ago for

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hiring blacklisted, Red-Channeled Dalton Trumbo in 'the bad old days': "I'm very proud to get this award. Especially now when there's a lot of that kind of stuff still going on." Watch it, Kirk, or you too may be signing a retraction to the L.A. Times.

The laudable, heroic, and steeled cry of "Never again!" can and has become, at times, for various national, ethnic, and religious groups a call to chauvinism and prejudice which makes victims in turn and corrupts the intent. And there will always be with us those who use and besmirch their religion and roots to camouflage their greed and predation and to effectively thereby silence their critics and victims. Granted that the cry-wolf of defamation by those who engage in blatant thuggish behavior always is subject to the law of diminishing returns and exposure. No one seriously believes that the Italian Mafia is, in any way, an indictment of Italian-Americans, although the former, using national origin and jingoism as an organizational cull, sought unsuccessfully, except as it might affect the feeble-minded, to discredit and constrain their accusers with the charge of prejudice.

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AN AFFABLE FELLOW TO SAY NO  
TO AND PINCH PROJECTS FROM

So, what crime have I committed, indiscretion uttered, or ineffable tribal taboo broken to occasion such exemplary treatment, abuse of a length and frequency without parallel even in a town where such occurrences are as much a rite of passage as is one's eventual loss of virginity? Beats me! If only it were my professional behavior, I could stop it, learn from it, and avoid the nightsticks of a segment of our community which seems unhappy with me. But we are here on barren ground. By every professional criterion, I compare well and, as a producer (leaving aside my viability as a director and actor since we are concerned primarily with the submission and filch of projects), I follow the same procedures as do my colleagues, more successfully so than many if the measure is the number of projects which are quite literally taken from me for development, and more honestly as well (supporting anecdotes available on request). Is it a flaw in my personality? With the exception of two or three times in eleven years when, upon extreme provocation, I have raised my voice where others might have raised their fists, I believe the community generally would agree that you could not want a more affable fellow to say no to and pinch projects from. So what is the

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problem, since the accumulated efforts to deny me a merited livelihood must have a volition of baser origination than an act of God?

#### THIS LOONY MALEVOLENCE

In our town, when perplexed, always seek banality as the answer. I have. The resulting hypothesis concerns the only incident I can recall which may have relevance to the community and to my predicament. In isolation, the incident seemed then as now a preposterous, ludicrous triviality, although more experienced colleagues thought it at least potential trouble. In the context of our community, however, the incident can take on a more somber coloring for so much that is preposterous and ludicrous nonetheless has dominion over our lives. It may be ludicrous, as one example, that, according to Tom Selleck, being a Republican in our town means having less jobs available, but I would not gainsay him for all that. It may be preposterous that, as Jackie Mason related to me within recent months, Studio and Network executives methodically barred him from television and film for years, prescribing his cheerful ethnic commentary and style as an embarrassment to their cultivated self-image, but it is nonetheless undeniable. This loony malevolence even can fell giants. Orson Welles,

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whom I knew in the last few years of his life, complained bitterly of industry colleagues who, on the basis of rumors they could not even specify, denied him the development and production of his projects, including DEAD CALM which Warner eventually produced, but only after his death. Ours is a community most susceptible to venom for, in the absence of common decency and conscience, even a whispered rumor, ephemeral, unspecified, unattributed, can be fatal. No need here for a focused conspiracy when a community's shared moral disjunction can achieve the same effect.

#### A LONG-BURIED CARCASS

When I directed British Amnesty International, it was not unusual or cause for concern to be branded individually or collectively as Communist or CIA stooge by the captive press of the targeted governments. Such attempted character assassinations were transparent and left to wither without response. Even within my host country, no one threatened me with loss of job or deportation when, on behalf of Amnesty, I accused the British of torturing members of the IRA. The only time I ever was threatened occurred when taking Israel to task for torturing Palestinians. At a time when I was returning to television and film and preparing to return home to the States, I was given notice by a messenger with

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impeccable credentials from a source even more so that such a damnable lie and obvious hidden agenda on my part would make it very difficult for me to work in the industry upon my return. I greeted the message with the derision and contempt it deserved. That old saw belonged with the nonsense of CIA stooging and Communist sympathies. After eleven years of denial of work and extreme deprivation for me and my family, I no longer am so sure. What concerns me is not the incident itself or, for that matter, identifying its source since it is now irrelevant to the industry. The incident is a long-buried carcass best left interred. What concerns me is that the dust raised by its once thrashing tail may still be with us.

