

March 8, 2013

MEMORANDUM

TO: File

FROM: Dan E. Moldea

SUBJECT: John Connolly's sworn statement of 1-8-2013 and the claim that Connolly, Anita Busch, and I "never reached agreement on who was behind Anthony Pellicano's actions against Anita"

In his sworn declaration of January 8, 2013, John Connolly made the claim that he, Anita Busch, and I "never reached agreement on who was behind Anthony Pellicano's actions against Anita" while we were working together on our book project.

This statement is false.

All three of us agreed that Michael Ovitz was "behind Anthony Pellicano's actions against Anita." The only disagreements revolved around whether Ovitz had accomplices and/or prior knowledge about the specific attacks.

In his sworn statement, John wrote:

3. During the time we were working on the book, the three of us never reached agreement on who was behind Anthony Pellicano's actions against Anita. While Dan Moldea argued that it was Michael Ovitz, Anita remained convinced that it was Jules Nasso or someone associated with organized crime. She became even more adamant that it was Nasso after January 2004 when the U.S. Attorney released a document with a copy of a file seized from Pellicano's office which had Steven Seagal's name on the cover but with the client and attorney names redacted.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed this 8 day of January 2013 in New York City, New York.

To be clear, our joint belief about Ovitz's role was primarily based on information that Anita had received from the FBI. I explained this in considerable detail in my November 9, 2011, sworn declaration. (See: <http://www.moldea.com/DEM-Affidavit-11092011.pdf>.)

Briefly, on June 12, 2003, Anita learned from FBI Special Agent Tom Ballard that a police-computer file about her had been run on May 16, 2002, by an LAPD detective who was working with Pellicano. The May 16 date was over two weeks *before* Anita joined the *Los Angeles Times* where she began her reporting on Steven Seagal and Jules Nasso. However, it was just nine days *after* she had completed her seven-part series about Ovitz in the *New York Times* where she worked with staff reporter Bernard Weinraub.

Significantly—throughout her four depositions under oath and her sworn declaration of January 10, 2013—Anita flatly denied ever believing as early as June 2003 that Ovitz was involved, contrary to what appeared in her personal notes and in our draft manuscript.

Just to be clear: Under the terms of our collaboration contract, Anita had full editorial control of our manuscript—which was based on her own personal notes—and she exercised that right at every given opportunity. Everything is in writing.

In her personal notes, Anita wrote of her immediate reaction to receiving the news about the May 16, 2002, date from FBI Special Agent Ballard on June 12, 2003—while she was visiting her sister at her home. Anita stated:

I have to sit down. I sit down on her front step. Stunned.

That was before the Seagal stories. That was before I even joined the L.A. Times. Dear God . . . **it could have only been one person . . . only one person makes sense and that is Michael Ovitz.** (Emphasis added; the ellipses were inserted by Anita.)¹

Anita told me about this revelation that same day—on June 12, 2003. Understanding the significance of the May 16 date, I was nearly as shocked as she was. We agreed that this would be the centerpiece of our book, as well as our biggest secret.

This was six weeks after Anita invited me to work on her book project, and four months before John Connolly became a co-author.

On the evening of October 3, 2003, while Anita and I were meeting at her home in Los Angeles, we agreed to invite John to become a member of our writing team.²

¹ This document is Exhibit F, page 2, of my sworn declaration of November 9, 2011.

On page 2 of Exhibit C of my sworn declaration, I wrote about the June 12, 2003, revelation of Special Agent Ballard on page 299 of our manuscript. Anita made the following handwritten addition to that section:

It could **only** have been Michael Ovitz. He would have been the **only** one interested in me at that time. (Emphasis added.)

Also, in the midst of the section of our manuscript about her conversation with FBI agent Ballard on page 3 of Exhibit C, Anita made the following handwritten notes after writing on the previous page, “It could only have been Michael Ovitz”:

“Michael Ovitz,” she hangs her head. “Michael Ovitz. I can’t believe this.”

. . . . Anita now thinks it was Nasso & Ovitz together with Pellicano & his crew who did this to her.

