

RUSTY HARDIN & ASSOCIATES, P.C.

ATTORNEYS AT LAW
5 HOUSTON CENTER
1401 MCKINNEY, SUITE 2250
HOUSTON, TEXAS 77010-4035
(713) 652-9000
FAX (713) 652-9800
www.RustyHardin.com

RUSTY HARDIN
TERRY KERNELL
BOB GALATAS
JOE RODEN
ANDY DRUMHELLER*

*BOARD CERTIFIED IN CRIMINAL LAW
BY TEXAS BOARD OF LEGAL SPECIALIZATION

DEREK HOLLINGSWORTH
RYAN HIGGINS
MARCIE McFARLAND
CRIS FELDMAN

OF COUNSEL
LARA HOLLINGSWORTH

February 10, 2008

Chairman Henry A. Waxman
Congress of the United States
House of Representatives
Committee on Oversight and Government Reform
2158 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Waxman:

Thank you for your letter of Sunday, February 10, 2008, urging me to clarify the record regarding my comments to *The New York Times* about IRS Agent Jeff Novitzky.

As a public servant with many years of distinguished service, I suspect you may have occasionally phrased comments in an inartful or injudicious way. If you have not, you are very fortunate. If you have, then you understand my current situation.

First, my comments were made without the knowledge or approval of Roger Clemens so I certainly hope you would not hold any disagreement with me against my client. Second, I regret the sentence "I can tell you this: if he ever messes with Roger, Roger will eat his lunch." In addition to being inelegant language, it is apparently capable of being misconstrued by others. I certainly wish I had not used that language, but I cannot claim I did not say it, nor can I say I was quoted out of context. I said it, and I regret it. I have said many times in the past that in 33 years of practice I have never been misquoted by the media, and unfortunately for this occasion, that record is still intact.

What I meant by my less than choice words was that if in days to come Agent Novitzky decided to legally pursue Roger Clemens claiming Roger did something wrong, I believe he would lose. I meant nothing more, nothing less. It certainly was not meant as a threat of personal action against Agent Novitzky.

February 10, 2008

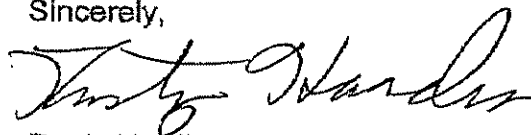
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My expressed concern about the reasons for Agent Novitzky attending the hearings of your committee on Wednesday was based on my belief that his conduct throughout this investigation has been intended to chill Roger Clemens' attempts to publicly defend his reputation. It has been reported to me that in the weeks leading up to your hearings Agent Novitzky has engaged in conduct that could reasonably be perceived as witness intimidation. It was that history and perception of Agent Novitzky's conduct that led to my comments regarding his attendance at the hearings.

I certainly did not intend to suggest that Agent Novitzky did not have the right to attend the hearing, nor can I see where my comments can reasonably be so construed. Agent Novitzky enjoys the same rights of free assembly as any other citizen, and I would never seek to interfere with those rights. I assure you that as a person with a long history in law enforcement, I would never attempt to intimidate a federal law enforcement official in the performance of his official duties, and I did not do so in this case. I regret that you feel concern about my comments in this matter. I no more intended to intimidate Agent Novitzky than you intended to intimidate me by publicly releasing a letter chiding me for my conduct as my client prepares to appear before your committee. I trust in both instances that you and I were simply exercising our blessed First Amendment right of free speech.

Thank you again for giving me the opportunity to set the record straight. I look forward to a fair and open hearing in which you give Roger Clemens an opportunity to respond to the false allegations that have stained his reputation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rusty Hardin".

Rusty Hardin

cc: Tom Davis
Ranking Minority Member