

Administration.¹⁰⁵⁴ Nader wrote to Dmitriev, "This guy [Prince] is designated by Steve [Bannon] to meet you! I know him and he is very very well connected and trusted by the New Team. His sister is now a Minister of Education."¹⁰⁵⁵ According to Nader, Prince had led him to believe that Bannon was aware of Prince's upcoming meeting with Dmitriev, and Prince acknowledged that it was fair for Nader to think that Prince would pass information on to the Transition Team.¹⁰⁵⁶ Bannon, however, told the Office that Prince did not tell him in advance about his meeting with Dmitriev.¹⁰⁵⁷

ii. The Seychelles Meetings

Dmitriev arrived with his wife in the Seychelles on January 11, 2017, and checked into the Four Seasons Resort where Crown Prince Mohammed and Nader were staying.¹⁰⁵⁸ Prince arrived that same day.¹⁰⁵⁹ Prince and Dmitriev met for the first time that afternoon in Nader's villa, with Nader present.¹⁰⁶⁰ The initial meeting lasted approximately 30-45 minutes.¹⁰⁶¹

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¹⁰⁶² Prince described the eight years of the Obama Administration in negative terms, and stated that he was looking forward to a new era of cooperation and conflict resolution.¹⁰⁶³ According to Prince, he told Dmitriev that Bannon was effective if not conventional, and that Prince provided policy papers to Bannon.¹⁰⁶⁴

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¹⁰⁶⁵ **Grand Jury**

¹⁰⁵⁴ **Grand Jury**

¹⁰⁵⁵ 1/9/17 Text Message, Nader to Dmitriev (2:12:56 p.m.); Nader 1/19/18 302, at 13; **Grand Jury**

Grand Jury

¹⁰⁵⁶ Nader 1/19/18 302, at 13; **Grand Jury** Prince 5/3/18 302, at 3.

¹⁰⁵⁷ Bannon 2/14/18 302, at 25-26.

¹⁰⁵⁸ 1/10/17 Text Messages, Dmitriev & Nader (2:05:54 – 3:30:25 p.m.); 1/11/17 Text Messages, Dmitriev & Nader (2:16:16 – 5:17:59 p.m.).

¹⁰⁵⁹ 1/7/17 Email, Kasbo to Prince.

¹⁰⁶⁰ 1/11/17 Text Messages, Nader & Dmitriev (5:18:24 – 5:37:14 p.m.); **Grand Jury**

¹⁰⁶¹ Prince 5/3/18 302, at 4; **Grand Jury**

¹⁰⁶² **Grand Jury**

¹⁰⁶³ **Grand Jury**

¹⁰⁶⁴ Prince 5/3/18 302, at 4.

¹⁰⁶⁵ **Grand Jury**

Grand Jury [REDACTED] ¹⁰⁶⁶ **Grand Jury** [REDACTED] ¹⁰⁶⁷
Grand Jury [REDACTED] ¹⁰⁶⁸ The
topic of Russian interference in the 2016 election did not come up. ¹⁰⁶⁹

Grand Jury [REDACTED] ¹⁰⁷⁰
Prince added that he would inform Bannon about his meeting with Dmitriev, and that if there was interest in continuing the discussion, Bannon or someone else on the Transition Team would do so. ¹⁰⁷¹ **Grand Jury** [REDACTED] ¹⁰⁷²

Afterwards, Prince returned to his room, where he learned that a Russian aircraft carrier had sailed to Libya, which led him to call Nader and ask him to set up another meeting with Dmitriev. ¹⁰⁷³ According to Nader, Prince called and said he had checked with his associates back home and needed to convey to Dmitriev that Libya was “off the table.” ¹⁰⁷⁴ Nader wrote to Dmitriev that Prince had “received an urgent message that he needs to convey to you immediately,” and arranged for himself, Dmitriev, and Prince to meet at a restaurant on the Four Seasons property. ¹⁰⁷⁵

At the second meeting, Prince told Dmitriev that the United States could not accept any Russian involvement in Libya because it would make the situation there much worse. ¹⁰⁷⁶ **Grand Jury** [REDACTED]

¹⁰⁶⁶ **Grand Jury** [REDACTED]
¹⁰⁶⁷ **Grand Jury** [REDACTED]
¹⁰⁶⁸ **Grand Jury** [REDACTED]
¹⁰⁶⁹ Prince 5/3/18 302, at 4-5.
¹⁰⁷⁰ **Grand Jury** [REDACTED]
¹⁰⁷¹ Prince 5/3/18 302, at 4; **Grand Jury** [REDACTED]
¹⁰⁷² **Grand Jury** [REDACTED]
¹⁰⁷³ Prince 4/4/18 302, at 10; Prince 5/3/18 302, at 4; **Grand Jury** [REDACTED]
¹⁰⁷⁴ Nader 1/22/18 302, at 14; **Grand Jury** [REDACTED]
¹⁰⁷⁵ **Grand Jury** [REDACTED] 1/11/17 Text Messages, Dmitriev & Nader (9:13:54 – 10:24:25 p.m.).
¹⁰⁷⁶ **Grand Jury** [REDACTED] Prince, however, denied that and recalled that he was making these remarks to Dmitriev not in an official capacity for the transition but based on his experience as a former naval officer. Prince 5/3/18 302, at 4.