Also on page 3 of Exhibit F, Anita wrote about her second conversation with FBI Special Agent Ballard on June 12, 2003:

Ballard then asks me if I know some names. I don’t know any of them. He asks the name of my writing partner at NYT. It’s Weinraub. He said can you spell that? I do. He says, “that’s a positive ID.” I’m shell shocked at this moment. I say nothing. I pull off the road. I just sit there. **If Bernie Weinraub is on that list, which it appears that he is, then it is definitely Ovitz.**

I feel whiplashed. My thinking was only one way on this . . . then boom, I’m thrown across the room. I get home and call my counselor. I need to see her. We schedule an appt. (Emphasis added.)

A few minutes later, while driving in her car en route to photocopy some materials, Anita suggested that we call John and give him the news. After I agreed, Anita pulled over and parked. With my cell phone, I called John in New York—where it was nearly 12:30 A.M.

Putting John, whom we had just awakened, on the speaker so that Anita could hear, I told him that Anita and I had decided to write a book together about the Pellicano case.

John seemed confused, trying to figure out why we just woke him to tell him that. However, he quickly came to life when Anita said that we wanted him as the third member of our team.

Then, to add drama to the moment, Anita and I revealed our deepest and darkest secret to John—that Michael Ovitz was the person who had hired Pellicano to “investigate” Anita.³ That would be the headline in our book.

John was aghast, even speechless. He had never suspected Ovitz. But after that, he believed, just as Anita and I did, that Ovitz was involved. Anita and I never questioned it, and neither did John. Once again, though, we were not sure what Ovitz knew and when he knew it.

Although Anita believed that Ovitz was at the hub of the attacks against her, she, indeed, continued to suspect that Jules Nasso might have participated—in part because of an article about Steven Seagal in *Vanity Fair* in which Nasso had made several positive statements about Ovitz, Seagal’s former agent.⁴

Reporter Ned Zeman wrote the story. John Connolly was a contributor to Zeman’s work. Describing a key moment during a tour of Nasso’s Staten Island home, Zeman’s article stated:

“It’s not what is is [sic],” Nasso explains, speaking about the house in general. “It’s what it gives off. It’s Zen. It’s chi. Like Michael Ovitz does it. It’s Ovitzean.”

Nasso traces both his chi and his “celebrityness” back to Hollywood’s fallen Zen master. “Real gentleman, Ovitz,” Nasso says. “Knows his Zen. Stand-up guy.” After all, Ovitz discovered and groomed Nasso’s former meal ticket, the swaggering action star Steven Seagal.⁵

² On June 20, 2002, the day that Anita found the montage on her windshield, she and Dave Robb called me at my home in Washington, D.C., to tell me what had happened. Among my suggestions, I encouraged her to call John Connolly, whom I had known since 1991. John had done reporting on Steven Seagal, whom Anita initially thought was behind the vandalism to her car.

³ On page 662 of her sworn deposition on August 20, 2012, Anita denied that she had ever discussed with John Connolly the possibility that Michael Ovitz was behind the Pellicano attacks against her.

This statement, also made under oath, was false.

⁴ Anita made a specific reference to this article in context with her suspicions about Nasso in a handwritten note on page 300 of our manuscript, which appears on page 3 of Exhibit C of my sworn declaration of November 9, 2011.

⁵ Ned Zeman, *Vanity Fair*, “Seagal Under Siege,” October 2002. (Attachment A)

Notably, Anita used code names to identify certain people. For instance, she called Ovitz, “Ed,” which was short for evil-doer.⁶ She also called Jules Nasso, “the babysitter.”

On October 30, 2003, Anita sent me an email about John Connolly, writing:

I spoke to John this morning about Ed and the babysitter. He thought he might confront the babysitter about Ed next week. I told him be careful. I don’t want anything to screw anything up. He said he’s been talking constantly to the babysitter. (I’ve known that for a year.)

Dan, I don’t think it’s good to let the babysitter know anything at all. Your opinion, please?⁷

I called Anita with my answer, saying that I agreed with her in the short term—although I appreciated the wisdom of John speaking with Nasso in the long term. Still, I wanted a draft manuscript before we actually approached Nasso, Ovitz, or anyone else.

Significantly, *Nasso played absolutely no role in the attacks against Anita*, who continued to harbor suspicions that he was one of Ovitz’s co-conspirators.

