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July 13, 1993

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Neville L. Johnson, Esq.  
11726 San Vincente Boulevard, Suite 418  
Los Angeles, CA 90049

Re: Feinman v. Lifton

Dear Mr. Johnson:

I have your letter dated July 9, 1993. You almost took the words right out of my mouth: Defamation? False light? How about tortious interference with prospective advantage? Interference with contractual relations? Or the relatively new defamation tort that the Jeffrey Masson/Janet Malcolm case has established? All of these legal theories and more will figure into my counterclaims. Counterclaims can be wonderful things. What's even better is when you can get a court to require a plaintiff to file an undertaking, or even attach his assets to satisfy a judgment on such counterclaims. I'm in New York City, the publishing capitol of America. This is where Mr. Lifton does business and where his prospective assets are located. He should think it over.

I'm not the one who's shoving. Your client has done all of the pushing and shoving, and most of the threatening. My feet are firmly planted in the ground and in the law, which I have carefully reviewed. *Salinger*, which involved a stylized biography of the author, is distinguishable on its facts, and the opinion's application of the Fair Use doctrine has been diluted in subsequent cases. (Also, Congress has been reviewing their statute for the purpose of overriding *Salinger*. I suggest you think about that.) I suggest you give additional thought to how a court will view the public's overwhelming interest in the subject of President Kennedy's assassination, and weigh that interest in its holding.

I have written a draft manuscript in the nature of literary criticism, scholarship and research that employs, among other reference sources, quotations from David Lifton's letters to the late Sylvia Meagher. Those letters were provided to me without any restriction or notice thereof with the knowledge and consent of the faculty of Hood College, Frederick, MD. They have the authority under the Last Wills of Sylvia Meagher and Gregory F. Stone to disseminate Mrs. Meagher's papers as widely as possible. To the best of my knowledge, Mr. Lifton had full notice of the disposition of her papers and failed to place any restriction upon his letters until he had cause to second-guess his personal attacks on me. In any case, I am not responsible for Hood's actions and I suggest that you direct your questions to them. So far as I am concerned, I obtained the letters through entirely lawful means.

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I have not violated any protectible interest that David Lifton may have in those letters. I have not published his letters. I have not copied his letters. I have not distributed copies of his letters. You have my June 28, 1993 letter to Mr. Lifton in that regard. On the other hand, your client has repeatedly propagated a false and defamatory accusation against me regarding alleged violation of copyright law that is libelous *per se* when leveled against an attorney. That's not all he's had to say, but I trust you can read his two Compuserve essays and my responsive manuscript for yourself. You should also ask your client to let you review some of the defamatory private electronic mail messages about me that he's been sending to his friends and supporters, as well as the system operators (Sysops), on Compuserve. They'll come up in our litigation as well.

I have used my quotations from Mr. Lifton's letters not for expressive purposes but to set forth facts relevant to matters that Mr. Lifton himself put in issue. My manuscript has been checked by an acknowledged expert in this subject area, and not a single factual error has been called to my attention. Mr. Lifton's gripes deal only with matters of my interpretations and opinions. On that score, I adequately covered my bases in the manuscript by suggesting alternative analyses, including some that jibe with your client's present reconstruction of history, and I do not retract any portion of it.

It would be fascinating, I think, to see Mr. Lifton present himself to a judge and jury. What is his claim to credibility: "Trust me, I lied?" If I were successful in interesting a publisher, I might well augment my manuscript with corroborating citations to Mr. Lifton's letters to other researchers in the field of the Kennedy assassination. In any case, they too will enter into our litigation as evidence.

What lawyer involved with the publishing/First Amendment field seriously believes that an injunction will be granted as a prior restraint in this situation? Also, are you familiar with Rule 11? Besides, by the time you file your litigation, I presume that my draft manuscript will be available free-of-charge in electronic form on computer bulletin boards around the country, if not the world, and a third party will most likely have sent complementary hard copies to influential members of the assassination research community. Unless they contact me personally, I will not know who has received it. As Mr. Lifton himself wrote to Hood College recently, "The toothpaste is out of the tube," and there is nothing that either he, you or I can do to put it back.

Let's stop horsing around: The best way to resolve this is for you tell your client that he has multiple reasons to regret defaming me in the basest and most tasteless terms, and that it is in his best interest to do and say nothing more to exacerbate the present situation. The more he says, the deeper he gets himself into trouble, and the more he forces me to defend my reputation against his childish assaults. If I can be assured that he intends to exercise self-restraint; if he further agrees to publicly apologize for accusing me of violating the law; and, if he further agrees to the removal of his essay, "Who is Roger Feinman, etc." from the Compuserve forum library where he placed it, I shall agree to the similar removal of my essay, "Act of Desperation, etc." and publicly wish him well with his new book as a symbolic detente. (I would point out that, under Compuserve's operating rules, I am entitled to request the removal of Mr. Lifton's offending essay, but have refrained from making that request in order to allow members access to all the necessary information.)

Mr. Lifton tried to discredit me and to destroy my ability to function as a respected and desired speaker on the subject of the presidential assassination. He did this maliciously and through outright lies and deceit for no other reasons than that I disagree with his brand

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of conspiracy theory and he likes to feather his own nest. He next deliberately circulated his essays far and wide beyond the small audience before which a discussion of Best Evidence began on Compuserve, enclosing defamatory cover letters to the recipients of his essays in which he questioned my mental stability. In the course of responding to his disingenuous invective, I caught him red-handed. Mr. Lifton has now stated his defense, and people will make up their own minds about what they wish to believe. Such is the price of fame and poor judgment.

Very truly yours,

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Roger Bruce Feinman

RBF:msw