

Oversight of the United States House of Representatives."²⁰ This report reflects a complete description of this Office's work in fulfilling its obligation under the Special Division's October 25, 1996 Order and the Independent Counsel Reauthorization Act.

II. FINDINGS

The OIC found no credible evidence that Mr. Nussbaum testified falsely when he denied ever having spoken to Mrs. Clinton about Craig Livingstone, which included ever discussing hiring him with her,²¹ or when he denied "know[ing] who brought Mr. Livingstone into the White House."²² The evidence compiled by the OIC did not substantiate that Mrs. Clinton or Mr. Nussbaum

²⁰ Order at 1, Div. No. 94-1 (D.C. Cir. [Spec. Div.] Oct. 25, 1996).

²¹ It should be noted at the outset that the statement in the insert is only arguably inconsistent with Mr. Nussbaum's testimony in that the insert itself does not expressly state that Mr. Nussbaum had any conversation with Mrs. Clinton about Mr. Livingstone. Rather, it only reflects that Mr. Livingstone "comes highly recommended by [Mrs.] Clinton to him." According to the literal terms of that insert, that recommendation need not have come from any discussion between Mr. Nussbaum and Mrs. Clinton. Nor, according to the insert, did such a recommendation even necessarily come directly from Mrs. Clinton.

²² This particular formulation suffers from a vagueness that would render any prosecution for its falsity problematic. Even if Mr. Nussbaum knew of a recommendation by Mrs. Clinton, such knowledge is not tantamount to "know[ing] who brought Mr. Livingstone into the White House." HCGRO 6/26/96 Hearing at 57 (Nussbaum). Nevertheless, in light of the absence of evidence that Mr. Nussbaum had any substantial involvement in the hiring of Craig Livingstone or that he had a discussion with Mrs. Clinton regarding Mr. Livingstone, the OIC found no substantial evidence that this statement was false.

were involved in or knew the details of the hiring of Mr. Livingstone.

Even assuming that the insert accurately represents what Mr. Nussbaum said to Agent Sculimbrene, there is simply no other evidence to corroborate that Mr. Nussbaum actually had a conversation with Mrs. Clinton regarding Mr. Livingstone or "kn[ew] who brought Mr. Livingstone into the White House." Evidence of such a discussion or knowledge, beyond the insert itself, would be necessary to support a conclusion that Mr. Nussbaum knowingly lied to the House Committee in violation of 18 U.S.C. § 1621. In the absence of evidence of such a discussion, no prosecution was warranted.

Furthermore, the investigation also revealed no other substantial evidence of the existence of any relationship between Mrs. Clinton and Mr. Livingstone's mother, as the insert suggested. Testimony by former FBI Special Agents Gary Aldrich and Dennis Sculimbrene that Mr. Kennedy and Mr. Livingstone told the agents of such a relationship, even assuming that the OIC could prove beyond a reasonable doubt that the agents' testimony reflects what Mr. Kennedy and Mr. Livingstone actually said, was uncorroborated by any other evidence of such a relationship.

Corroborating evidence that such a relationship existed -- not just that Mr. Kennedy or Mr. Livingstone told them of such a relationship -- would have suggested that Mrs. Clinton had a reason to be involved in the hiring of Mr. Livingstone, which she

then might also have discussed with Mr. Nussbaum, and that Mr. Nussbaum knew that Mrs. Clinton was involved in hiring Craig Livingstone. The lack of such evidence renders that supposition untenable and provides no basis for prosecution.

Finally, the circumstances surrounding the preparation of the insert itself, which was the principal evidence relied upon by the Attorney General in seeking the appointment of an independent counsel, failed to corroborate its accuracy. Absent evidence to corroborate both the substance of the statement in the insert or even that Mr. Nussbaum said what the insert claims he said, the Independent Counsel concluded that the United States could not prove beyond a reasonable doubt that Mr. Nussbaum's testimony before the House Committee was false. Prosecution therefore has been declined, and this report now closes the matter.

III. SUMMARY OF INVESTIGATIVE STEPS

Following the expansion of this Office's jurisdiction by the Special Division to include the FBI Files matter, the OIC assembled a team of attorneys, agents, paralegals, and support staff to conduct the investigation. When the Special Division expanded the OIC's jurisdiction again to include the allegations regarding Mr. Nussbaum, much of the evidence relating to those allegations had already been developed in the investigation of the FBI Files matter. The OIC staff reviewed that evidence for