

Mr. Jim McKinley
7309 NW Maple Lane
Kansas City, Mo. 64151

8/21/76

Dear Jim,

Your note of the 12th from Spain came today. Because you say you are returning the end of the month I'll respond there, as best I can respond. But if my letter did not reach you before you left, you are indeed lucky to have so long a vacation. I see you say since early June, so obviously you have not read it and obviously didn't want to or someone told you you didn't want to.

What has happened to you since you started finking for heavy pain? You know the letter was sent certified and you ask me "Do you want a reply still?"

Hearing from you since Memphis has always coincided with physical pain. When I worked on the series I was never without discomfort from the thrombosis, plural in all senses. Then there was a period of few discomforts and now, coinciding with your writing of this note they returned, in different form promoting uneasiness as well as discomfort that combine to interfere with work and concentration.

Both having been interrupted as happens daily by the mail. I respond as best I can. Getting into the lower file drawers is still and probably will always be a problem, so I am not consulting that June letter.

While I am neither immobilized nor in other ways incapacitated by this condition, the results of which are permanent and irremedial - by 9:30 this morning I had drafted more than 3,000 words of an affidavit in response to one by an FBI agent - it is potentially fatal. So the first thing you should know is that I have taken the steps necessary for others to carry it on in all aspects, from the formal establishing of the university-system archive to which there has been agreement to the pursuit of any litigation. This will be done mostly by two stout hearts and fine people, Jim Lesar, who you know, and Howard Reff, who you do not know. Howard is completing law school.

As you can and will see, I'm not trying to slip up on your blind side. I want you to know and I do not recall all I've told you.

With the first batch of copy I was sent it became apparent that if there was to be precision in detail and the avoidance of possible damage suits against Playboy, particularly when you were too busy writing to be directly involved and with researchers without detailed factual knowledge and influenced by trash writings, it was better for all our conferences to be taped. At the outset I was also concerned about criticizing the writing of another without his having knowledge of what I did point out. So, on my suggestion, Playboy agreed to tape all and make it available to you. I believe that at the beginning, particularly with the more pleasant and more genuinely conscientious of the researchers in unhidden distress, you were given the tapes or heard them. I have no certain recollection but the tapes will show. Because taping was new to these women - I had to tell them what to do by phone, believe it or not - I told them I'd prepare back-stopping tapes that would not be accessible to them in time for story conferences would be available for you later if you had any questions about my recommendations. I have my set of tapes. I presume Playboy has its.

The series, as I do not have to tell you, is entirely unoriginal except for conjectures congenial to officialdom and I assume, having no personal knowledge in accord with a doctrine laid down by Playboy. There was overt plagiarism, not just use of the work of others. With me in the JFK stuff this was very hurtful to Post Mortem, which was printed while I was hospitalized. It was more hurtful because as a result of the thrombosis I was not able to promote the book, the most costly one I've ever published. Some remedies were promised. The promises were not kept. I complained to Gonzales, whose first response was to the effect that they had been informed by their counsel that there is no such thing as plagiarism. We then had a phone conversation, which I also taped so you would be able to know and thus know that nothing was being done behind your back, in which we reached a specific agreement: there would be no more unauthorized use of any of my work, that if any more were desired I would be asked and where I felt it not adverse to my interests

I would grant permission without cost. But I was specific that none of the King work of which I had had to inform you in confidence was to be used and I have Gonzales' assurance on this. He wrote me that he and his found my offer of solution quite reasonable, entirely acceptable and as I recall very fair-minded and fair to Playboy.

Then he tried to extend this in writing to cover King prior to the delivery of the copy. I replied immediately denying this rights and forbidding the use. You are entitled to know that there were special, added reasons for this: I was engaged in several negotiations for potentially very valuable uses. I am sure I was specific enough on this. ~~Conferences~~ ~~and~~ ~~not~~ ~~he~~ ~~alone~~, were later to claim the complete collapse of their internal communication and not only with the mail receipts for which I have.

Then there was that weekend call from you. I did not tape that because there was no need to for your information and I never expected the trick you were up to. You put all the previous problems on Playboy and said that before Monday you would mail me a xerox of the King piece as it then stood so we could eliminate any such problems in advance. While I did not tape it, because she liked you as you may recall Lil was on the extension.

You never did send me this or any other draft. Later I received it from Playboy and unless they completely rewrote it in no time flat you had done precisely what you and they both assured me you would not do.

That particular researcher was a partisan. Tom said there was nothing he could do. I could not get through to Gonzales - and I did try, repeatedly.

