

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: Request from the United Kingdom
Pursuant to the Treaty Between the Government of
the United States of America and the Government
of the United Kingdom on Mutual Assistance in
Criminal Matters in the Matter of Dolours Price

M.B.D. No. 11-MC-91078

AFFIDAVIT OF ED MOLONEY

I, Ed Moloney, being duly sworn, state as follows:

1. I have been a journalist and writer since 1978, mostly in Northern Ireland but for the last decade in New York. In Ireland I was Northern Ireland editor of the Irish Times and then Northern Editor of the Dublin-based Sunday Tribune newspaper until I moved to the United States in 2001.

2. I have published three books dealing with the violence and politics of Northern Ireland and last year co-produced a TV documentary based on one of those books, Voices From the Grave, which was based upon released archives from Boston College.

3. I was the Project Director for the Belfast Project, an oral history project sponsored by Boston College. That association ended in May 2006. The purpose of the Belfast Project was to collect and preserve for academic research the memories of members of republican and loyalist paramilitary and political organizations in the Northern Ireland conflict in the latter part of the 20th century.

4. The Belfast Project was conceived following the 1998 Good Friday Agreement in Northern Ireland, which was negotiated by the British and Irish governments along with the major political parties of Northern Ireland including Sinn Fein, the political wing of the Irish

Republican Army (IRA), the main terrorist group fighting to achieve the withdrawal of Britain from Northern Ireland and the achievement of Irish reunification and independence.

5. After several years of mostly secretive negotiations with the British and Irish governments, the IRA had called a ceasefire in 1994 which broke down in 1996 but was reinstated in 1997. The IRA then indicated that it wished to pursue its goals by political methods rather than violence. The Good Friday Agreement (GFA) was seen at the time as the beginning of the end of the conflict in Northern Ireland which had lasted for more than thirty years, causing the deaths of over 3,000 people (equivalent to a death toll of over 600,000 in the US) and tearing the small society of Northern Ireland asunder.

6. The GFA was supported by the United States government which played a key role in bringing it to life and every White House since, from Presidents Clinton to Obama, has continued both to support it and assist in the various, often difficult negotiations that took place in subsequent years to cement it in place. The GFA was endorsed by referenda in the two parts of Ireland in 1998.

7. Key parts of the GFA included the eventual disarming of the IRA and other paramilitary groups. A hallmark of the deal was the effective amnesty granted to all paramilitary prisoners. Within two years of the referenda endorsing the peace agreement, all prisoners, no matter how grave the offences for which they were convicted and no matter how many years they still had to serve, would be released. There were cases of people convicted of murder, beginning life sentences who suddenly became aware that within a short time they would be back walking the streets. It was a controversial move which was criticized by some and caused a great deal of anger amongst victims, but the move served to wipe the slate clean, to signal that the past, and all the violence that had taken place, would be left behind. At the time the signals

from British government were that only those who continued to use violence to oppose the peace deal would be pursued by the authorities.

8. I cannot stress enough how important this factor was in the decision to go ahead with the Belfast Project. The effective amnesty granted to IRA and other paramilitary prisoners signaled that it was now safer to talk frankly about the conflict and what had happened than ever before. Foremost in my mind at this time was not the concern that the British authorities would pursue information gathered by the Belfast Project, but the fear that the IRA leadership would learn about it and take steps to kill it off on the grounds that they had not authorised it and that those who agreed to take part in the project were breaking the IRA code of silence.

9. It took until 2006 before the political institutions established by the agreement took root and in particular for the IRA to finally and fully disarm. Small armed groups unhappy at the deal and prepared to use violence still exist and from time to time engage in violence but all the major groups have abided by their ceasefires.

10. When Paul Bew, who has since been elevated to the British House of Lords and is known now as Lord Bew, was at Boston College around 1999-2000, the College was interested in participating in a project that would mark this dramatic change in Northern Ireland by, for instance, starting a collection rooted in the politics of the conflict.