(For more information about Anita and Jules Nasso, see my February 26, 2013, response to Dave Robb’s January 10, 2013, sworn declaration: <http://www.moldea.com/Moldea-reply-Robb-02262013.pdf>.)

* * *

While working under our collaboration contract—which the three of us signed on October 17, 2003—John Connolly concealed the fact that he had also made a separate deal with *Vanity Fair* to write an article about Anthony Pellicano.

Anita and I were caught completely off guard by this news—which Anita discovered on December 6, 2003. It was an unadulterated act of betrayal by Connolly, whom we had viewed and treated as a close and trusted friend.

In an email I sent to Connolly on December 7, with the full approval of Anita, I specifically asked him not to write about Ovitz—whom I referred to by Anita’s code name, “ED”—saying in my message:

Respectfully, I ask you to forget about ED’s inclusion in your *Vanity Fair* article. You wouldn’t even know about his significance to this case if we hadn’t told you. ED is the property of the entire team. And, in the end, I don’t want our grand finale to be viewed as cold coffee.⁸

⁶ Anita has repeatedly denied under oath—during her depositions and sworn affidavit of January 10, 2013—that “Ed” was her code name for Ovitz while we were writing our manuscript. I catalogued many of these denials in my sworn declaration of November 9, 2011. She insisted, under oath, that “Ed” was a generic name for “evil-doers.” In fact, when used verbally or in writing, “Ed” was *always* our coded reference to Ovitz—and *only* to Ovitz.

⁷ This document is Exhibit I of my sworn declaration of November 9, 2011. Notably, during intense questioning in the midst of her sworn deposition of August 20, 2012, Anita claimed that 1) she did not remember writing this email which is both dated and timed, and 2) as with “Ed,” she did not know who “the babysitter” was. Further, she suggested that I had forged this document. (pp. 542-543)

After Connolly agreed not to use Ovitz in his story, Anita and I also insisted during a conference call among the three of us that: 1) he could not use any other materials that he learned from us; and 2) he must allow Anita to read his draft manuscript *before* he submitted it to his editor at *Vanity Fair*.

Connolly agreed to our terms, which kept the now-uneasy partnership together—at least for the moment.

On the morning of January 14, 2004, Connolly emailed the “Daily Dish” column in the *New York Daily News* to Anita and me. Columnist George Rush, a friend and colleague of Connolly, had written:

Michael Ovitz may no longer be the “most powerful man in Hollywood,” as he was known when he ran the Creative Artists Agency. But sources tell us that he still matters to federal prosecutors investigating wiretapping allegations against jailed private eye Anthony Pellicano.

According to insiders, the FBI wants to ask Ovitz about snooping Pellicano is said to have done for him in the past.”⁹

Anita and I were absolutely livid with Connolly, whom we suspected had planted the story with Rush in order to justify the use of Ovitz in his upcoming *Vanity Fair* article.

By this time, Anita and I had established a “good cop, bad cop” routine with Connolly. Of course, I was the bad cop who confronted him. She was the good cop who was available to make whatever peace was necessary between Connolly and me in the wake of one of our confrontations. Anita and I described her role as sitting in “The Garden.”

Now absolutely furious with Connolly’s latest alleged betrayal in the Rush column, Anita wanted to “bad cop” this situation, personally. She was particularly upset that Connolly was now insisting that we had to get our book out immediately in order to protect what remained of our once-exclusive information about Ovitz, whom we continued to call, “ED.”¹⁰

After convincing Anita to remain in “The Garden,” I wrote to Connolly, saying in the subject line, “We are on hold,” and adding the following message:

To hell with George Rush and his little note in today's paper, based on his anonymous "sources."

⁸ This document is Exhibit J of my sworn declaration of November 9, 2011.