Given the negative personality of the researcher on that pipe and her preconceptions I did what I then regarded as the minimum with her. I then wrote a letter reminding them of their agreement not to do what in fact you and they had done and that without assurances they would remove all to which I objected and they had agreed not to use I would go to court immediately. When I did not receive these assurances promptly I did consult counsel experienced in publishing. He told me that while injunctions in such cases are not always looked on with favor by the courts, in this case, with the records and evidence I had, he felt the chances of success in obtaining an injunction were good. He even made recommendations about jurisdiction. I was prepared to do this when I heard from house counsel, as I recall the name, Leonard Rubin. Probably twice, both certainly taped as I would have in my interest if I'd thought of that but as in all cases where your interest was involved I did tape, pursuant to agreement by Playboy. As I now recall that he assured me that all references to my work that I had not published would be removed and all references to my published work would be credited to it. I am sure I also wrote letters in which I stated that without assurances on which I could depend I'd have no choice but to file in federal court for an injunction, that I didn't want to sue Playboy for damages but wanted my work not used. My records will show for sure but I probably did agree to permit the use of my published work if properly credited and ~~know~~ the reader was told how to obtain it.

Once I received these assurances - I did by taped phone and I think in a letter - I had no basis for going to court. I'd have been thrown out with the production of evidence, no matter how treacherous, that I had been assured.

Then the piece appeared with all assurances violated. With childish efforts to hide me as the source of what you stole. Those I recall are an overuse of "some say" and attribution to "Ray's lawyers" of what you knew was not their work but was mine, conveyed to you by me personally and in confidence, with the specific understanding that you would make no use of any kind.

I have not discussed this with any lawyer but I feel confident that Playboy added fraudulent misrepresentations to the earlier ~~sins~~ sins.

I know I was specific in informing them that I had a book largely drafted in which that work was indispensable and for this reason in particular I did not want it used. It is true. The chapters are dated by correspondence on them.

Among the projects you (pl) have seriously impaired if not totally wrecked for me is the end result of greatly more than 5,000 hours of work and probably closer to 10,000. This also represents other and for me considerable costs. Then there is the resultant harm to the work I was doing and had well under way plus the other projects I'm not specifying.

In addition you and Playboy, by stealing and using this, have made it available to all that motley crew of scavengers who are also nuts and incompetents.

To me this represents still an added damage.

You should recall that based on a prior experience with Playboy I would have nothing to do with this until you assured me that those arrogant, self-important ones had been weeded out and that now all was different.

If you do not recall that you described an entirely different series to me than what you did write, I have correspondence on that.

Having been stuck for a great amount of work when Playboy had asked services of me in earlier years without your assurances and these specifics, some of which I recall clearly enough, there is no chance I'd have had any association with this wretched thing you did for money. I had come to trust and like you, as I did. I knew none of the then current Playboy people. I knew enough about those who preceded them to want no further experiences with them.

In short, without you none of this would have happened to me and what did happen is exceptionally hurtful in many ways I anticipate having no difficulty at all establishing, should that need present itself.

From Playboy's silence I expect the need has already presented itself.

The thievery part is more disgusting and of more evidentiary importance not only because of that of which you have personal knowledge with regard to Post Martem but because of my earlier dealings with some of the earlier people there.

Obviously with this medical condition I can't tell you what I will do. I can tell you that I have the necessary steps in the event it should become impossible for me to do it personally and I can tell you what my ~~next~~ plans are.

Jim is abroad. I have turned this over to him following the Rubin deceptions and no responses thereafter. When he returns he has an extraordinarily heavy court schedule. We have arranged to get together and discuss this as soon as he gets out from under. When that will be I can't say but I'm confident it will be well before the end of the year, absent other court developments in the cases he is handling. He is going to seek counsel experience in this aspect of the law where we will file and he has already consulted experienced counsel where we will not file. Separately I did before turning this over to him.

I spare you lectures on ethics and morals and friendship.

What there will be in the future will have to await the future. What it can or will mean to you or Playboy to a large degree Playboy can still influence.

I have a strong dislike for going to court. It is the last thing I ever want to do. But once I do it - and I never begin without a solid basis in proofs - I do it with vigor. I've sued the federal government ~~nine~~ times and won ~~xxx~~ nine times, with the one initial defeat converting into the greatest victory. Jim and I have just turned the federal appeals court around and won what even the ~~xxx~~ Nader people describe as a "sweeping" victory, an important precedent - against the FBI. We've forced the early retirement of not fewer than four top agents. This is for openers.

You may take it as boasting. I do not intend it that way. My purpose is to indicate to you what you and Playboy can expect of me if I face the need and what the record shows this has meant. Even when I was pro se, which I detest, I've won all cases, as I recall six of them, against publishers, distributors of my books and the feds. The biggest compromise out of court was for 2/3 of the claimed sum. In one case there was a significant out-of-court settlement after a lawyer had let the statute of limitations run. Jim has personal knowledge of this if you doubt me. While ^{of} a ~~xxx~~actuary, as I know, might invoke the odds I'm telling you the record.

This and its potential are that to which you return. You know my intentions. If you have any reasonable questions ask them. If I have time I'll take it. But no games. For them I'll not take time.

Sincerely,

cc; Jim Lesar, Howard Roffman