11. As I understand it Paul agreed to explore this idea when he returned to Ireland and raised the subject with me. One idea we discussed was an oral history archive based on the stories of those who had been involved in the violence. The conflict in Northern Ireland is not the first in Ireland's troubled history. Between 1919 and 1921 the IRA fought a war against the British which resulted in independence for the bulk of the island but left Northern Ireland still under British jurisdiction. In the late 1930's and 1940's the Irish government, through the

Bureau of Military History, began recording, in writing, the recollections of IRA veterans, the idea being to collect the history of that period from the viewpoint of those who had been most intimately involved in the conflict. The key aspect of this project was that the Irish government was able to wait some 20 years before beginning to collect these stories. The political settlement with Britain in 1921 was followed by a terrible civil war in which the IRA split into opposing factions, for and against the deal. Waiting a couple of decades enabled passions to cool while those to be interviewed were still young and vigorous, their memories therefore likely to be intact and they were no longer subject to the discipline and rules of the IRA of those days.

12. The conflict, or Troubles, in Northern Ireland by sharp contrast lasted between 30 and 40 years, depending on how it is measured. At a minimum it was thirty years long. To repeat the Irish government's modus operandi and wait twenty or so years before interviewing participants, so as to put distance between the events and the interviews, would mean that many would be either dead or too old to take part in such a project and it would be rendered worthless. Paul and I discussed all these issues, agreed that an oral history project would be a good idea but that there were difficulties, such as guaranteeing the safety of interviewees, but that we should discuss the project more with Boston College, primarily Boston College Professor Thomas Hachey and Robert O'Neill, Librarian at the Burns Library at Boston College. As a result of these discussions, Boston College agreed to initiate the Belfast Project.

13. I was the Project Director for the Belfast Project. I signed an Agreement with Boston College dated January 31, 2001, that defined my role as Project Director. A true and complete copy of the January 31, 2001, Agreement is annexed to this statement and marked Moloney Attachment 1. Although that Agreement provides that interview materials would be stored in both Belfast and in the Burns Library at Boston College, it was decided from the outset

that for security reasons that the sole repository for the materials would be the Burns Library at Boston College.

14. The conflict in 1919-1921 was a relatively straightforward business. The vast majority of people in the part of Ireland that secured independence from Britain were of the same mind; they wished to be separate from Britain and free to run their own affairs although they may have differed, and some did, over the use of violence. However it should be noted that the IRA's political party in those days, Sinn Fein, twice emerged as the majority political representatives of the Irish people in elections during that turbulent time. In that respect the IRA's war was an uncomplicated war of national liberation, rather like that fought in the United States in the latter part of the eighteenth century. Like their counterparts who fought George Washington and regarded him and his forces as terrorists, the British in 1919-1921 also saw and designated the IRA as terrorists as their successors did in the more recent Troubles in Northern Ireland. In Ireland, as in America of the late 1700's, such people were regarded very differently by very many of their fellow citizens. George Washington became the first president of an independent United States; the IRA leader in 1919-1921, Michael Collins became the first leader of an independent Irish state just as Gerry Adams and his party, Sinn Fein, the IRA's contemporary political wing, now help to govern Northern Ireland.

15. However the conflict in Northern Ireland was also complicated. While there was no doubt that the conflict was essentially political there was no consensus about self-determination. Society there was divided on sectarian, religious lines largely as a consequence of a population transfer from England and Scotland in the seventeenth century contrived by Britain to make Ireland an easier place to rule. Protestants, loyal to the Crown whose religion and outlook they shared, were given Catholic lands on which to settle and the resulting anger,

resentment, tension, conflict and political cum economic discrimination between the two groups would scar the politics of this part of Ireland until the present day. This was the reason why, when the rest of Ireland broke from Britain, Northern Ireland stayed under the Crown and therefore separate, politically, from the rest of the island. Its majority Protestant population had the numbers and force of arms, which many Catholics also regarded as terrorism, to ensure this outcome. This arrangement was reached after dreadful communal violence in the 1920's which would in essence be repeated during the modern day Troubles.

16. The present day IRA campaign had its roots in the Catholic community's claim that they were deprived of economic, social and political justice which could only be remedied by achieving unity with the rest of the island, the destruction of the state of Northern Ireland and the ending of British jurisdiction. A significant section of the Catholic community had given up on political methods, saw themselves as being under attack by the forces of the state and turned to violence and the IRA as an answer.

17. But the Protestant community was of a very different mind. They saw Irish reunification as a threat to their own interests, rights and identity and viewed the IRA's campaign of violence as being directed against themselves. In a reunited Ireland, they feared, they would be treated as they had treated Catholics in Northern Ireland. A Catholic civil rights movement, modeled on the Black American experience, took to the streets but many Protestants saw it as a threat in the same way that Whites in the Southern States viewed the activity of Martin Luther King. There were street clashes and a downward spiral of violence. Eventually the IRA re-emerged, posing as a defensive force. When the IRA moved into offensive violence, Protestants – or Unionists as they are better known – organised their own paramilitary militias and engaged in violence themselves, mostly against the Catholic community.