#### CIRCLING THE WAGONS

There were, or so I thought, good reasons to maintain silence over the years. An unwelcomed consequence of public revelation would be to be championed by individuals whose prejudice I abhor. Given the sensitivity of the issue, I even sought and discussed the matter with the Dean of the Simon Wiesenthal Center, Rabbi Marvin Hier. An equally unbidden outcome would be the exacerbation of the problem into a self-fulfilling prophecy, adding new converts to the tacit blacklisting, either through the phobia of hiring anyone unwanted by colleagues for any reason or the native

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proclivity to circle the wagons and exclude, a tendency inimical to the public good and a betrayal of the public trust but then, these latter are not the concern of those who have the inside track.

You would think, or at least Candide would, that the few who control film and television and therefore have almost hegemonic influence over the lifeblood of the nation (its ideals, principles, view of itself) and a greater capacity to shape our days than even elected government officials, would unmistakably endeavor to exemplify and foster what is best in our nation - tolerance, diversity, opportunity for talent, initiative, a level playing field for all - instead of morbidly displaying the partiality and mean-spiritedness of a self-selected elite confident that the Golden Thread of American Justice stops at its door.

"WE HAD GOD TELLING  
US TO DO SO."

As if it needed to be confirmed, this proclivity to circle the wagons and exclude was manifest again recently in the one or two attempts to share my predicament with members of the industry.

In a recent conversation with Leo Jaffe, one of our industry patriarchs, one of the Godfathers if you will, concerning

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his White House assignment for USIA, I had occasion to circumspectly introduce the subject of purloined projects. The response was instantaneous. He fulminated: "In my fifty years in Hollywood, no one has ever stolen anything, you hear, nothing. I don't want to hear it. I don't want to talk about it. I want to end this conversation," this from the industry Solomon who is reported to have counselled as response to David Begelman's thievery: "Wouldn't we all be better off trying to make a production deal with him, giving him some financial security, then reconsidering his situation vis-a-vis the Company a year or two down the line?" Leaving aside the legal and ethical implications, such generosity of spirit to a contrite member of 'the family' would be infinitely more touching if it were not for the dead-in-the-eyes cold-bloodedness accorded those unfortunate enough to be outside 'the family.'

I also discussed my situation with Frank Price at his new Culver City Columbia office. There was no expression of horror, or even sympathy, at what he heard. I mentioned to him, as he had recently signed a number of producers, that, in view of the many projects of mine which have found homes, I should be the subject of some pursuit by the Studios as well. His only comment, as I recall, was the non sequitur: "Well, you did good with Amnesty." Three subsequent

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telephone calls to his secretary, Aida, concerning whether I am permitted, as in the past, to submit projects to Sony-Columbia have gone unanswered.

The saddest such example of defeasance of elemental decency concerns a producer colleague whom you know well, someone with an impeccable activist background, bright, aggressive, proud of her staunchly-held liberal tenets, whom I had come to know well, I thought, and with whom I shared material and had begun to cooperatively pitch projects to suppliers. When I confided my circumstances to her and their possible banal origination, the kneejerk reaction was of seismic proportions. No expression of human concern or censure of those responsible. Instead, she blurted out her *cri de coeur*: "I can't work with an anti-Semite." It was the second time I had been so accused in my life, the first being the threat of long-ago. The defamation does not matter in itself. That evil slipper just does not fit. I have left too big a footprint in counteraction in my life. What does matter is the vertiginous dismissal from concern, the circling of the name, the imposition of her very own blacklist. What we have here is not so much a failure to communicate, the issue intelligible to an elementary school audience, but what one might identify as the Martin Buber syndrome: Buber, in a University lecture, excoriates the

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inhumanity of the Phoenicians for their practice of the religious sacrifice of their eldest sons, then in an abrupt about-face, proceeds to celebrate Abraham for his willingness to do the same. To a student who interrupts, seeking enlightenment from Buber on the apparent double standard, Buber replies: "WE had God telling us to do so."

