

Aldrich and Agent Sculimbrene of such a relationship, there is no evidence, other than the insert, that Mrs. Clinton was, in fact, involved in the hiring of Mr. Livingstone, or that she actually had a relationship with Mrs. Livingstone, as suggested by the insert and Mr. Kennedy's and Mr. Livingstone's statements to the agents. The absence of a relationship between Mrs. Clinton and Mrs. Livingstone is established by their outright denials, in sworn testimony (in the case of Mrs. Clinton), and an OIC interview (in the case of Mrs. Livingstone), of any personal relationship and the utter lack of evidence to contradict them. Mr. Nussbaum himself also testified that he knew of no such relationship. Even crediting the testimony of the agents about Mr. Kennedy's and Mr. Livingstone's statements, there was simply no evidence of an underlying relationship. Without such evidence, there was no basis on which to infer any reason that Mr. Nussbaum discussed Mr. Livingstone with Mrs. Clinton or that he "kn[ew] who brought [him] into the White House."

C. The Insert's Probative Value is Limited Because of the Absence of Corroboration of the Circumstances of Its Preparation.

The Independent Counsel determined that the insert was not a reliable source of evidence because the circumstances surrounding its preparation were uncorroborated. First, there were only two witnesses to the statement -- Mr. Nussbaum and Agent Sculimbrene. There were no notes of the interview or any other contemporaneous document that reflects the substance of the interview.

Second, Agent Sculimbrene has no independent recollection of the interview or preparing the insert, much less the specifics of the interview. A lack of independent recollection, quite obviously, reduces the probative value of the recorded information.

Third, Agent Sculimbrene made subsequent statements that suggest that Mr. Livingstone, not Mr. Nussbaum, told him about a relationship between Mrs. Clinton and Mrs. Livingstone. Agent Sculimbrene informed the OIC that he was "pretty sure" that Mr. Livingstone told him of such a relationship. Agent Sculimbrene also admitted that he may have just assumed that Mrs. Clinton had a role in Mr. Livingstone's hiring.

Fourth, Mr. Nussbaum has consistently and repeatedly denied that he told Agent Sculimbrene or anyone else that Mrs. Clinton and Mrs. Livingstone were friends and that Mrs. Clinton was involved in the hiring of Mr. Livingstone. Furthermore, Mr. Nussbaum had no specific recollection of meeting or speaking with Agent Sculimbrene, much less discussing Mr. Livingstone with him.