18. The war that followed in Northern Ireland was long, bitter and bloody, and the reason it lasted so long and was so difficult to end was that it was a three-way war: the IRA vs the British, the Unionists vs the IRA and occasionally the Unionists vs the British. This was not a simple war of national liberation but a difficult and complex inter-community conflict superimposed upon a fight for independence.

19. This would make the compiling of an oral history archive devoted to those who took part much more difficult but also much more important to do, especially in the context of ensuring such a thing would not happen again. When the 1998 Good Friday Agreement was reached there was an understanding that at some point there would have to be a government-run truth recovery process to cement the peace. Such a thing had happened in South Africa, whose conflict closely resembles that in Northern Ireland in key ways, and it was deemed necessary as the future could only be faced when the past had been dealt with.

20. Realistically, however, such a development would have to await the attainment of political stability in the institutions of government set up by the Good Friday Agreement and that could take years. Those involved in the Belfast Project, both at the College and ourselves, saw this oral history archive as an early version of that truth recovery process. Not suffering from the same time restraints we were able to do something that the government also wished to do but could not yet because of political sensitivities.

21. Our project had a twofold aim. One was to collect history from those who helped make it, especially from those who were the foot soldiers, so to speak, not the leaders. Wars need leaders but they need foot soldiers more. There was a plethora of books about the Troubles but nearly all were written from the viewpoints of those who had led. None had been written

from the vantage of the ordinary activist and part of the purpose of our exercise was to shed light at that level of the conflict.

22. But just as important was that the project would help to explain why normal people would do something as extraordinary and, to most people, unacceptable as to pick up a gun or bomb to kill fellow human beings. What was it that made people behave in such a way? What happened to them as a consequence, how were their lives and those of others affected, what made them bring this life of violence to an end, what persuaded them to put the gun and the bomb away? What was wrong with society in Northern Ireland that made people behave in such a way? Could the conflict have been avoided or moderated had government behaved in a different way? What did they think of their armed counterparts on the other side? Were their views accurate or parodies? How much was simple misunderstandings of the other community a cause of the conflict? Did they think that what they had done was worth it?

23. There have been very few attempts to explore the minds of such people. The Belfast Project was one. A consequence, a vital product from the archive, would be lessons for future generations which would help, in our mind, to prevent the same thing happening all over again and, because human nature is universal, to understand how conflicts happen elsewhere in the world.

24. As I understand it, thanks to this archive, Boston College may well play an important part in any truth-telling process that is established by the British government and the College has already been chosen by the British and Irish governments as a repository for sensitive records of dealings in the peace process negotiations.

25. Should our oral history archive be violated there will be decidedly negative impact on the willingness of combatants to take part in any wider process of truth telling, which

is a necessary and vital part of the process of bringing the conflict to a definitive end. Any court that is asked to require disclosure of files from our archive should be aware of the adverse impact this will have on the peace process in Northern Ireland.

26. The Belfast Project lasted from 2001 until May 2006 when funding ended. It began with interviews with former IRA members and then was expanded to include interviews with the largest Unionist paramilitary group, the Ulster Volunteer Force. One book, Voices From the Grave, based on the interviews given by IRA member, Brendan Hughes and Protestant paramilitary member, David Ervine was published in 2010. It was possible to publish the book because both men had died and under the terms of the donation agreement they signed to give their interview materials to Boston College, the material could be used in this way.

27. One of the persons I engaged to conduct interviews for the Belfast Project was Anthony McIntyre, who was a former IRA member. Anthony McIntyre was to interview former republican activists on a strictly confidential basis. A true and complete copy of the February 26, 2001, Agreement that he and I signed in which he agreed to conduct the interviews is annexed to this statement and marked Moloney Attachment 2.

28. None of the interviews with former IRA members were approved by the IRA, which did not know that they had happened or even that the Belfast Project existed. In the IRA there is a rule which applies to past as well as present members equivalent to the Mafia concept of 'omerta'. It is an offense punishable by death for any past or present member to reveal details of the IRA's business to outsiders. Without their interviews being kept under lock and key until death, none of the contributors would or could have conceived of agreeing to participate and neither myself nor Anthony McIntyre would have taken part.