SEEMINGLY GOOD REASONS  
TO ACCEPT INJUSTICE

Of all the reasons to keep one's silence, the most consequential and briefly stated was and is the fear that the defamation, vilification, controversy which could ensue may irreparably damage my initiative for U.S. advocacy for a World Court of Human Rights which your colleague Peter Dekom accurately assessed, if successful, "as more important than all the films ever made," and which has garnered early support in Congress, the State Department, and elsewhere. It seemed to me at least conceivable that in the process of damning the messenger to politicians who have not always chosen moral suasion over political muscle, the message might be damned as well. What changed my mind finally, with the help admittedly of the recent accumulation of a critical mass of evidence, is the stubborn truth that liberty, justice, fair play are indivisible whatever the setting,

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whether for others or oneself, and that I would compromise my advocacy of larger issues by my failure to openly confront here, however laudable the reasons not to do so. There are always seemingly good reasons, if you want them, to accept, to ignore, or to excuse injustice. Just ask Martin Buber.

#### A LONG SEASON IN HELL

For the purpose of this exposition, possibly out of concern for propriety, I have sanitized the consequences of eleven years in the Hollywood Gulag. As a gauge to my resolve, however, as well as potential encouragement to others with similar tales to tell, it may be well to linger a moment over a sampling of these consequences: the destruction of all financial assets, stability, and credit; the cold sweat of the early morning panics induced by the inability to feed one's children; the unavailability of medical care, the damnable advice of Tom Pollock ironically coming to pass as I seek welfare for medical care and am turned away unless, in the welfare official's incredulous view and assessment of my background and accomplishments, I bring in my ten-year-old twins to validate the destitution - I refuse; the pawn of a wedding ring and sale of books accumulated in seven years at Harvard and beyond; the theft of the spoils

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of childhood from my children; the mortification of paying no taxes, of driving without a licence, unable to afford insurance; the dissembling of one's condition as I continue to work without respite, meeting, writing, generating the next project to be swiped, advising even such multinational giants as Bertelsmann ("Teach us about American motion pictures and you will be included when we decide to move"); the willingness to settle for doing just one of my projects in exchange for gratefully allowing the theft of the others; the accumulation of humiliations in a long season in hell; the daily reaffirmation that I would not give up territory to those who, in their hateful and disparate ways, let me know that there is, in this Gulag, a merciful exit, that I need only take it, as so many others have done rather than watch their lives dribble away day by day.

THE GOING RATE  
FOR ELEVEN YEARS

Now the battle is joined. The text can serve, as I mentioned at a meeting with ACLU's Ramona Ripston concerning the constitutional issues raised, as a Declaration of Causes for Taking Up Arms. No jest here. I informed Strauss Zelnick at our meeting of a comment which predator and Fox boss Rupert Murdoch made to Harold Evans, Editor of the

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London TIMES, as they both watched a demonstration by minorities in the streets of London: "Nothing wrong there that a few good cracks on the head won't cure." "I consider myself well cracked on the head," I said. "It is now my turn." Conciliation? Fine. What is the going rate for the last eleven years, for a quarter of one's career? Seeking public support and the application of the relevant laws and statutes? Sure. Whatever it takes. I have as prod my recollection of victims going to their doom unable to salvage even a measure of retribution such as their fingers anchored forever in the throat of their abusers. I am unlikely to be such an easy victim. Never again, indeed.

#### TWENTIETH CENTURY FOX

"The price one pays for pursuing any profession or calling," said James Baldwin, "is an intimate knowledge of its ugly side." "Ugly" will serve in describing the pattern and practice of violations, the willful deprivation of rights, and fraud perpetrated by Fox under the ownership of Marvin Davis and, subsequently, of Rupert Murdoch.