Grand Jury [REDACTED] 1077

After the brief second meeting concluded, Nader and Dmitriev discussed what had transpired.¹⁰⁷⁸ Dmitriev told Nader that he was disappointed in his meetings with Prince for two reasons: first, he believed the Russians needed to be communicating with someone who had more authority within the incoming Administration than Prince had.¹⁰⁷⁹ Second, he had hoped to have a discussion of greater substance, such as outlining a strategic roadmap for both countries to follow.¹⁰⁸⁰ Dmitriev told Nader that **Grand Jury** Prince's comments **Grand Jury** **Grand Jury** were insulting **Grand Jury**¹⁰⁸¹

Hours after the second meeting, Prince sent two text messages to Bannon from the Seychelles.¹⁰⁸² As described further below, investigators were unable to obtain the content of these or other messages between Prince and Bannon, and the investigation also did not identify evidence of any further communication between Prince and Dmitriev after their meetings in the Seychelles.

iii. Erik Prince's Meeting with Steve Bannon after the Seychelles Trip

After the Seychelles meetings, Prince told Nader that he would inform Bannon about his discussion with Dmitriev and would convey that someone within the Russian power structure was interested in seeking better relations with the incoming Administration.¹⁰⁸³ On January 12, 2017, Prince contacted Bannon's personal assistant to set up a meeting for the following week.¹⁰⁸⁴ Several days later, Prince messaged her again asking about Bannon's schedule.¹⁰⁸⁵

Prince said that he met Bannon at Bannon's home after returning to the United States in mid-January and briefed him about several topics, including his meeting with Dmitriev.¹⁰⁸⁶ Prince told the Office that he explained to Bannon that Dmitriev was the head of a Russian sovereign wealth fund and was interested in improving relations between the United States and Russia.¹⁰⁸⁷ Prince had on his cellphone a screenshot of Dmitriev's Wikipedia page dated January 16, 2017,

¹⁰⁷⁷ **Grand Jury** [REDACTED]

¹⁰⁷⁸ Nader 1/22/18 302, at 15; **Grand Jury** [REDACTED]

¹⁰⁷⁹ Nader 1/22/18 302, at 9, 15; **Grand Jury** [REDACTED]

¹⁰⁸⁰ Nader 1/22/18 302, at 15.

¹⁰⁸¹ **Grand Jury** [REDACTED] Nader 1/22/18 302, at 15.

¹⁰⁸² Call Records of Erik Prince **Grand Jury** [REDACTED].

¹⁰⁸³ Prince 4/4/18 302, at 10; Prince 5/3/18 302, at 4; **Grand Jury** [REDACTED]

¹⁰⁸⁴ 1/12/17 Text Messages, Prince to Preate.

¹⁰⁸⁵ 1/15/17 Text Message, Prince to Preate.

¹⁰⁸⁶ Prince 4/4/18 302, at 11; Prince 5/3/18 302, at 5.

¹⁰⁸⁷ Prince 4/4/18 302, at 11; Prince 5/3/18 302, at 5.

and Prince told the Office that he likely showed that image to Bannon.¹⁰⁸⁸ Prince also believed he provided Bannon with Dmitriev's contact information.¹⁰⁸⁹ According to Prince, Bannon instructed Prince not to follow up with Dmitriev, and Prince had the impression that the issue was not a priority for Bannon.¹⁰⁹⁰ Prince related that Bannon did not appear angry, just relatively uninterested.¹⁰⁹¹

Bannon, by contrast, told the Office that he never discussed with Prince anything regarding Dmitriev, RDIF, or any meetings with Russian individuals or people associated with Putin.¹⁰⁹² Bannon also stated that had Prince mentioned such a meeting, Bannon would have remembered it, and Bannon would have objected to such a meeting having taken place.¹⁰⁹³

The conflicting accounts provided by Bannon and Prince could not be independently clarified by reviewing their communications, because neither one was able to produce any of the messages they exchanged in the time period surrounding the Seychelles meeting. Prince's phone contained no text messages prior to March 2017, though provider records indicate that he and Bannon exchanged dozens of messages.¹⁰⁹⁴ Prince denied deleting any messages but claimed he did not know why there were no messages on his device before March 2017.¹⁰⁹⁵ Bannon's devices similarly contained no messages in the relevant time period, and Bannon also stated he did not know why messages did not appear on his device.¹⁰⁹⁶ Bannon told the Office that, during both the months before and after the Seychelles meeting, he regularly used his personal Blackberry and personal email for work-related communications (including those with Prince), and he took no steps to preserve these work communications.¹⁰⁹⁷

d. Kirill Dmitriev's Post-Election Contact with Rick Gerson Regarding U.S.-Russia Relations

Dmitriev's contacts during the transition period were not limited to those facilitated by Nader. In approximately late November 2016, the UAE national security advisor introduced Dmitriev to Rick Gerson, a friend of Jared Kushner who runs a hedge fund in New York.¹⁰⁹⁸ Gerson stated he had no formal role in the transition and had no involvement in the Trump

¹⁰⁸⁸ Prince 5/3/18 302, at 5; 1/16/17 Image on Prince Phone (on file with the Office).