⁹ George Rush (Rush and Malloy), *New York Daily News*, “Daily Dish: Ovitz, for worse & worser,” January 14, 2004. (Attachment B)

¹⁰ In an email to me on January 14, 2004, (2:24 P.M.), Connolly wrote: “I have been gently pressing for months for us to move quickly and was repeatedly pooh-poohed! . . . We had the Pellicano/Ovitz/Berke story weeks ago and now Rush is out there first. Instead of publishers reading it today and laughing that they knew about it weeks ago, they will see in in [sic] our proposal and wonder if we got it after Rush?” (Attachment C)

I don't care whether ED is on the front page of the *New York Times*, kissing Pellicano on the mouth. We are not doing anything until you clear that goddamn *Vanity Fair* story with Anita.¹¹

Under pressure, Connolly resigned from our team on January 19, 2004. He wrote to Anita that he had no intention to write a book about the Pellicano case, saying specifically:

Let me make it official, I am withdrawing from the project effectively immediately. If [the agents] want me to sign something they can Fax it to my home. I'll be back late Monday and will sign and return it. So that I do not contribute to the paranoria [sic], ***let me state that I have NO, repeat NO intention of writing a book about anything to do with any of this.***¹² (Emphasis added)

Two days later, on January 21, Anita sent me an email, nixing the use of Ovitz's name in our future written messages, saying:

[D]o me a favor ... **ed's name** is off limits, especially on emails.¹³ (Emphasis added)

On February 2, George Rush published another column, boasting that he had earlier predicted that “onetime Hollywood powerbroker Michael Ovitz would be dragged into the scandal surrounding Pellicano.”¹⁴ Simultaneously, he promoted Connolly's article in the March 2004 issue of *Vanity Fair*, “The Pellicano Brief,” which had done the dragging.

Anita and I continued to believe that Connolly had leaked the original story to Rush. And there was little doubt that he was behind this latest one, too.

On February 2, I sent an email to Anita and our two agents, saying:

Well . . . clearly Big John lied to us. ED is front and center in his upcoming article in *Vanity Fair*. See Rush's column today.¹⁵

In short, like Anita and me, John Connolly's top suspect was Michael Ovitz. However, Connolly chose to betray two loyal friends just to have the opportunity to say it first in print.

Responding to my email—advising her to remain in “The Garden” while I cleaned up the mess Connolly had left in his wake—Anita, referring to Connolly as “the snake,” wrote:

The Garden. Yeah, well. Even the Garden of Eden had a snake.

¹¹ Email from Dan Moldea to John Connolly, January 14, 2004; 11:48 A.M. (Attachment D)

¹² Email from John Connolly to Anita Busch, January 19, 2004; 12:08 P.M. (PST). Busch forwarded this email to Dan Moldea on January 19, 2004; 11:46 A.M. (EST). (Attachment E)

¹³ Email from Anita Busch to Dan Moldea, January 21, 2004; 12:05 A.M. (Attachment F)

¹⁴ George Rush (Rush and Malloy), *New York Daily News*, “Daily Dish: P.I. a Bill Collector?” February 1, 2004. (Attachment G)

¹⁵ Email from Dan Moldea to Anita Busch [and our agents],” February 2, 2004; 10:53 A.M. (Attachment H)

We need to move past this insidious jungle and get to the other side. Let's just figure out the best way to navigate around the snake and leave him behind. He will always be there, but he will be coiled up into himself. If we move past him with grace, he will not attack us.

We need to devoid ourselves of emotion. That is the only way we will make the proper decisions. We can then logically move past this and save ourselves from getting bit and poisoned in the process.¹⁶

In early 2006—contrary to what he had pledged to Anita on January 19, 2004—Connolly sold a book about Pellicano—tentatively titled, *The Sin Eater*—to Atria Books, a subsidiary of Simon & Schuster.¹⁷ Judith Curr, the executive vice president and publisher of Atria, said: “*The Sin Eater* will be to Hollywood what *All the President’s Men* was to Washington.”

To date, seven years later, Connolly’s book has still not been released.

Meantime—in the midst of an inexplicable peace agreement between Anita and the man she had called “the snake” who blatantly double crossed us—John Connolly has joined her smear campaign against me with more false charges in his own sworn declaration.

Why the smear campaign? Because I had the audacity to complain after Anita unilaterally stopped our book project—after my two years of work—because it would give too much “free information” to the defense in her civil lawsuit for which she stands to make a tremendous amount of money.

¹⁶ Email from Anita Busch to Dan Moldea, January 18, 2004; 11:18 A.M. (Attachment I)

¹⁷ Connolly co-authored a second major story about the Pellicano case in the June 2006 issue of *Vanity Fair*.