"I have given every indication of wanting to resolve these transgressions amicably and fairly. Your Fox colleagues, however, seem to misread this approach as a sign of weakness and as an invitation to a further bite of the apple with yet

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another instance of thievery, this time at Fox TV. Enough is enough. I am going to rely on the public and the Justice Department's obligations under RICO. If the Racketeer Influenced and Corrupt Organizations Act doesn't apply to Fox, it doesn't apply to anybody," I explained to Chase Carey, Executive Vice-President of Fox, Inc., over the telephone, earlier this year. I had known Chase for a number of years, since his stay with Columbia Pictures, and last year had explored two possible acquisitions with him and with Strauss Zelnick, Fox Chief Operating Officer: Apollo Pictures which Dennis Stanfill had asked me to discuss with a number of contacts, and Republic Pictures, whose eleven-hundred feature film library I had analyzed and itemized at the request of the multinational Bertelsmann on the understanding that any purchase would include new production, not merely exploitation of past achievements. These discussions with Chase and Strauss took place when Fox still was ravenous for acquisitions and prior therefore to Rupert Murdoch's resulting indigestion.

"To start with," I continued in my conversation with Chase, "Fox swipes three of my film submissions, all within a few weeks, one of which makes millions for the Company. The facts are not only documented and in the hands of your colleagues, but Larry Mark, then a Fox vice-president of

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production, openly admitted as much to me. Yet the lame responses I get from Clifford Werber and Strauss are virtually identical: 'Gee, Victor, we do take that sort of thing very seriously, but there is no paper trail left here about it.' All Strauss or Clifford needed to do was to telephone Larry Mark at Disney, whom I had alerted to a possible call from Fox in the vain hope that Clifford, Strauss et al would take the matter as seriously as they claimed.

"Instead, Strauss suggests, as a sort of consolation, that we start afresh and that I meet with Roger Birnbaum to discuss new projects. Against my better judgement, I agree to the latter if not the former, but am unable to get through to Roger in a number of attempts. Eventually, I get a call from one of Joe Roth's assistants who curtly asks me to pitch over the telephone, then tells me she's too busy and will call back, which she never does.

"Without the assistance of Roger Birnbaum's or Joe Roth's office, I schedule a meeting with Nancy Neufeld, Mace's daughter and a Fox production vice-president. She reacts enthusiastically to five projects and wants to discuss them with her colleagues. Within a few weeks, however, she is no longer at Fox. After numerous phone calls to trace my projects within the Company, I am told they are all rejected

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even though the Company staff cannot identify the projects by title. Finally, three projects are identified as rejected, and I am told the others, wherever they may be, would have been refused as well. When I complain to Strauss that his suggestion has resulted merely in insult being added to injury, he responds, 'I guess they really don't want to work with you. You better submit material to me.'

"I then inform Strauss that a comedy series project on which I had worked vigorously for almost two years, SAY KIDS, WHAT TIME IS IT?, which I pitched to Peter Chernin at Fox Television late last year and which he rejected, is now in development at Fox Television, and that Chernin's response to my telephone query is that I should have pitched the project to a member of his staff instead, and that 'if it's any consolation, I still don't like the project.' 'I am not going to be defensive about this,' Chernin concludes. Strauss's response, as usual, is inadequate: 'This is terrible,' he says. 'We shouldn't be doing business that way,' and he vaguely promises to look into it. That brings us up to date, and I'm afraid it won't do, Chase, whatever the affected sympathy and rosary of mea culpas I keep being offered."

"As you know, I have nothing to do with all of this," answered Chase, "but let me talk to Strauss."

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Within a few minutes, Strauss was on the telephone:

"Victor, I just spoke to Chase. Is there any alternative to what you intend to do?" Sure there was: stop stealing, blacklisting, and pay up. But Strauss was not interested in equitable alternatives, only containment for the price of a pat on the back: "Victor, call me if I can do anything. I am here for you if you want it." Some cold comfort! Two weeks later, a further telephone conversation during which a meeting was scheduled. Strauss: "Will you be bringing lawyers? If you are, I'll bring ours." "Let's attempt it alone," I told him.