¹⁰⁸⁹ Prince 5/3/18 302, at 5.

¹⁰⁹⁰ Prince 5/3/18 302, at 5.

¹⁰⁹¹ Prince 5/3/18 302, at 5.

¹⁰⁹² Bannon 10/26/18 302, at 10-11.

¹⁰⁹³ Bannon 10/26/18 302, at 10-11.

¹⁰⁹⁴ Call Records of Erik Prince **Grand Jury**.

¹⁰⁹⁵ Prince 4/4/18 302, at 6.

¹⁰⁹⁶ Bannon 10/26/18 302, at 11; Bannon 2/14/18 302, at 36.

¹⁰⁹⁷ Bannon 10/26/18 302, at 11.

¹⁰⁹⁸ Gerson 6/5/18 302, at 1, 3; 11/26/16 Text Message, Dmitriev to Gerson; 1/25/17 Text Message, Dmitriev to Nader.

Campaign other than occasional casual discussions about the Campaign with Kushner.¹⁰⁹⁹ After the election, Gerson assisted the transition by arranging meetings for transition officials with former UK prime minister Tony Blair and a UAE delegation led by Crown Prince Mohammed.¹¹⁰⁰

When Dmitriev and Gerson met, they principally discussed potential joint ventures between Gerson's hedge fund and RDIF.¹¹⁰¹ Dmitriev was interested in improved economic cooperation between the United States and Russia and asked Gerson who he should meet with in the incoming Administration who would be helpful towards this goal.¹¹⁰² Gerson replied that he would try to figure out the best way to arrange appropriate introductions, but noted that confidentiality would be required because of the sensitivity of holding such meetings before the new Administration took power, and before Cabinet nominees had been confirmed by the Senate.¹¹⁰³ Gerson said he would ask Kushner and Michael Flynn who the "key person or people" were on the topics of reconciliation with Russia, joint security concerns, and economic matters.¹¹⁰⁴

Dmitriev told Gerson that he had been tasked by Putin to develop and execute a reconciliation plan between the United States and Russia. He noted in a text message to Gerson that if Russia was "approached with respect and willingness to understand our position, we can have Major Breakthroughs quickly."¹¹⁰⁵ Gerson and Dmitriev exchanged ideas in December 2016 about what such a reconciliation plan would include.¹¹⁰⁶ Gerson told the Office that the Transition Team had not asked him to engage in these discussions with Dmitriev, and that he did so on his own initiative and as a private citizen.¹¹⁰⁷

On January 9, 2017, the same day he asked Nader whether meeting Prince would be worthwhile, Dmitriev sent his biography to Gerson and asked him if he could "share it with Jared (or somebody else very senior in the team) – so that they know that we are focused from our side on improving the relationship and my boss asked me to play a key role in that."¹¹⁰⁸ Dmitriev also asked Gerson if he knew Prince, and if Prince was somebody important or worth spending time

¹⁰⁹⁹ Gerson 6/5/18 302, at 1.

¹¹⁰⁰ Gerson 6/5/18 302, at 1-2; Kushner 4/11/18 302, at 21.

¹¹⁰¹ Gerson 6/5/18 302, at 3-4; *see, e.g.*, 12/2/16 Text Messages, Dmitriev & Gerson; 12/14/16 Text Messages, Dmitriev & Gerson; 1/3/17 Text Message, Gerson to Dmitriev; 12/2/16 Email, Tolokonnikov to Gerson.

¹¹⁰² Gerson 6/5/18 302, at 3; 12/14/16 Text Message, Dmitriev to Gerson.

¹¹⁰³ 12/14/16 Text Message, Gerson to Dmitriev.

¹¹⁰⁴ 12/14/16 Text Message, Gerson to Dmitriev.

¹¹⁰⁵ 12/14/16 Text Messages, Dmitriev & Gerson; Gerson 6/15/18 302, at 1.

¹¹⁰⁶ 12/14/16 Text Messages, Dmitriev & Gerson.

¹¹⁰⁷ Gerson 6/15/18 302, at 1.

¹¹⁰⁸ 1/9/17 Text Messages, Dmitriev to Gerson; 1/9/17 Text Message, Dmitriev to Nader.

with.¹¹⁰⁹ After his trip to the Seychelles, Dmitriev told Gerson that Bannon had asked Prince to meet with Dmitriev and that the two had had a positive meeting.¹¹¹⁰

