

NEIL ABERCROMBIE
GOVERNOR



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August 8, 2011

VIA HAND DELIVERY AT THE HAWAII DEPARTMENT OF HEALTH

Dr. Orly Taitz, Esq.
29839 Santa Margarita Parkway
Suite 100
Rancho Santa Margarita, California 92688

Re: Subpoena to inspect the birth record of Barack Obama

Dear Dr. Taitz:

In light of your not having served the Director of Health with a subpoena in compliance with the requirements of Rule 45 of the Federal Rules of Civil Procedure, no inspection of the document you seek to inspect will be allowed.

Please be advised that even if you had served a subpoena in compliance with Rule 45, you are seeking disclosure of privileged or other protected matter, and there is no exception that applies to allow disclosure to you. Vital statistics records, such as birth certificates, are protected by strict confidentiality requirements under state law. Section 338-18, Hawaii Revised Statutes ("HRS"), prohibits inspection or disclosure of the records sought by your subpoena without a showing of a direct and tangible interest.

HRS §338-18 provides that:

a) To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system, **it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital statistics records**, or to copy or issue a copy of all or part of any such record, except as authorized by this part or by rules adopted by the department of health.

(b) The department **shall not permit inspection of public health statistics records, or issue a certified copy of any such record or part thereof**, unless it is satisfied that the applicant has a direct and tangible interest in the record. **The following persons shall be considered to have a direct and tangible interest in a public health statistics record:**

- (1) The registrant;
- (2) The spouse of the registrant;

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- (3) A parent of the registrant;
- (4) A descendant of the registrant;
- (5) A person having a common ancestor with the registrant;
- (6) A legal guardian of the registrant;
- (7) A person or agency acting on behalf of the registrant;
- (8) A personal representative of the registrant's estate;
- (9) A person whose right to inspect or obtain a certified copy of the record is established by an order of a court of competent jurisdiction;
- (10) Adoptive parents who have filed a petition for adoption and who need to determine the death of one or more of the prospective adopted child's natural or legal parents;
- (11) A person who needs to determine the marital status of a former spouse in order to determine the payment of alimony;
- (12) A person who needs to determine the death of a nonrelated co-owner of property purchased under a joint tenancy agreement; and
- (13) A person who needs a death certificate for the determination of payments under a credit insurance policy.

The list of persons with a direct and tangible interest in vital statistics records is limited to the thirteen enumerated categories listed above. My client is not satisfied that you have a direct and tangible interest in the record you seek, and you have not claimed to have such an interest. Therefore, because you are unable to satisfy HRS § 338-18(b), the Director of Health cannot provide to you the birth record you seek.

Based on the above, please be advised that this letter serves as written objection to your subpoena pursuant to Rule 45(c)(2)(B), Federal Rules of Civil Procedure.

Very truly yours,



Jill T. Nagamine

Deputy Attorney General

cc: Loretta Fuddy, Director of Health
Patrick George Nemeroff, Esq.