On February 8th, shortly before ten a.m., I drove up to the Twentieth Century Fox Studio gate and was accorded a visitor's pass with an unaccustomed three red stars on it and a security guard in a golf cart, who proceeded to guide me to the lot's prestige parking place in front of the Executive Building entrance, a not unwelcomed change from the usual routine on the Fox lot: "Hey you, you can't park here." The guard then solicitously accompanied me to Strauss Zelnick's office. Amenities having been exchanged, I began: "Strauss, let me tell you what your boss once said to Harold Evans as they watched a demonstration on the streets of London ..."

It would be well to pause here in Strauss Zelnick's office,

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and in the account of what occurred there, to introduce the document alluded to in my conversation with Chase Carey, written in 1985 upon legal advice, and shared first with Fox in September 1989 at the request of Clifford Weber, now the Company's Vice-President of Business Affairs, all attempts to discuss the matter prior to 1989 having been repulsed. The document is reprinted virtually in its entirety:

Find herewith, as you suggested, an aide-memoire concerning the particulars attending the three projects, REVENGE OF THE NERDS, THE EARL OF LOUISIANA, GOLDCOAST, submitted by me to Fox executives in 1982 and 1983, as well as a recap of my recent conversations with Fox and of our own concerning same.

The relationship with Fox, until these recent events, had been a good one, not only with staff but with Dennis, Laddie, Jay, Richard Berger, and so on. There had not been any counter-indication to my projects and I being welcomed at Fox. I assumed same concerning my subsequent relationships with David Madden, Harry Chotiner, and with Wizan's long-term assistant, Michael Borofsky.

In view of these relationships, I have thought carefully about what transpired, only too ready to acknowledge human error in the matter. But the pattern here is unmistakable, confirmed by my recent conversation with Larry Mark, Fox Vice-President of Production, whom I knew at Paramount and who came to Fox with Barry Diller. In response to my full account of the matter, Larry said he was not surprised, that there had been similar infractions under Wizan, that he and Barry Diller have had to apologize a great deal for Wizan's administration, that my argument, however, was with Wizan. I responded that my argument rather was with the Corporation responsible for Wizan. Larry suggested that I

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submit new material and that the incidents would not be forgotten when it came to considering the new projects. I told him that his offer, while appreciated, fell short of redress for the substantial damage and loss incurred by me and by my Company. I also mentioned to you that I called Barry Diller and, in his absence, spoke to Beth Colloti, his assistant, who apologized for his absence and merely cooed repeatedly during my presentation that indeed "I hear you". I suggested to her that a meeting be scheduled with Diller on the matter.

REVENGE OF THE NERDS. This Goldrush Films project, a teenage comedy about computer hackers, was initiated in the summer of 1982, inspired by an article with the above title, written by Paul Ciotti, a member of the Goldrush Films writers' group, Writers Inc. The project was discussed and elaborated at Writers Inc. meetings and I spent some time with Steve Wozniak, founder of Apple Computers and focus of the article, at his Los Gatos home for research on the project. The comedy project was pitched to various studios, including Fox, shortly thereafter. It was discussed with David Madden, whom I knew since 1981, and with Harry Chotiner, then assistant to Joe Wizan at Fox. My 1982 agenda lists a meeting with Chotiner on December 2nd, among other meetings with Madden and Chotiner when the project was discussed. Shortly after the publication of the article, Miguel Tejada-Flores, identifying himself as a film producer, approached Paul Ciotti about the story. Paul told him it was a Goldrush film project being discussed at various studios. Miguel Tejada-Flores is listed as one of the script's authors in Interscope's film, directed by Joe Roth. In the first half of 1983, Harry Chotiner was appointed President of Interscope and, shortly thereafter or around the same time, Interscope and Fox announced their plan to do a teenage comedy entitled REVENGE OF THE NERDS, released in July 1984, whose receipts to date exceed sixty million dollars. I had occasion last year to remind David Madden of my pitch of the project as well as of THE EARL OF LOUISIANA. His reaction was a halting comment that he didn't recall our discussion of REVENGE OF THE NERDS.