29. Each interviewee signed a donation agreement for his or her interview materials to be deposited in the Burns Library at Boston College, which assured the interviewee that no part of the interviews would be released without their approval or until the interviewed died, whichever came first. A single form of donation agreement for Belfast Project interview materials was offered to all interviewees. It was the same as the form signed by one of the interviewees, the late Brendan Hughes, that is annexed to this statement as Moloney Attachment 3, except that the Hughes donation form has additional handwritten terms that he requested.

30. Anthony McIntyre, who interviewed Dolours Price for the Belfast Project, was most insistent that the interviewees be given assurances that their materials would not be disclosed without their consent while they were alive. He informs me that Dolours Price signed a donation form. He also has told me that without the agreement for an embargo on interview materials, he would not have participated in the Belfast Project – and neither would I.

31. In February 2010, I learned that Dolours Price had been interviewed about her life in the IRA by a Belfast morning daily newspaper called the Irish News. This report made no mention of the fact that she had been previously interviewed for the Belfast Project even though she had told this to the Irish News, but that fact was later published in the Sunday Life, a small Sunday newspaper in Belfast which had been made privy to the unpublished parts of her Irish News interview. The interview had been tape-recorded, I understand, by the Irish News and the tape passed on to the Sunday Life by the reporter for the Irish News who had interviewed Dolours Price. It was, to the best of my knowledge, the Irish News tape that the Sunday Life reporter referred to having heard and this was the source of their report that she had been interviewed by the Belfast Project. Neither newspaper could have heard her Belfast Project

interviews because the only tapes and transcripts of those interviews are stored at the Burns Library at Boston College. I did not know about the Sunday Life story or the details of what it had published until recently.

32. If the confidentiality of the interview materials is breached by a subpoena, the effects on the practice of oral history generally will be extremely serious. If people are unable to store such records safe in the knowledge that the embargo they sought and were given can be broken, then the ability of human beings to learn from the lives of others – and especially from their mistakes – will be severely and possibly fatally impacted and we will all be the poorer.

33. Should our archive be invaded by this action I would be extremely fearful that the consequences for Anthony McIntyre could be more serious. It is very possible that in the changed circumstances the IRA could seek to harm him as a warning to others or that dissident IRA groups, who disagree with the peace process, would take on the task to demonstrate their continued adherence to IRA principles and beliefs they say have either been abandoned or compromised by their former colleagues. We have also discussed the possibility that the IRA could abduct and torture him to learn the names of others who co-operated with the Belfast Project. I would also be fearful that Dolours Price could be put similarly at risk, her offense being that she agreed to talk and reveal IRA activity to an outside party. It is no exaggeration to say that lives will be put at risk should this subpoena succeed.

34. It is important to note that in all my communications with Anthony McIntyre while the project was ongoing we took great care to ensure the greatest security. When emailing each other, for instance, all messages from me to him and vice-versa were encrypted. This was an indication of how seriously we regarded the confidentiality and safety of the interviewees.

35. In or around March 2010, I re-interviewed Dolours Price, giving her, orally, the same assurances of confidentiality that had applied to her earlier interviews with Anthony McIntyre, and telling her that the interviews would be stored at Boston College under the same terms of confidentiality that had applied to those earlier interviews. I always understood that additional material could be added to interviewees' files and that they would also be covered by the original confidentiality agreements. I then passed these interview materials to Robert O'Neill at the Burns Library, with instructions to lodge them in her file. He accepted the materials.

Signed under the pains and penalties of perjury.

Dated: June 2, 2011

/s/ Ed Moloney
Ed Moloney

Belfast Project, Phase I

Agreement

between the Trustees of Boston College and Edward Moloney, Project Director,
to Interview Members of Irish Republican Paramilitary Organizations and Provisional Sinn Fein
Regarding their Role in the "Troubles."

The Trustees of Boston College (hereinafter, the "Sponsor") agree to enter into a two-year contract with Project Director Edward Moloney (hereinafter, "Project Director"), Belfast, Northern Ireland, for the purpose of documenting, on audio and/or video tape, interviews with members of the Provisional Irish Republican Army and Provisional Sinn Fein regarding their involvement in the "Troubles" from 1969 to the present. While the primary objective of this project is to document the role of individual members of the Provisional Irish Republican Army and Provisional Sinn Fein in the "Troubles," these interviews will not be limited to members of the PIRA or PSF. Rather, they may include members of all Republican paramilitary and political organizations.

