



Office of Special Counsel

Patrick J. Fitzgerald
Special Counsel

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June 2, 2004

CONFIDENTIAL

Lee Levine, Attorney
LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.
1050 17th Street, N.W., Suite 800
Washington, D.C. 20036-5514

Dear Mr. Levine:

This letter will address three issues about which you inquired. First, the position of the Office of Special Counsel is that the court filings relating to the litigation over the grand jury subpoena to your client concern matters occurring before the grand jury and, therefore, should be filed under seal. The initial filing under seal would not preclude your client from moving for court order to unseal, at which time the Office of Special Counsel would oppose or agree to the motion as it deems appropriate.

Second, you requested a description of the scope of the testimony the Special Counsel intends to elicit from your client pursuant to the grand jury subpoena. The Special Counsel provides the following description subject to our agreement that it be "off the record," not subject to being reported as news, and that any references in court filings be under seal. Special Counsel intends to ask your client about the following subject matter in the grand jury: telephone conversation(s) between I. Lewis Libby and your client, Tim Russert, on or about July 10, 2003 (and any follow up conversations) which involved Mr. Libby complaining to Mr. Russert in his capacity as NBC Bureau Chief about the on-the-air comments of another NBC correspondent. To be clear, we will also ask whether during that conversation Mr. Russert imparted information concerning the employment of Ambassador Wilson's wife to Mr. Libby or whether the employment of Wilson's wife was otherwise discussed in the conversation. It is the view of the Office of Special Counsel that Mr. Russert's testimony on this subject matter would not implicate Mr. Russert's news gathering function as we have strong reason to believe that the questions would not elicit any information provided to Mr. Russert in his capacity as a reporter by Mr. Libby acting as a confidential news source and in light of Mr. Libby's waiver of any claim of confidentiality.

I also enclose copies of documents reflecting the delegation of authority by Acting Attorney General James B. Comey on the same understandings that the documents will not be made public

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absent our prior consent and will be referred to in any court papers only if filed under seal as described in the first paragraph.

Very truly yours,


PATRICK J. FITZGERALD
Special Counsel

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