

THE CASE OF A MOST RELUCTANT WITNESS

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PINE BLUFFS – When I set up Mutual Investigative Services in the spring of 1990, I didn't realize that soon I'd be figuratively rubbing elbows with Richard Nixon, Whittaker Chambers, Alger Hiss, and members of the House Un-American Activities Committee. But that's exactly what happened. Here's the story.

On a chilly night in 1951, the headlights of an unmarked ambulance probed a thick blanket of fog in Brockett's Point, Connecticut, stopping in the driveway of a weathered, cedar-shingle cottage. For the benefit of anyone watching, its two-man crew carried a stretcher to the front door, placed a man on it, returned to the ambulance and quickly drove off in the mist.

The guy on the stretcher was Maxim Lieber,¹ an agent for the American Communist Party (CPUS) and Soviet Communist Party during the 1930s and 1940s, sought by the FBI as a witness against former Baltimore native and alleged spy, Alger Hiss. But because thoughts of testifying against Hiss were abhorrent to him, Lieber severed his ties with the United States and began an odyssey that took him and his family first to Cuernavaca, Mexico, then behind the Iron Curtain, and later, back to America.

On that dreary night in 1951, the bogus ambulance delivered Lieber to a local airport. There, his health remarkably improved, he boarded a pre-arranged chartered plane bound for Mexico City. His wife, Minna, and their two children had left Brockett's Point by car the day before. Their route took them through Baltimore, MD where they spent a few days in Towson,

¹ Lieber, a successful New York literary agent whose client list contained the names of Erskine Caldwell, Carey McWilliams, and Robert Coates, was born October 15, 1897 in Warsaw, Poland.

visiting her brother, Alvin Raymond Zelinka, a retired former U.S. Government clerk, before continuing south to Cuernavaca.²

Thirty-six years later, on April 15, 1987, Alvin Zelinka was found dead in his comfortable suburban apartment, setting off a three-nation search in order to settle his estate.

After Alvin's death, his will was filed for probate³ by his friend, James A. Haynes, a Baltimore County lawyer. But Haynes's task was complicated by the fact that Zelinka's only known relative, his sister Minna Zelinka Lieber, had not been heard from in thirty-six years. If still living, Minna stood to inherit her brother's entire estate. Frustrated by his inability to locate her, Haynes traveled to Mexico in search of her. "It was a shot in the dark," he told me. "I'd done all the usual things without any luck. So I decided to go. They weren't there, and I couldn't find anyone who'd ever known them." Shortly thereafter, Haynes gave up his law practice for a job with Maryland's State Accident Fund, and turned the file over to Robert N. Winkler, a lawyer experienced with estate administration.⁴

But Zelinka's estate remained open in the Orphan's Court for two more years as Winkler tried, without success, to find Minna Lieber and her two children. Finally, out of time and options, he asked me to help.

"The Orphan's court is beating on me to close the estate and turn the assets over to the State under the doctrine of escheat," Winkler said. "But I want to make one last attempt to find Alvin's sister."

Minna Lieber was Max Lieber's third wife. Although they had not been married when Max's espionage activity was at its height, she probably knew about his unsavory past, and

² Anthony J. Sacco, *Little Sister Lost*; iUniverse, Inc., Lincoln, NE. 2004.

³ See Office of the Register of Wills for Baltimore County, MD. File # 61552.

⁴ Robert N. Winkler, Esquire, 606 Baltimore Avenue, Towson, MD 21204. Winkler was appointed successor Personal Representative on January 19, 1988.

understood that someday Max might be forced to either flee to avoid prosecution, spend a substantial amount of time in prison, or become a government witness. When that day arrived, what would she do? In 1951, with the FBI breathing down their necks, she, Max, and their two children quietly “slipped outta Dodge.”

Cuernavaca is a small city in the state of Morelos, one hundred miles west of Mexico City. By the late 1940s, numerous American leftists sympathetic to the Soviet Union and the International Communist cause called it home. While there, Minna wrote five newsy letters to her brother. Found among Alvin’s possessions after his death and turned over to me, they were unhelpful in tracing her. The first, was postmarked at Thanksgiving 1951; the last in early 1954. An unexplained silence ensued; one that was to last almost forty years.