On January 16, 2017, Dmitriev consolidated the ideas for U.S.-Russia reconciliation that he and Gerson had been discussing into a two-page document that listed five main points: (1) jointly fighting terrorism; (2) jointly engaging in anti-weapons of mass destruction efforts; (3) developing “win-win” economic and investment initiatives; (4) maintaining an honest, open, and continual dialogue regarding issues of disagreement; and (5) ensuring proper communication and trust by “key people” from each country.¹¹¹¹ On January 18, 2017, Gerson gave a copy of the document to Kushner.¹¹¹² Kushner had not heard of Dmitriev at that time.¹¹¹³ Gerson explained that Dmitriev was the head of RDIF, and Gerson may have alluded to Dmitriev’s being well connected.¹¹¹⁴ Kushner placed the document in a file and said he would get it to the right people.¹¹¹⁵ Kushner ultimately gave one copy of the document to Bannon and another to Rex Tillerson; according to Kushner, neither of them followed up with Kushner about it.¹¹¹⁶ On January 19, 2017, Dmitriev sent Nader a copy of the two-page document, telling him that this was “a view from our side that I discussed in my meeting on the islands and with you and with our friends. Please share with them – we believe this is a good foundation to start from.”¹¹¹⁷

Gerson informed Dmitriev that he had given the document to Kushner soon after delivering it.¹¹¹⁸ On January 26, 2017, Dmitriev wrote to Gerson that his “boss”—an apparent reference to Putin—was asking if there had been any feedback on the proposal.¹¹¹⁹ Dmitriev said, “[w]e do not want to rush things and move at a comfortable speed. At the same time, my boss asked me to try to have the key US meetings in the next two weeks if possible.”¹¹²⁰ He informed Gerson that Putin and President Trump would speak by phone that Saturday, and noted that that information was “very confidential.”¹¹²¹

The same day, Dmitriev wrote to Nader that he had seen his “boss” again yesterday who had “emphasized that this is a great priority for us and that we need to build this communication

¹¹⁰⁹ Gerson 6/5/18 302, at 4.

¹¹¹⁰ 1/18/17 Text Messages, Dmitriev & Gerson.

¹¹¹¹ 1/16/17 Text Messages, Dmitriev & Gerson.

¹¹¹² Gerson 6/5/18 302, at 3; Gerson 6/15/18 302, at 2.

¹¹¹³ Gerson 6/5/18 302, at 3.

¹¹¹⁴ Gerson 6/5/18 302, at 3; Gerson 6/15/18 302, at 1-2; Kushner 4/11/18 302, at 22.

¹¹¹⁵ Gerson 6/5/18 302, at 3.

¹¹¹⁶ Kushner 4/11/18 302, at 32.

¹¹¹⁷ 1/19/17 Text Message, Dmitriev to Nader (11:11:56 a.m.).

¹¹¹⁸ 1/18/17 Text Message, Gerson to Dmitriev; Gerson 6/15/18 302, at 2.

¹¹¹⁹ 1/26/17 Text Message, Dmitriev to Gerson.

¹¹²⁰ 1/26/17 Text Message, Dmitriev to Gerson.

¹¹²¹ 1/26/17 Text Message, Dmitriev to Gerson.

channel to avoid bureaucracy.”¹¹²² On January 28, 2017, Dmitriev texted Nader that he wanted “to see if I can confirm to my boss that your friends may use some of the ideas from the 2 pager I sent you in the telephone call that will happen at 12 EST,”¹¹²³ an apparent reference to the call scheduled between President Trump and Putin. Nader replied, “Definitely paper was so submitted to Team by Rick and me. They took it seriously!”¹¹²⁴ After the call between President Trump and Putin occurred, Dmitriev wrote to Nader that “the call went very well. My boss wants me to continue making some public statements that us [sic] Russia cooperation is good and important.”¹¹²⁵ Gerson also wrote to Dmitriev to say that the call had gone well, and Dmitriev replied that the document they had drafted together “played an important role.”¹¹²⁶

Gerson and Dmitriev appeared to stop communicating with one another in approximately March 2017, when the investment deal they had been working on together showed no signs of progressing.¹¹²⁷

3. Ambassador Kislyak’s Meeting with Jared Kushner and Michael Flynn in Trump Tower Following the Election

On November 16, 2016, Catherine Vargas, an executive assistant to Kushner, received a request for a meeting with Russian Ambassador Sergey Kislyak.¹¹²⁸ That same day, Vargas sent Kushner an email with the subject, “MISSED CALL: Russian Ambassador to the US, Sergey Ivanovich Kislyak”¹¹²⁹ The text of the email read, “RE: setting up a time to meet w/you on 12/1. LMK how to proceed.” Kushner responded in relevant part, “I think I do this one -- confirm with Dimitri [Simes of CNI] that this is the right guy.”¹¹³⁰ After reaching out to a colleague of Simes at CNI, Vargas reported back to Kushner that Kislyak was “the best go-to guy for routine matters in the US,” while Yuri Ushakov, a Russian foreign policy advisor, was the contact for “more direct/substantial matters.”¹¹³¹

Bob Foresman, the UBS investment bank executive who had previously tried to transmit to candidate Trump an invitation to speak at an economic forum in Russia, *see* Volume I, Section IV.A.1.d.ii, *supra*, may have provided similar information to the Transition Team. According to

¹¹²² 1/26/17 Text Message, Dmitriev to Nader (10:04:41 p.m.).

¹¹²³ 1/28/17 Text Message, Dmitriev to Nader (11:05:39 a.m.).

¹¹²⁴ 1/28/17 Text Message, Nader to Dmitriev (11:11:33 a.m.).