The Project shall commence on or about February 1, 2001 and continue through January 31, 2002. The Sponsor reserves the right to review the project at the end of the first year and may or may not continue funding for a second year at its discretion. The Project may be extended to a third year by mutual agreement between the Sponsor and the Project Director.

The Project Director has full discretion to hire or fire the lead project researcher/interviewer and transcribers.

The Project Director agrees to oversee the interview process in Northern Ireland or Ireland and to maintain an acceptable rate of progress, averaging at least one interview per week--conducted, transcribed and deposited at Boston College--while adhering to strict standards of historical accuracy.

The Project Director agrees to maintain tight fiscal control over the Project, and at the end of each calendar year to provide the Sponsor with a detailed record of all expenses, including receipts for all purchases of equipment and supplies.

The Sponsor agrees to pay the Project Director (part-time) a stipend in the amount of £Stg 7,500 per annum.

The Sponsor agrees to pay the Lead Project Researcher (full-time) a stipend in the amount of £Stg 25,000 per annum.

The Sponsor agrees to pay costs of transcriptions in an amount not to exceed £Stg 5,000 per annum. Costs estimates in excess of this budgeted amount require the prior approval of the Sponsor. Transcriptions will be done in Northern Ireland, and original copies of the transcriptions, along with the original tape(s), will be delivered to the John J. Burns Library of Boston College promptly and safely. The means of conveyance will be determined by mutual consent.

The Sponsor agrees to purchase appropriate equipment necessary to the recording and transcribing of interviews, including a camera, an audio tape recorder, archival-quality tapes, and related supplies, e.g., batteries. Equipment is to be purchased by the Project Director. A budget of £Stg 5,000 has been allocated for this purpose. Costs in excess of this figure must be approved in advance by the Sponsor.

Belfast Project: Agreement between Trustees of Boston College and Edward Moloney
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An additional sum of £Stg 2,000 per annum is allocated for miscellaneous expenses, including travel and postage. Transcriptions and tapes will be expressed mailed weekly from Belfast to Boston.

The Project Director will require the interviewer and the interviewee to sign an agreement of confidentiality, stipulating that neither will disclose to third parties the existence and scope of the Belfast Project without the permission of the Sponsor.

In the event the interviewee prefers not to be recorded either on audio tape or video tape, a transcription of the interview will be made and signed by the interviewer and the interviewee and witnessed by a notary public as a complete and accurate transcription of the interview. In the event that the interviewee is reluctant even to sign a notarized transcription of the interview, a reputable third party should be present during the interview and sign a notarized statement that the transcription is complete and accurate to the best of his or her recollection. In situations of doubt, the Project Director will consult with the Sponsor to determine an acceptable solution.

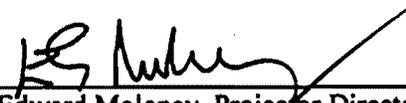
The Project Director will develop a standard coding system for all interviews. The transcribed and tape/video recorded interviews will be given an anonymous numerical/alphabetical identity and stored both in Belfast and at Boston College. A separate key to this code shall be kept and be accessible only to the Project Director and to the Burns Librarian. The key should be kept only in Boston and should only be transported to Boston by hand (i.e., during the Burns Librarian's visits to Ireland).

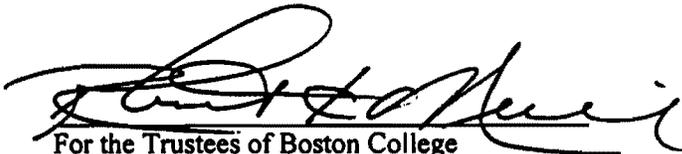
The statements of authenticity should also be kept separate from the transcripts/tapes and stored alongside the key to the codes at Boston College. The interviewee should be fully apprised in writing of this system.

Each interviewee is to be given a contract guaranteeing to the extent American law allows the conditions of the interview and the conditions of its deposit at the Burns Library, including terms of an embargo period if this becomes necessary, as outlined herein. An appropriate user model, such as Columbia University's Oral History Research Office Guidelines statement, should be adopted.