In late winter 1954, aided by the Soviet Communist Party, but without notice to Minna’s brother, the Liebers left Cuernavaca and relocated behind the Iron Curtain, in Warsaw. There, housing was provided and a job teaching English was arranged for Minna at Warsaw University. The Liebers stayed in Poland until 1968, when, having outlived the events that had made Max a most sought after and painfully public figure, they re-entered the country they’d abandoned, settling in West Hartford, Connecticut.⁵

An investigator must open up many avenues of inquiry and then follow them to their conclusions, never knowing in advance which will be fruitful and which will not. I began by listing all Alvin Zelinka’s friends and acquaintances, and interviewing each to see if Alvin had ever told them where his sister might be living. Simultaneously, I contacted authorities in Mexico City and Warsaw, Poland and asked for their help in locating Minna Lieber. I also attempted to locate helpful persons in Branford, their last known address, and in the New York City area, where they were known to have lived at one time.

⁵ Sacco, *Little Sister Lost*; Ibid.

A search of the Land Records in Hartford, CT revealed who'd purchased their Brockett's Point property. An interview with the surviving purchaser⁶ turned up the stunning news that Minna's husband had been an accused spy involved in the Alger Hiss-Whittaker Chambers case.⁷ Another surprise followed: the discovery that Representative Richard Nixon (R-CA), then a little-known Congressman from California and a member of the House Un-American Activities Committee (HUAC) had played a significant role in Max Lieber's defection.

On a rainy spring morning in 1990, I drove to the federal records depository located in Shaffer Hall, a foreboding, gray stone building on the Johns Hopkins University Campus in Baltimore. Hopkins was the same college that Alger Hiss had once attended.⁸ In a basement room, I devoured microfilm transcripts of HUAC hearings from 1948, 1950, and 1951, mesmerized by what I read.

In 1948, while investigating communist activities in America during the '30s and '40s, HUAC subpoenaed Whittaker Chambers, a *Time* and *Life* Magazine contributing editor and confessed former spy, to appear before it. Questions put to him revealed that he'd known Lieber and Hiss in Baltimore. His answers confirmed their activities as Soviet agents. Later, studying Chambers's testimony, Nixon concluded that Lieber possessed information that might be helpful in prosecuting Hiss for treason. His encouragement of HUAC to pressure Lieber to testify set in motion the chain of events culminating in Lieber's defection.

Summoned before the Committee in 1951, Lieber repeatedly invoked his Fifth Amendment privilege against self-incrimination. But he *did* answer a few questions, inadvertently revealing certain information. That, coupled with what HUAC already knew,

⁶ Interview with Jean W. Larch, surviving co-tenant of Riptide Cottage, Lieber's former home in Brockett's Point, CT.

⁷ Whittaker Chambers, *Witness*; Random House, Inc. New York, NY. 1952.

⁸ Hiss, a Cum Laude graduate of the Class of 1926, went on to Harvard Law School.

sealed his fate. With public exposure imminent, Lieber realized he was faced with a hard choice; either go to prison or cooperate with authorities as a government witness. He was reluctant to provide evidence that might send his friend Alger Hiss to prison, and loath to go there himself.

Prior to my hunt for Minna Lieber, the Iron Curtain had crumbled. The irresistible force of freedom blowing in the wind had finally destroyed Soviet Communism. In a new spirit of openness, historians and researchers were allowed access to previously secret records. New facts about the Hiss case came to light. Newspaper articles have kept the public apprised.⁹ In one such article, Hungarian researcher Maria Schmidt¹⁰ revealed events which probably shaped Max Lieber's thinking in deciding to leave America.

In 1949, word of Noel Field's¹¹ double life leaked out through both Whittaker Chambers and Hede Massing. Dedicated to the Communist cause, Field gathered his wife, daughter, and brother-in-law, and fled to Hungary. Fear of prison and loyalty to his friend Alger Hiss, were motivating factors.

Schmidt, while poring through records of her country's secret police, found transcripts of statements made by Field, who arrived in Hungary in 1949. She discovered that Field had told Hungarian authorities that Hiss was a Soviet spy who, in the late 1930s, tried to recruit him only to find that he was already working for another Soviet apparatus run by Hede Massing.¹²

By the end of 1948, it was already clear to authorities that Whittaker Chambers's information about Hiss's espionage activities was stale. A statute of limitations then in force regarding that crime had expired. Hiss could not be prosecuted for treason unless more current

⁹ See Sacco, *Little Sister Lost*; the Appendix contains an extensive compilation of newspaper articles appearing between 1992 and 1997 regarding Alger Hiss, Whittaker Chambers and HUAC.

¹⁰ A Hungarian historian at work on a study of her nation's secret police, who was allowed access to formerly restricted files in Budapest's Interior Ministry.

¹¹ Noel Haviland Field, a State Department official then working in the West European Division.