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THE EARL OF LOUISIANA. Since 1979, very few film executives have escaped the knowledge that THE EARL OF LOUISIANA was my project. It was discussed everywhere, went everywhere. My files contain forty or fifty letters concerning the project. In 1979, it was discussed with Carl Foreman, Sherry Lansing, Sidney Pollack, most studio heads and, at Fox, the treatment was shared with Richard Berger, Jay Kanter, David Field, Alan Ladd, and David Madden in '82 and '83, John Davis more recently. Beginning in late '82, the project was being packaged with Charles Durning as Earl Long, Kurt Vonnegut for the script, Mike Post for the music. I discussed the project with John Huston on the set of ANNIE and Taylor Hackford telephoned me to express his interest in directing it. The treatment also was shared with Joe Wizan through Michael Borofsky (his assistant at Fox) when both were in independent production. Lynn Arost at MGM alerted me at a meeting in August '82 that a couple of people were submitting an identical project, reportedly a bad script co-authored by Jim McBride who, at the time I shared the project with Barbara Boyle at Orion, was preparing BREATHLESS at the same studio. I was further told by Lesley Morgan at Warner Brothers, now a vice president at Fox, with, I recall, inexplicable acerbity, that a couple of her colleagues had a similar project and that there was no interest in mine at Warner Brothers. Last year, the project, under the title BLAZE STARR, was announced at Fox with Jonathan Sanger as producer.

GOLDCOAST. On December 29, 1983, I submitted this project to David Madden. GOLDCOAST was submitted in cooperation with the Swanson agency representing Elmore Leonard. Subsequent to conversations with Elmore, I evolved a romantic comedy approach to the work and shared same with David Madden. David rejected the project shortly thereafter only for it to reappear subsequently, with new ownership of the material after I had to let it go, as a Fox project with, again, Jonathan Sanger as producer and Leslie Morgan as the executive in charge. I mentioned to Larry Mark that Sanger must have had good access to the Fox files and to Wizan.

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In addition to our conversation, I have discussed the matter with a very few others, some like Ned suggesting legal recourse, others, like Dennis, although he has a case against Fox regarding the Katleman affair, recommending against it for reasons similar to mine. I do not have the stomach for protracted litigation, accusation and counter-accusation, with opprobrium and suspicion cast as much on the victim as on the perpetrator, all of which Fox can afford but which my career and pocketbook cannot, enough damage already having been done to both by these incidents.

I agree that Goldrush has suffered a tremendous bodyblow through this. It has cost heavily to a company which had every right to expect to do as well with REVENGE as Interscope did, and similar right to expectations concerning the other two projects. It has cost the break-up of Writers Inc., and damaged my career not only as producer, but as director and writer, these projects being the best and most likely to succeed of the material we had at the time.

While I agree that the law does protect ideas, treatments, submissions, and understand the time limitations for such complaints, I think the way to resolve this is without litigation, and the best reason to hold off is the change of ownership. It may be best to wait until the Murdoch Administration is chosen and settles in. The new ownership may agree to the obvious, the central issue being that a producer has the right to expect that, in an ongoing relationship with a studio, his presentations, ideas, treatments, and scripts will be protected and that he will share financially and creatively from the studio's development and production of his submissions. With Marvin Davis gone, maybe the new Twentieth Century Fox will recognize that fair business practices benefit everyone concerned and agree to redress.

This document was accompanied by a letter to Clifford Werber which said in part:

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At your invitation, I enclose a letter/memorandum on the issues, written in 1985 and which still serves well concerning the specific allegations, the damages to Goldrush Films, as well as my intentions for redress. The memorandum incorporates most of the issues covered in our telephone conversation. Indeed, little has occurred since the memorandum save that Interscope has made a REVENGE sequel, that EARL and GOLDCOAST have been abandoned by Fox, and that all the parties mentioned in the memorandum went on to serve as officers or participants at Interscope, which is of circumstantial interest.

As I mentioned over the telephone, and as indicated in the 1985 memorandum, my intent was not to take legal recourse in the matter for the reasons stated therein, including the change of ownership, but nonetheless to seek a satisfactory resolution which recognized the undoubted damages done to me and to my Company.