An oversight committee is to be appointed to assure that the strictest standards of historical documentation are to be followed. Members of this committee must include, but not be limited to, the Executive Director of Irish Programs at Boston College, the Director of the Irish Studies Program at Boston College and the Burns Librarian of Boston College.

Agreed to this 31st day of January, 2001


Edward Moloney, Project Director


For the Trustees of Boston College

Witnessed by:



Witnessed by:



Agreement

between Ed Moloney, Director of Boston College/Burns Library Project to interview members of Irish Republican Paramilitary and Political organisations regarding their role in the 'Troubles' and Anthony McIntyre, Lead Project Researcher

This Agreement (known hereafter as Agreement B) is governed by the terms of an earlier Agreement (known hereafter as Agreement A) reached between the Trustees of Boston College and Ed Moloney regarding the above-mentioned project which was signed between them on January 31st, 2001

Ed Moloney hereby appoints Dr. Anthony McIntyre to the position of Lead Project Researcher on the salary, terms and conditions outlined in Agreement A.

The purpose of Agreement B is to outline the responsibilities of Anthony McIntyre as Lead Project Researcher.

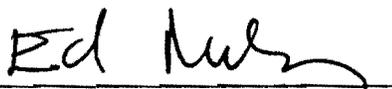
A programme of future work shall be submitted by Anthony McIntyre and agreed by Ed Moloney on a monthly basis throughout the length of the contract.

Anthony McIntyre agrees to maintain an acceptable rate of progress, averaging at least one interview per week for the duration of the contract. He will be responsible for ensuring that each interview is transcribed, indexed and then shipped to the John J Burns Library of Boston College where it will be safely deposited and coded according to terms agreed under Agreement A. Transcribed interviews must be neatly typed and indexed according to established oral history practice. One copy will be saved on a computer disc and another printed out. Both shall be conveyed to Boston College.

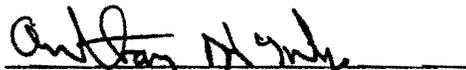
Anthony McIntyre will also keep a record of every financial transaction (travel expenses, per diem etc) and give copies of these to Ed Moloney on a monthly basis.

Anthony McIntyre will sign an agreement of confidentiality with each interviewee according to the terms outlined in Agreement A. He will also abide by the terms of Agreement A in relation to interviewees who are unwilling to be recorded on either audio or video tape.

Agreed to this 26th day of February 2001



Ed Moloney, Project Director



Anthony McIntyre - Senior Lead Researcher

Witnessed by:



Witnessed by:





BOSTON COLLEGE

JOHN J. BURNS LIBRARY

John J. Burns Library
Boston College
Chestnut Hill, Massachusetts 02467

AGREEMENT FOR DONATION

BRENDAN HUGHES

(Name of Donor)

CONDITIONS OF DONATION

- I do hereby transfer to the Trustees of Boston College possession of the tape recordings and transcripts of my interviews conducted on 30/30-2/9/02. These recordings and transcripts are to be deposited in the John J. Burns Library, Boston College, Chestnut Hill, Massachusetts 02467, to be preserved in such a manner as may best serve the educational, intellectual and historical objectives of its oral history and related programmes.
- I assign to the Trustees of Boston College absolute title thereto, including whatever copyright I may own in the contents of these tapes and transcripts.
- Access to the tapes and transcripts shall be restricted until after my death except in those cases where I have provided prior written approval for their use following consultation with the Burns Librarian, Boston College. Due to the sensitivity of content, the ultimate power of release shall rest with me. After my death the Burns Librarian of Boston College may exercise such power exclusively.

4. Additional conditions.*

THIS AGREEMENT DOES NOT IN ANY MANNER PROHIBIT MY USAGE OF ANY MATERIAL I MAY HAVE DISCLOSED WITHIN INTERVIEWS C/01-C/15 FOR ANY MEMOIRS, BOOKS, ARTICLES OR BROADCASTS WHICH I MAY DECIDE TO WORK WITH AT ANY POINT IN THE FUTURE

B. Hughes
(Donor)

12 DECEMBER 2002
(Date)

10 D DIVIS TOWER
(Address)

02890322500
(Telephone #)

BELFAST 12 NORTHERN IRELAND
Dr. Anthony M. Szwed (PHD)

(Fax #) 12/December/2002 (e-mail)

[Signature]
(Burns Librarian)

(Date)

*If none, write "None" and draw a "Z" through the blank space that follows.