¹¹²⁵ 1/29/17 Text Message, Dmitriev to Nader (11:06:35 a.m.).

¹¹²⁶ 1/28/17 Text Message, Gerson to Dmitriev; 1/29/17 Text Message, Dmitriev to Gerson.

¹¹²⁷ Gerson 6/15/18 302, at 4; 3/21/17 Text Message, Gerson to Dmitriev.

¹¹²⁸ *Statement of Jared C. Kushner to Congressional Committees* (“Kushner Stmt.”), at 6 (7/24/17) (written statement by Kushner to the Senate Judiciary Committee).

¹¹²⁹ NOSC00004356 (11/16/16 Email, Vargas to Kushner (6:44 p.m.)).

¹¹³⁰ NOSC00004356 (11/16/16 Email, Kushner to Vargas (9:54 p.m.)).

¹¹³¹ 11/17/16 Email, Brown to Simes (10:41 a.m.); Brown 10/13/17 302, at 4; 11/17/16 Email, Vargas to Kushner (12:31:18).

Foresman, at the end of an early December 2016 meeting with incoming National Security Advisor Michael Flynn and his designated deputy (K.T. McFarland) in New York, Flynn asked Foresman for his thoughts on Kislyak. Foresman had not met Kislyak but told Flynn that, while Kislyak was an important person, Kislyak did not have a direct line to Putin.¹¹³² Foresman subsequently traveled to Moscow, inquired of a source he believed to be close to Putin, and heard back from that source that Ushakov would be the official channel for the incoming U.S. national security advisor.¹¹³³ Foresman acknowledged that Flynn had not asked him to undertake that inquiry in Russia but told the Office that he nonetheless felt obligated to report the information back to Flynn, and that he worked to get a face-to-face meeting with Flynn in January 2017 so that he could do so.¹¹³⁴ Email correspondence suggests that the meeting ultimately went forward,¹¹³⁵ but Flynn has no recollection of it or of the earlier December meeting.¹¹³⁶ (The investigation did not identify evidence of Flynn or Kushner meeting with Ushakov after being given his name.¹¹³⁷)

In the meantime, although he had already formed the impression that Kislyak was not necessarily the right point of contact,¹¹³⁸ Kushner went forward with the meeting that Kislyak had requested on November 16. It took place at Trump Tower on November 30, 2016.¹¹³⁹ At Kushner's invitation, Flynn also attended; Bannon was invited but did not attend.¹¹⁴⁰ During the meeting, which lasted approximately 30 minutes, Kushner expressed a desire on the part of the incoming Administration to start afresh with U.S.-Russian relations.¹¹⁴¹ Kushner also asked Kislyak to identify the best person (whether Kislyak or someone else) with whom to direct future discussions—someone who had contact with Putin and the ability to speak for him.¹¹⁴²

The three men also discussed U.S. policy toward Syria, and Kislyak floated the idea of having Russian generals brief the Transition Team on the topic using a secure communications line.¹¹⁴³ After Flynn explained that there was no secure line in the Transition Team offices,

¹¹³² Foresman 10/17/18 302, at 17.

¹¹³³ Foresman 10/17/18 302, at 17-18.

¹¹³⁴ Foresman 10/17/18 302, at 18.

¹¹³⁵ RMF-SCO-00000015 (1/5/17 Email, Foresman to Atencio & Flaherty); RMF-SCO-00000015 (1/5/17 Email, Flaherty to Foresman & Atencio).

¹¹³⁶ 9/26/18 Attorney Proffer from Covington & Burling LLP (reflected in email on file with the Office).

¹¹³⁷ Vargas 4/4/18 302, at 5.

¹¹³⁸ Kushner 11/1/17 302, at 4.

¹¹³⁹ AKIN_GUMP_BERKOWITZ_0000016-019 (11/29/16 Email, Vargas to Kuznetsov).

¹¹⁴⁰ Flynn 1/11/18 302, at 2; NOS00004240 (Calendar Invite, Vargas to Kushner & Flynn).

¹¹⁴¹ Kushner Stmt. at 6.

¹¹⁴² Kushner Stmt. at 6; Kushner 4/11/18 302, at 18.

¹¹⁴³ Kushner Stmt. at 7; Kushner 4/11/18 302, at 18; Flynn 1/11/18 302, at 2.

Kushner asked Kislyak if they could communicate using secure facilities at the Russian Embassy.¹¹⁴⁴ Kislyak quickly rejected that idea.¹¹⁴⁵

4. Jared Kushner's Meeting with Sergey Gorkov

On December 6, 2016, the Russian Embassy reached out to Kushner's assistant to set up a second meeting between Kislyak and Kushner.¹¹⁴⁶ Kushner declined several proposed meeting dates, but Kushner's assistant indicated that Kislyak was very insistent about securing a second meeting.¹¹⁴⁷ Kushner told the Office that he did not want to take another meeting because he had already decided Kislyak was not the right channel for him to communicate with Russia, so he arranged to have one of his assistants, Avi Berkowitz, meet with Kislyak in his stead.¹¹⁴⁸ Although embassy official Sergey Kuznetsov wrote to Berkowitz that Kislyak thought it "important" to "continue the conversation with Mr. Kushner in person,"¹¹⁴⁹ Kislyak nonetheless agreed to meet instead with Berkowitz once it became apparent that Kushner was unlikely to take a meeting.

