

February 6, 1998

VIA FACSIMILE AND FIRST CLASS MAIL

Robert M. Adler, Esq.
O'Connor & Hannan
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Re: Subpoena Duces Tecum to Robert White

Dear Mr. Adler:

This letter supplements our February 2, 1998, correspondence regarding the subpoena duces tecum issued to your client, Robert White, by the United States Department of Justice on behalf of the Assassination Records Review Board. This letter is written to help clarify the intended purpose of the subpoena and to seek a satisfactory agreement as to the scope of each of our requests.

The Review Board's mandate, pursuant to the President John F. Kennedy Assassination Records Collection Act, is to identify records related to the assassination of President Kennedy. The Review Board has issued guidelines to help identify such records. *See* 36 C.F.R. §§ 1400 ff. Sources of assassination records include "[i]ndividuals who possess such records by virtue of service with a government agency, office, or entity [and] [p]ersons including individuals and corporations, who have obtained such records from [persons who obtained records by virtue of their service with the government]." 36 C.F.R. § 1400.3(e and f).¹

Unfortunately, as far as we understand, Mr. White has not created a comprehensive inventory of his collection. Such an inventory would no doubt make it much easier for us to identify with specificity the types of records that we wish to examine. Absent such an inventory, however, we need to describe the types of records in somewhat broader terms in order to be certain that the records that we are ultimately interested in examining can be identified. In the discussion below, we nevertheless attempt to describe with greater specificity the types of records in which we are interested. To the

¹The Fifth Circuit recently held that "[t]he regulations issued by the [Assassination Records Review] Board enable it to assimilate and preserve *all* assassination records--whether they be in the hands of the federal government, a state government, or a private citizen. These regulations are clearly in line with the stated purpose and express language of the Act and are, therefore, valid." *In re Connick*, 124 F.3rd 718, 719 n.3 (5th Cir. 1997).

extent that you are able to provide further explanations of the types and categories of records that Mr. White possesses, we will be pleased to discuss further possible limitations of our requests.

What follows is a list of each of the requests stated in "Attachment B" of the subpoena duces tecum issued to your client. Under each of these requests, we have stated our understanding of your most recent position regarding compliance with the request. In some cases, we have proposed an alternative approach that would narrow the scope of the request. Please review our comments and let us know whether you would be willing to talk with us further about our new requests.

Requests Listed in Subpoena "Attachment B"

- 1. All objects that relate to the assassination of President John F. Kennedy, or to his trip to Texas in November, 1963, including for example, bullet fragments, tissue samples, items from the Presidential limousine, or any items or apparel worn by President Kennedy at the time of the assassination.**

You have stated that your client has no bullet fragments, no tissue samples, no items, no apparel, and no sunglasses. You stated that your client does have swatches from the presidential limousine, a letter from Pierre Salinger (which you have provided) and a "Welcome to Texas" program (which you have also provided). Further, you stated that Evelyn Lincoln bequeathed to your client a number of personal items that Ms. Lincoln had on her person on the day that President Kennedy was assassinated, including a Polaroid picture of a crowd gathering near the airplane. You stated that these were the only items your client possessed that fell within this category, and that you would be willing to produce these items.

- 2. All records that may relate, directly or indirectly, to the assassination of President John F. Kennedy, including, but not limited to, records pertaining to Jacqueline Kennedy, Governor and Mrs. Connally, Lee Harvey Oswald, Jack Ruby, J.D. Tippit, President Kennedy's trip to Texas in November, 1963, etc.**

You stated that your client has nothing related to Jacqueline Kennedy. You further stated that he does have a bill from Parkland Hospital to Governor Connally, an Easter card with Lee Harvey Oswald's signature, a pamphlet supposedly located in Ruby's pocket on the day he shot Lee Harvey Oswald, a shell casing from the gun used by Ruby

to shoot Oswald (which you believe your client obtained from a collector), a contract for a stripper employed at one of Ruby's nightclubs, handwritten notes from Ruby, various other artifacts, and a small file with notes that referred to JFK's trip to Dallas. You stated that your client would produce these items.

3. **All records of President Kennedy's administration or President Lyndon Johnson's administration that relate to the following: Cuba (including, for example, any records that refer to the Bay of Pigs or the Cuban Missile Crisis), Organized Crime, Vietnam (including, for example, any records that refer to President Kennedy's conversations with Maxwell Taylor relating to the Vietnam War), the Secret Service, the FBI, the CIA, and the U.S. Military.**

You stated that your client had a calendar from the Cuban Missile Crisis, doodles of JFK during the Cuban Missile Crisis, (photocopies of which you made available), a telegram from Krushchev to JFK re: Cuban Missile Crisis, diaries from the 1950's (which you felt were beyond the scope of our statute). With regard to the dictabelts in Mr. White's possession, you stated that they "may or may not" contain a discussion about the Cuban Missile Crisis and/or Vietnam. It is our understanding that you have agreed to produce all of these items, with the exception of the diaries from the 1950s.

