



**RE: Respondent's Evidence Disclosure**

Monday, July 16, 2012 1:25 PM

**From:** "Victor P. Henderson" [REDACTED]  
**To:** "David Ellis" [REDACTED]  
**Cc:** "Lou Lang" [REDACTED], "Jim Durkin" [REDACTED], "Jim Durkin" [REDACTED], "Andrew Freineit" [REDACTED]

David,

I have to qualify my answers. I had to answer by July 6<sup>th</sup> according to the schedule. I also filed a motion to extend the schedule, which was denied. I also have to ask leave of court to produce certain documents. Accordingly, my answers – at that time – were based upon how things would play out with the motion to extend and having to ask leave of court and dealing with the prosecutors; if they didn't object to me using certain documents, then I worked under the assumption that the court wouldn't either. Thus far, the prosecutors have not agreed to me using any information. With all of that said, see my "current" answers below in blue.

Please call with comments or questions. Thanks for your consideration.

**Victor P. Henderson | Henderson Adam, LLC**  
330 South Wells Street, Suite 1410 | Chicago IL 60606  
Phone 312.262.2903 | Fax 312.262.2901  
[REDACTED] [www.hendersonadam.com](http://www.hendersonadam.com)

ATTENTION:

This message and all its attachments are PRIVATE and may contain information that is CONFIDENTIAL and PRIVILEGED.

If you received this message in error, please notify the sender by reply e-mail and delete the message immediately.

**From:** David Ellis [REDACTED]  
**Sent:** Monday, July 16, 2012 1:01 PM

**To:** Victor P. Henderson  
**Cc:** Lou Lang; Jim Durkin; Jim Durkin; Andrew Freiheit  
**Subject:** Respondent's Evidence Disclosure

Vic:

I wanted to touch base with you on your evidence disclosure. You didn't attach the documents you plan to use, so what, exactly, you plan to introduce isn't clear to me. Here is your list with my questions:

1. "Reports Provided by CS-1." Is this something in your possession? I don't know what this means. I am not aware of any reports that the public knows about. There are potentially issues with the Protective Order here, as well--I just don't know because I don't know what this means. I plan to introduce this IF I get leave of court to do so. I am due to go to court this Wednesday.
2. Butler Affidavit. You have listed this document for your use, while at the same time, you objected to the House Managers' use of it. Please clarify your position. This document was based upon my request that you were going to issue a subpoena to Butler. Since the request to issue the subpoena was denied, and since I do not expect that Butler will be there, I do not expect to use the affidavit. In other words, I am okay with that document being used IF Butler appears to authenticate it. If Butler does not appear, then I plan to object to it being introduced.
3. "Information Relating to the Employment History of CS-1 By the FBI." Is this the letter from the U.S. Attorney's office, clarifying the information in the Butler Affidavit about CS-1's employment and criminal background? If it's anything other than that, please advise. This is information that I am trying to get from the prosecutor. So far, I have not gotten it. I will be in court this Wednesday asking for it, but it is unlikely that it will be produced. Even if the Judge says that I can get it, the prosecutor is saying that they cannot put this information together by Wednesday at 5 p.m., which is when I would need it to present at Thursday's hearing.
4. "The Criminal Background of CS-1." Is this the same letter mentioned above? If it's anything other than that, please advise. I have these documents in my possession. The issue is whether the Court will allow me to use them at the hearing on Thursday. I will be asking leave of court to do so this Wednesday.

We need all the evidence in advance so we can rule on its compliance with Rule 9 and to consider any objections--and just generally to prepare for this hearing. So please tell me ASAP what specific documents you intend to introduce and send me a copy if it's something I don't already have.

Technically, you haven't complied with the Procedural Rules because you haven't provided the documents as required by Rule 6. I'm trying to overlook that and give you the benefit of the doubt, but the Committee is not going to receive "surprise," last-minute evidence that we haven't had the benefit of considering in advance. So please get me this information as soon as you possibly can. We have not complied because we could not comply. As you know, we asked for an extension and were told no. Moreover, all of the information that we would produce is subject to a protective order.

Thanks,

Dave Ellis

**David Ellis**  
**Counsel to the Select Committee on Discipline**