Berkowitz met with Kislyak on December 12, 2016, at Trump Tower.¹¹⁵⁰ The meeting lasted only a few minutes, during which Kislyak indicated that he wanted Kushner to meet someone who had a direct line to Putin: Sergey Gorkov, the head of the Russian-government-owned bank Vnesheconombank (VEB).

Kushner agreed to meet with Gorkov.¹¹⁵¹ The one-on-one meeting took place the next day, December 13, 2016, at the Colony Capital building in Manhattan, where Kushner had previously scheduled meetings.¹¹⁵² VEB was (and is) the subject of Department of Treasury economic sanctions imposed in response to Russia's annexation of Crimea.¹¹⁵³ Kushner did not, however, recall any discussion during his meeting with Gorkov about the sanctions against VEB or sanctions more generally.¹¹⁵⁴ Kushner stated in an interview that he did not engage in any preparation for

¹¹⁴⁴ Kushner 4/11/18 302, at 18.

¹¹⁴⁵ Kushner 4/11/18 302, at 18.

¹¹⁴⁶ Kushner Stmt. at 7; NOSC00000123 (12/6/16 Email, Vargas to Kushner (12:11:40 p.m.)).

¹¹⁴⁷ Kushner 4/11/18 302, at 19; NOSC00000130 (12/12/16 Email, Kushner to Vargas (10:41 p.m.)).

¹¹⁴⁸ Kushner 4/11/18 302, at 19; Kushner Stmt. at 7; DJTFP_SCO_01442290 (12/6/16 Email, Berkowitz to [REDACTED]).

¹¹⁴⁹ DJTFP_SCO_01442290 (12/7/16 Email, [REDACTED] to Berkowitz (12:31:39 p.m.)).

¹¹⁵⁰ Berkowitz 1/12/18 302, at 7; AKIN_GUMP_BERKOWITZ_000001-04 (12/12/16 Text Messages, Berkowitz & 202-701-8532).

¹¹⁵¹ Kushner 4/11/18 302, at 19; NOSC00000130-135 (12/12/16 Email, Kushner to Berkowitz).

¹¹⁵² Kushner 4/11/18 302, at 19; NOSC00000130-135 (12/12/16 Email, Kushner to Berkowitz).

¹¹⁵³ *Announcement of Treasury Sanctions on Entities Within the Financial Services and Energy Sectors of Russia, Against Arms or Related Materiel Entities, and those Undermining Ukraine's Sovereignty*, United States Department of the Treasury (Jul. 16, 2014).

¹¹⁵⁴ Kushner 4/11/18 302, at 20.

the meeting and that no one on the Transition Team even did a Google search for Gorkov's name.¹¹⁵⁵

At the start of the meeting, Gorkov presented Kushner with two gifts: a painting and a bag of soil from the town in Belarus where Kushner's family originated.¹¹⁵⁶

The accounts from Kushner and Gorkov differ as to whether the meeting was diplomatic or business in nature. Kushner told the Office that the meeting was diplomatic, with Gorkov expressing disappointment with U.S.-Russia relations under President Obama and hopes for improved relations with the incoming Administration.¹¹⁵⁷ According to Kushner, although Gorkov told Kushner a little bit about his bank and made some statements about the Russian economy, the two did not discuss Kushner's companies or private business dealings of any kind.¹¹⁵⁸ (At the time of the meeting, Kushner Companies had a debt obligation coming due on the building it owned at 666 Fifth Avenue, and there had been public reporting both about efforts to secure lending on the property and possible conflicts of interest for Kushner arising out of his company's borrowing from foreign lenders.¹¹⁵⁹)

In contrast, in a 2017 public statement, VEB suggested Gorkov met with Kushner in Kushner's capacity as CEO of Kushner Companies for the purpose of discussing business, rather than as part of a diplomatic effort. In particular, VEB characterized Gorkov's meeting with Kushner as part of a series of "roadshow meetings" with "representatives of major US banks and business circles," which included "negotiations" and discussion of the "most promising business lines and sectors."¹¹⁶⁰

Foresman, the investment bank executive mentioned in Volume I, Sections IV.A.1 and IV.B.3, *supra*, told the Office that he met with Gorkov and VEB deputy chairman Nikolay Tsekhomsky in Moscow just before Gorkov left for New York to meet Kushner.¹¹⁶¹ According to Foresman, Gorkov and Tsekhomsky told him that they were traveling to New York to discuss post-election issues with U.S. financial institutions, that their trip was sanctioned by Putin, and that they would be reporting back to Putin upon their return.¹¹⁶²

¹¹⁵⁵ Kushner 4/11/18 302, at 19. Berkowitz, by contrast, stated to the Office that he had googled Gorkov's name and told Kushner that Gorkov appeared to be a banker. Berkowitz 1/12/18 302, at 8.

¹¹⁵⁶ Kushner 4/11/18 302, at 19-20.