4. **All records that set forth, list, document, index, catalogue, inventory or identify in any way, the objects or records that are now (or ever have been) in your custody or control that relate to President John F. Kennedy or the Kennedy Administration.**

I understand you to have stated that there are only two partial inventories of Mr. White's collection: (a) a Guernsey consignment list, and (b) a list that your client compiled in response to our requests under the subpoena (which you have declined to produce because it falls under the "Attorney Client Privilege"). You further stated that Robert White had so many items in his collection that it could take him "months, if not a year" to inventory all of them. Given the inability of Mr. White to identify with specificity (at least as of this point) the types of records that he does or does not have, our request must be construed more broadly. (We should advise that we are not inclined to agree that the inventory created by Mr. White is covered by a privilege, but we need not attempt to resolve this at this time.)

The Review Board views this request as essential to assisting us in determining whether or not your client has any records or objects that may be assassination-related. To the extent that categories of records might be identified, we would be able to advise you of our interest or lack of interest in such records. We do not need, for example, to see campaign buttons or publicity-type photographs. We are proposing that you provide a list of categories of items that you do not believe are assassination-related. Once we view this, it may enable us to eliminate numerous categories of items, and it may greatly narrow the number of items that Mr. White would need to inventory.

- 5. All records you obtained directly or indirectly from Evelyn Lincoln (the personal secretary of President John F. Kennedy), Harold Lincoln (the husband of Evelyn Lincoln), Frank McGuire (beneficiary of Lincoln's will), or from Stephen Blakeslee (the executor of Evelyn Lincoln's estate), at any time, including records you obtained as a beneficiary of Evelyn Lincoln's and/or Harold Lincoln's will.**

You suggested that this request was overly broad, and that the Review Board was merely engaging in a "fishing expedition." You expressed concern about turning everything over that relates to Evelyn Lincoln, and you stated that you would tell us if there was anything that related to Dallas among the items given to your client by Evelyn Lincoln. You described the items given to Robert White by Evelyn Lincoln as senatorial and White House campaign buttons, thousands of photos of Kennedy (nothing assassination-related), a rocking chair, various items that were on Evelyn Lincoln's desk, trinkets from President Kennedy's desk, miscellaneous notes to Mrs. Lincoln from JFK or Jacqueline Kennedy, and items that had been retrieved from the trash can. You also described a toy that President Kennedy had received from a child, and an accompanying letter describing the history of the item, that had been prepared by Evelyn Lincoln to Robert White, so that White would be able to know more about the item's provenance. You stated that Evelyn Lincoln had done this with other items she had given to Robert White.

Ultimately, you stated that you were going to object to this request in its entirety. At this time, we are proposing that you prepare and provide us with a list of items received by Mr. White from the Lincoln estate. It is highly possible that the Review Board would not be interested in many of the categories you list. For example, the Review Board would not be interested in Evelyn Lincoln's tax returns or vacation photographs, but would be interested in handwritten notes in any way regarding her work in the Kennedy

Administration. Once we have had the opportunity to review the categories, we may be able to significantly narrow the scope of our request.

6. **All records that set forth, list, document, index, catalogue, inventory or identify the objects or records of President John F. Kennedy or the Kennedy administration that were in Evelyn Lincoln's estate, Harold Lincoln's estate, or in either of their possession, custody or control at any time.**

You stated that there were no inventories, and explained that the Executor of the Lincoln' estate had not done an inventory. In our last conversation, you stated that your client had nothing to produce under this request.

The Review Board is aware that your client was one of the only persons who did an inventory of the trunks and file cabinets bequeathed under the Lincoln will. We are thus interested in any records or notes made by your client during this inventory process.

7. **All correspondence with other individuals, institutions, or organizations, regarding the terms of Evelyn Lincoln's and/or Harold Lincoln's will.**

You objected to the lack of clarity of this request, and ultimately stated that your client did not have any such items, and that you would be objecting to this request. It is unclear whether Mr. White possesses any items that fall within this request. We therefore propose that you provide us with a list of any correspondence, notes or records generated by or directed to your client, that in any way discuss the disposition of items in the Lincoln will.

8. **All records pertaining to the sale, transfer, gift, or bequest of any objects or records that relate to President John F. Kennedy, by yourself to any other individual and/or institution.**

You stated that the only thing your client has in this category is business-related and pertains to the Guernsey auction. To the extent we are requesting this, you stated that you would object.

We propose that you provide us with a list of any items or correspondence that pertain to items discussed by your client and Guernseys, but that were ultimately not included in the consignment list.

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9. Any records reflecting the names and addresses of persons or institutions other than yourself with whom you have stored or currently store any objects and/or records that relate to President John F. Kennedy.

You stated that Robert White's collection is either at Guernsey's or at his mother's house.

10. All records reflecting the disposition of President John F. Kennedy objects or records from the estate of Evelyn and/or Harold Lincoln, including all correspondence with the John F. Kennedy Library regarding JFK records or objects.

You stated that Robert White has not sold or given away anything that he received from the Lincoln estate. You stated that your client has no records that fall under this request.

To the extent that we have misunderstood your position with respect to any of these requests, please do not hesitate to contact us. We look forward to hearing from you.

Sincerely,

Kim A. Herd, Esq.
Senior Attorney