In addition, a copy of the document was sent to Rupert Murdoch with an accompanying letter which reminded him of our conversation two years prior concerning VMJ Entertainment and continued:

I enclose for your interest a recent communication to Mr. Clifford Werber concerning an unresolved breach of fair business practices which occurred during the Marvin Davis ownership and was inherited by the current administration.

Needless to say, I never heard from Rupert Murdoch. Nor from Barry Diller, "killer Diller" to his colleagues, who knew the circumstances shortly after, if not while, they occurred and was ultimately responsible for them. One notes

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with irony that, at the recent FCC hearings on Financial Interest and Syndication Rules, Mr. Diller, when not beating his breast in his quest for special treatment ("what bad act have we committed that warrants eliminating us..?"), also declaimed with indignation: "There are no poor independent producers. The idea that independent producers need protection ...is rot."

Having squared up in my meeting with Strauss Zelnick with the anecdote of Boss Murdoch's advocacy of nightsticks as the most efficacious response to petitions for justice, and having indicated my readiness, as a recipient of same, metaphorically speaking, to respond in kind ("We beg no more. We entreat no more. We petition no more. We defy them," avowed William Jennings Brian concerning the robber barons and thieves of another age), I followed with a jab, admittedly a lightweight thing but then, so was the subject matter, Joe Roth: "I was very interested to see Joe's whining in bold headlines some weeks ago when he accused another film company of deceit, fraud, and swindle for having the gall to make a movie he was thinking about making, the somewhat obvious and public-domained ROBIN HOOD. You will bear with me if I find that behavior difficult to reconcile with Fox swiping three of my projects, inviting me in again, and cheating me out of yet another project. Or am

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I missing something? Is there a special dispensation for you guys that I do not enjoy, a kind of primogeniture or God-ordained secret finding which reconciles Fox's blubbering over a competing project on the one hand, and, on the other, grabbing anything of mine it fancies, including the food from the mouths of my children?"

Strauss, knowing a rhetorical question when he hears one, merely looked at his knees, and settled his gaze there. "In fact," I continued, "I am sorry not to be meeting with Joe instead of you. I could have picked up some ammunition, as if I needed any more ...". Strauss chose not to respond, did not move, yet perceptibly receded as the one-sided conversation continued. I obviously was not making a friend here and that was fine with me, having had my fill of oleaginous excuses. Furthermore, as the philosopher/pugilist George Foreman cogently observed: "Dog don't bite, he don't eat." So I bit: "My intent is as stated to Chase. I will go to the public, I will go to the Justice Department, the Federal Trade Commission, the relevant committees of Congress, Rupert's bankers - Lloyds, City, Midland, Security Pacific - as if they cared, the IBA since it is very uneasy with your swallow of British Satellite Broadcasting, even the EEC where, and I am ashamed to have to admit it, they seem to take corruption, racketeering, and

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denial of civil rights more seriously than we do. I already have had discussions with the FCC - Commissioners Duggan, Barrett, Marshall and/or their staffs - since you should be denied extension of the FCC waiver from fin-syn, however much wining, dining, and tennis Diller laid on for the Commissioners."

"Do you have a lawyer?" Strauss asked across the great distance which now separated us.

"I have consulted with Peter Dekom, Pierce O'Donnell, Barry Hirsch for whom I am preparing a document, but that is secondary to my intent," I added, not about to be deflected into yet another dead-end siding. "Nor is Fox the only target although the worst offender in a pattern which has lasted eleven years now - Can you imagine? Fernando and Magic were in their rookie years back then - and, which in the last twelve months alone, has seen six projects, SAY KIDS included, casually confiscated from me ..." I began to itemize the projects and their histories when he interrupted: "I am not interested in what they do at Universal. I am not interested in what they do elsewhere in town. I care only about what we do at Twentieth Century Fox," he declared testily.

"OK then, let's talk about Fox," I said, opening my

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briefcase and retrieving a copy of the document included in the text above and which Strauss had assured me in a prior telephone conversation ("We do take that sort of thing very seriously, but there is no paper trail left here about it") he had studied carefully. "What's that?" he asked, pointing to the document. "It's the document you've already seen." "Well, you better leave it with me," he said. "It's the same document you've seen and have in your files," I insisted. "You better leave it here," he repeated. Now, generosity of spirit might have concluded that he was merely forgetful but my experience drew from the exchange a merited suspicion that he had ignored the document all along as casually as a camp commandant might ignore a prisoner's request for an extra blanket or for a stay of execution.

