

CONFIDENTIAL MEMORANDUM

From: John G. Christian

To: O'Gara, McGuire & Nestel

Re: Harold Weisberg; possible copyright violations, unauthorized use of said material by CBS-TV

BACKGROUND:

Copyright protection of literary properties is covered by a myriad of well-established statutes. In the case of Harold Weisberg's original efforts of research and writing, there comes into play several unique aspects of what we must necessarily construe as being legally protected, wholly-proprietary and original writing.

Weisberg's concept and approach into the investigation of the murder of John F. Kennedy is entirely his own; no other original writing, etc. has preceded his copyrighted efforts. His thesis is embodied in the generic title of his works, WHISTLEWASH; Weisberg's dissection of available investigative material in the National Archives has produced wholly original theories from sources that are absolutely devoid of such collated conclusions.

There arises the question of whether or not these theories or conclusions are (or can be) covered under existing copyright laws. I deduce they can, for the manner in which his material has been misappropriated indicates a combination of abject ignorance of the pertaining laws and thoroughly tortious intent to misuse Weisberg's investigative efforts to his own great detriment, academically and financially. (Should a political motivation have been inherent in these activities, this should in no way influence his honorable, legal recourse through the courts.)

THE CBS-TV CASE:

As a gesture toward creating a public dialogue about the truth concerning the assassination, Weisberg submitted his copyrighted manuscripts and finished books to nearly every major news media group in the country, including CBS-TV. In many cases, the preliminary responses were most positive; ultimately, the decisions went against any sort of direct association with either Weisberg or his theories about the handling of all aspects of the investigation. Weisberg was anethema; but the fruits of his singular efforts useful.

As our file material so indicates, CBS executives knowingly had in their possession Harold Weisberg's copyrighted works. The normal procedure in handling original material, such as scripts, manuscripts, program concepts, etc., is to have the submitor sign an option/release document. CBS did not request, nor did Weisberg sign any such document, which would allow CBS-TV to use or utilize any element(s) of this submitted material.

During the course of their four-part series in June, CBS-TV did two incongruous things: On its "Billboard", which was the design it used as the backdrop to open each show, there appeared a layout of books by the "critics". This displayed Harold Weisberg's WHISTLEWASH books most prominently, thereby identifying him as having the bona fide stature of a "legitimate" critic. On the other hand, during

the course of the series, the producers interviewed (on film) authors Epstein and Lane and ignored Weisberg; this in itself would ordinarily constitute an editorial or production decision; but the accompanying dialogue amounted to something else entirely.

In Weisberg's 73-page treatise on the misuse, abuse and ruse of CBS' treatment of the subject matter, he cites unmistakable examples of where CBS used his original copyrighted theories and conclusions, singularly collated by Weisberg. There simply is no other source from which these portions of the CBS script might have originated; CBS in fact used the blanket attribution "the critics say that", when in fact the critics en toto say very little in unison.

So, the primary legal point to be established for Client Weisberg is whether or not CBS-TV heisted his original material; there is, however, another, more sticky, legal question inherent: Did CBS' distortion of these unattributed "theories" constitute any kind of blanket or directed slander, libel, or out-and-out fraud? In his (file) letter to CBS News President Richard Salant (7/28/67), Weisberg is most explicit in regards these embarrassing questions. In two response letters, (CBS' legal reps, Brooks, Jencks and Dwyer, (8/16-17/67) are elusive about the granting of credence to Weisberg's stinging allegations about CBS' obligations under the FCC "equal time" provision, to say nothing of his rapping the dishonor CBS has let certain production executives bring on the house.

Whatever, the end result of CBS' behavior toward Weisberg has wrought great personal and professional damage to the man and his family; while money cannot be the prerequisite for contemplating such a law suit as may be in store, there none-the-less must be a demand for substantial damages; I suggest, since equal time is not to be expected, that the sum total of four hours of prime evening airtime at the highest premium rate CBS would normally charge be sought as an equitable claim; if, as I now suspect, there may also be overtones of antitrust infractions (restraint of trade, unfair methods, etc.), then this figure should be tripled. I believe we are talking in the neighborhood of primary damages at \$3-4 Million.

As the file further indicates there are a whole series of suits that might be filed on grounds of libel, slander, and plagiarism, etc. In my opinion, however, the most efficient course of action would be to concentrate on massive development of the broadest, most incisive evidential case possible against CBS, confront them with our position, demand an out-of-court settlement, then turn to the others for redress. Otherwise, we would be spreading our time and resources far too thin.

As discussed at the outset, no legal action is contemplated until after Garrison's proceedings are completed in New Orleans, unless, of course, Counsel would deem it strategically advantageous.