¹¹⁵⁷ Kushner Stmt. at 8.

¹¹⁵⁸ Kushner Stmt. at 8.

¹¹⁵⁹ See, e.g., Peter Grant, *Donald Trump Son-in-Law Jared Kushner Could Face His Own Conflict-of-Interest Questions*, Wall Street Journal (Nov. 29, 2016).

¹¹⁶⁰ Patrick Reeve & Matthew Mosk, *Russian Banker Sergey Gorkov Brushes off Questions About Meeting with Jared Kushner*, ABC News (June 1, 2017).

¹¹⁶¹ Foresman 10/17/18 302, at 14-15.

¹¹⁶² Foresman 10/17/18 302, at 15-16.

The investigation did not resolve the apparent conflict in the accounts of Kushner and Gorkov or determine whether the meeting was diplomatic in nature (as Kushner stated), focused on business (as VEB's public statement indicated), or whether it involved some combination of those matters or other matters. Regardless, the investigation did not identify evidence that Kushner and Gorkov engaged in any substantive follow-up after the meeting.

Rather, a few days after the meeting, Gorkov's assistant texted Kushner's assistant, "Hi, please inform your side that the information about the meeting had a very positive response!"¹¹⁶³ Over the following weeks, the two assistants exchanged a handful of additional cordial texts.¹¹⁶⁴ On February 8, 2017, Gorkov's assistant texted Kushner's assistant (Berkowitz) to try to set up another meeting, and followed up by text at least twice in the days that followed.¹¹⁶⁵ According to Berkowitz, he did not respond to the meeting request in light of the press coverage regarding the Russia investigation, and did not tell Kushner about the meeting request.¹¹⁶⁶

5. Petr Aven's Outreach Efforts to the Transition Team

In December 2016, weeks after the one-on-one meeting with Putin described in Volume I, Section IV.B.1.b, *supra*, Petr Aven attended what he described as a separate "all-hands" oligarch meeting between Putin and Russia's most prominent businessmen.¹¹⁶⁷ As in Aven's one-on-one meeting, a main topic of discussion at the oligarch meeting in December 2016 was the prospect of forthcoming U.S. economic sanctions.¹¹⁶⁸

After the December 2016 all-hands meeting, Aven tried to establish a connection to the Trump team. Aven instructed Richard Burt to make contact with the incoming Trump Administration. Burt was on the board of directors for LetterOne (L1), another company headed by Aven, and had done work for Alfa-Bank.¹¹⁶⁹ Burt had previously served as U.S. ambassador to Germany and Assistant Secretary of State for European and Canadian Affairs, and one of his primary roles with Alfa-Bank and L1 was to facilitate introductions to business contacts in the United States and other Western countries.¹¹⁷⁰

While at a L1 board meeting held in Luxembourg in late December 2016, Aven pulled Burt aside and told him that he had spoken to someone high in the Russian government who expressed

¹¹⁶³ AKIN_GUMP_BERKOWITZ_0000011 (12/19/16 Text Message, Ivanchenko to Berkowitz (9:56 a.m.)).

¹¹⁶⁴ AKIN_GUMP_BERKOWITZ_0000011-15 (12/19/16 – 2/16/17 Text Messages, Ivanchenko & Berkowitz).

¹¹⁶⁵ AKIN_GUMP_BERKOWITZ_0000015 (2/8/17 Text Message, Ivanchenko to Berkowitz (10:41 a.m.)).

¹¹⁶⁶ Berkowitz 3/22/18 302, at 4-5.

¹¹⁶⁷ Aven 8/2/18 302, at 7; **Grand Jury**

¹¹⁶⁸ **Grand Jury**

¹¹⁶⁹ **Grand Jury** Aven 8/2/18 302, at 6.

¹¹⁷⁰ **Grand Jury** Aven 8/2/18 302, at 6; Burt 2/9/18 302, at 2.

interest in establishing a communications channel between the Kremlin and the Trump Transition Team.¹¹⁷¹ Aven asked for Burt's help in contacting members of the Transition Team.¹¹⁷² Although Burt had been responsible for helping Aven build connections in the past, Burt viewed Aven's request as unusual and outside the normal realm of his dealings with Aven.¹¹⁷³

Burt, who is a member of the board of CNI (discussed at Volume I, Section IV.A.4, *supra*),¹¹⁷⁴ decided to approach CNI president Dimitri Simes for help facilitating Aven's request, recalling that Simes had some relationship with Kushner.¹¹⁷⁵ At the time, Simes was lobbying the Trump Transition Team, on Burt's behalf, to appoint Burt U.S. ambassador to Russia.¹¹⁷⁶

Burt contacted Simes by telephone and asked if he could arrange a meeting with Kushner to discuss setting up a high-level communications channel between Putin and the incoming Administration.¹¹⁷⁷ Simes told the Office that he declined and stated to Burt that setting up such a channel was not a good idea in light of the media attention surrounding Russian influence in the U.S. presidential election.¹¹⁷⁸ According to Simes, he understood that Burt was seeking a secret channel, and Simes did not want CNI to be seen as an intermediary between the Russian government and the incoming Administration.¹¹⁷⁹ Based on what Simes had read in the media, he stated that he already had concerns that Trump's business connections could be exploited by Russia, and Simes said that he did not want CNI to have any involvement or apparent involvement in facilitating any connection.¹¹⁸⁰

In an email dated December 22, 2016, Burt recounted for Aven his conversation with Simes:

Through a trusted third party, I have reached out to the very influential person I mentioned in Luxembourg concerning Project A. There is an interest and an understanding for the need to establish such a channel. But the individual emphasized that at this moment, with so much intense interest in the Congress and the media over the question of cyber-hacking (and who ordered what), Project A was too explosive to discuss. The individual agreed to discuss it again after the New Year. I trust the individual's instincts on this.