"Let me share with you one possible source of this extraordinary treatment I have been accorded for the past eleven years," I said and proceeded to tell him. Strauss's reaction was as peremptory as it was anticipated. Whatever was left of his noblesse oblige shattered as crystal on a stone floor. He had risen to his feet, taken a few steps, and started: "I may look young," he said against any discernable evidence, "but I had my own company before running this one and I never heard of such a thing. Besides, there is too much competition for it to happen."

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Strauss went on in this manner, but I had tuned out by then, being familiar with the party line being offered in rebuttal. "The emperor does wear clothes," I was being told. "It is your eyes which are deceiving you." As to Strauss never having "heard of such a thing," the Judge conducting the trial of Winnie Mandela in South Africa said it better than I can: "Such diligence in ignorance is the equivalent of knowledge." And had I not recently heard yet again the old saw about the inviolability of competition in our industry from no less than Rabbi Hier? I had readily forgiven the rabbi for his use of this furtive shortcut to my dismissal as he was plainly busy raising private and State public funds for his downtown Museum of Tolerance and, given time and fewer interruptions such as mine, might even do something about the blind spot within that edifice.

While I was not as ready to forgive Strauss, neither do I find it useful to contradict someone in full flow of denial. What kind of competition was he talking about, anyway? Surely not that of ability and talent alone, was he? Or did he mean by competition the occasional shoot-outs between the few who control American film and television as they seek to expand or defend their fiefdoms and, in the process, expose each others' felonious practices? Or the kind of competition which assigns overwhelming control and apportionment of jobs

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to one ethnic group in a manifestly discriminatory system which, were it imposed by members of any other religious or ethnic group, would be considered a national outrage and scandal? Or had he in mind the competition among the swarm of relatives in the industry who, by filial right, are provided films and television programs to fashion in an incestuous process which generates increasingly imbecilic product? Or the no-hold-barred competition of who can con and cheat whom best? Was he alluding to a perverted sort of Biblical competition where the least get the most and which might account for such achievers as the Head of Production of a major Studio who asked Fred Zinneman (HIGH NOON, FROM HERE TO ETERNITY, A MAN FOR ALL SEASONS, etc.) if the director had any credit that he, the Head of Production, might be aware of? Or maybe he meant that rawest of competition, as old as the first rock thrown in anger and which has always been with us, dissembled or flaunted, wherein power alone capriciously determines who is politically correct or who is not, who is allowed in and who is not, who lives, who dies.

Strauss had now completed his reproof as I, my musings. "Well, it certainly is reassuring to hear that from you, Strauss," I said, resigned that he would miss the intended sarcasm. "I have other things to do this morning besides

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this, you know," Strauss reminded me, rising to indicate the encounter was now concluded. "This really should be handled by the lawyers. Have Barry give me a call," he said. "If that's what you want. I can always ask him, I suppose." The atmosphere now was glacial and no parting salutations were exchanged.

Walking down the long, barren, aseptic corridor away from Strauss's office, I remembered the words of John Henry Falk, fired by CBS in the fifties and blacklisted for five years for having attended a meeting "at which a Communist was present," Soviet Foreign Minister Andrei Gromyko. "They never tell you you are blacklisted," Falk had said. NBC, as one of many examples from the period, while denying blacklisting, fixed upon the term "business safeguard" for its denial of others' livelihood and reputation without due process of law. "It was like being in a closet blindfolded while being hit on the head with a club," Falk recalled. It doesn't get any better after the fifth year or the eleventh either, but I hoped at least that Strauss now understood that he and his colleagues were in for a fight to the finish, and that I would show the same disregard for their well-being as they for mine. As Albert Camus wrote in his LETTERS TO A GERMAN FRIEND: "(To defeat you), we had to enter your philosophy, accept to resemble you a little."