¹² See "Hiss Case 'Smoking Gun'?" By: Sam Tanenhaus, *The New York Times*. October 15, 1993.

evidence was produced. Had the FBI been able to arrest and coerce Field into testifying, his information would have corroborated revelations by Chambers and Massing about Hiss, and might have enabled prosecutors to bring treason charges against Hiss. But after Field defected, unable to locate that second, constitutionally required witness to try someone for treason, the Justice Department was forced to content itself with prosecuting Hiss for perjury. His first trial ended in a hung jury.¹³ He was re-tried, convicted and sentenced to prison for four years.¹⁴ Max Lieber, a source of information that could help prove a treason charge against Hiss, assumed center stage.

After several unfruitful weeks of putting out feelers, my inquiries reached Rhoda Loeb,¹⁵ who had once been a neighbor of Minna and Max Lieber in Brockett's Point. Rhoda was acquainted with a New York lawyer who had represented Alger Hiss. She contacted him. The lawyer telephoned Hiss. Within days, Minna Lieber called me.

In the two telephone conversations I had with her, I found Minna Lieber to be intelligent, articulate, and friendly. She had not known her brother had died. "When Alger called Maxim's son, he asked his wife to call me," Anna said. "[I was] told . . . to call Rhoda Loeb. I couldn't remember who Loeb was at first. But I called her. She told me why you were looking for me."

In our second conversation, I ventured the question whether she and Max had known Alger Hiss. "Yes. Very well. In fact, Alger kept up with us for quite a while after we left." Did

¹³ Begun on May 31, 1949, in the U.S. District Court for the Southern District of New York, Judge Samuel H. Kaufman presiding. Lloyd Paul Stryker, Esquire, a giant of the defense trial bar defended him, and two Justices of the U.S. Supreme Court testified for Hiss as character witnesses. This first trial was concluded July 7, 1949.

¹⁴ Hiss's second trial began November 17, 1949 and ended January 21, 1950.

¹⁵ Rhoda Loeb, Esquire, a retired lawyer and part-time Workman's Compensation Commissioner in New Haven, CT at the time I contacted her. For years after leaving Brockett's Point, she'd maintained her "summer cottage" there. It was Rhoda who confirmed that Max Lieber had been accused of spying, and set me on the path toward finally unraveling this case.

Hiss maintain contact with them as the years passed because he felt a debt to Max Lieber—one he could never fully repay?

Maxim Lieber died on April 10, 1993 in the city of East Hartford, CT. He was ninety-six. Although a death certificate was filed, no estate was opened and no will probated. Minna buried him quietly, without notifying the press or publishing an obituary. The literary community of which he'd been a member, although waxing eloquent over the death of Alger Hiss a few years later, was silent when Lieber passed away.

Considering both probate and non-probate assets, Alvin Zelinka's estate was small. But to an elderly couple in the winter of their journey through life, the money Minna received from her brother's estate probably spelled the difference between comfortable final years and an austere ending to their eventful lives.

Alger Hiss expired in December 1996 at the age of ninety-two, still denying involvement in espionage activities. He left unexplained the many pieces of information pointing to his complicity that have come to light since the Soviet Union's demise.

The Hiss case has had a life of its own. Opinions have hardened. Objectivity and open mindedness have been casualties over the years. Facts discovered during the last fifteen years probably won't change any minds. People cling to their beliefs regarding Hiss's guilt and the motives of Chambers, Nixon, and the Un-American Activities Committee.

When Bob Winkler became involved in this case, he knew that if Minna Lieber were not found he could simply turn the Zelinka estate assets over to the State of Maryland and be done with it. He pursued the matter because, in the finest tradition of the American Bar, he sought to carry out the wishes of his deceased client. His decision presented me with the opportunity to learn that spying is not merely something one reads about in a Le Carre novel.

"Spying has been a part of human activity since time immemorial. The end of the Cold

War did not eliminate the need for spies, but served to increase the scope of their international involvement and the intensity of their conflict.”¹⁶ Robert Hannsen, Harold Nicholson, Aldrich Ames, Jonathan Pollard, the Walkers, Jerry Whitworth, and the latest, former defense contractor, Noshir Gowadia,¹⁷ all exposed since 1985, remind us that spying is an ongoing phenomenon.

Perhaps my experience here will add another small piece to that historical puzzle known as the Alger Hiss-Whittaker Chambers case. Even if it doesn’t, it *does* confirm that spying has been around for eons, and barring a change for the better in human nature, will continue with us well into the future.

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¹⁶ Keith H. Melton, *Ultimate Spy*, 2nd Edition. DK Publishing, Inc., New York, NY 10014.

¹⁷ See Bill Gertz. China Bought [B-2] Bomber Secrets; *Washington Times*, 11/23/06.