¹¹⁷¹ Burt 2/9/18 302, at 2; **Grand Jury**

¹¹⁷² **Grand Jury**

¹¹⁷³ Burt 2/9/18 302, at 4.

¹¹⁷⁴ Burt 2/9/18 302, at 5.

¹¹⁷⁵ Burt 2/9/18 302, at 3.

¹¹⁷⁶ Burt 2/9/18 302, at 3.

¹¹⁷⁷ Burt 2/9/18 302, at 3; Simes 3/27/18 302, at 4.

¹¹⁷⁸ Burt 2/9/18 302, at 3; Simes 3/27/18 302, at 4.

¹¹⁷⁹ Simes 3/27/18 302, at 5.

¹¹⁸⁰ Simes 3/27/18 302, at 5.

If this is unclear or you would like to discuss, don't hesitate to call.¹¹⁸¹

According to Burt, the "very influential person" referenced in his email was Simes, and the reference to a "trusted third party" was a fabrication, as no such third party existed. "Project A" was a term that Burt created for Aven's effort to help establish a communications channel between Russia and the Trump team, which he used in light of the sensitivities surrounding what Aven was requesting, especially in light of the recent attention to Russia's influence in the U.S. presidential election.¹¹⁸² According to Burt, his report that there was "interest" in a communications channel reflected Simes's views, not necessarily those of the Transition Team, and in any event, Burt acknowledged that he added some "hype" to that sentence to make it sound like there was more interest from the Transition Team than may have actually existed.¹¹⁸³

Aven replied to Burt's email on the same day, saying "Thank you. All clear."¹¹⁸⁴ According to Aven, this statement indicated that he did not want the outreach to continue.¹¹⁸⁵ Burt spoke to Aven some time thereafter about his attempt to make contact with the Trump team, explaining to Aven that the current environment made it impossible, **Grand Jury**.¹¹⁸⁶ Burt did not recall discussing Aven's request with Simes again, nor did he recall speaking to anyone else about the request.¹¹⁸⁷

In the first quarter of 2017, Aven met again with Putin and other Russian officials.¹¹⁸⁸ At that meeting, Putin asked about Aven's attempt to build relations with the Trump Administration, and Aven recounted his lack of success.¹¹⁸⁹ **Grand Jury**.¹¹⁹⁰ Putin continued to inquire about Aven's efforts to connect to the Trump Administration in several subsequent quarterly meetings.¹¹⁹¹

Aven also told Putin's chief of staff that he had been subpoenaed by the FBI.¹¹⁹² As part of that conversation, he reported that he had been asked by the FBI about whether he had worked to create a back channel between the Russian government and the Trump Administration.¹¹⁹³

¹¹⁸¹ 12/22/16 Email, Burt to Aven (7:23 p.m.).

¹¹⁸² Burt 2/9/18 302, at 3.

¹¹⁸³ Burt 2/9/18 302, at 3-4.

¹¹⁸⁴ 12/22/16 Email, Aven to Burt (4:58:22 p.m.).

¹¹⁸⁵ Aven 8/2/18 302, at 7.

¹¹⁸⁶ **Grand Jury**

¹¹⁸⁷ Burt 2/9/18 302, at 3-4.

¹¹⁸⁸ **Grand Jury**

¹¹⁸⁹ **Grand Jury** Aven 8/2/18 302, at 7.

¹¹⁹⁰ **Grand Jury**

¹¹⁹¹ **Grand Jury**

¹¹⁹² Aven 8/2/18 302, at 8.

¹¹⁹³ Aven 8/2/18 302, at 8; **Grand Jury**

According to Aven, the official showed no emotion in response to this report and did not appear to care.¹¹⁹⁴

6. Carter Page Contact with Deputy Prime Minister Arkady Dvorkovich

In December 2016, more than two months after he was removed from the Trump Campaign, former Campaign foreign policy advisor Carter Page again visited Moscow in an attempt to pursue business opportunities.¹¹⁹⁵ **Grand Jury**

Grand Jury
¹¹⁹⁶ According to Konstantin Kilimnik, Paul Manafort's associate, Page also gave some individuals in Russia the impression that he had maintained his connections to President-Elect Trump. In a December 8, 2016 email intended for Manafort, Kilimnik wrote, "Carter Page is in Moscow today, sending messages he is authorized to talk to Russia on behalf of DT on a range of issues of mutual interest, including Ukraine."¹¹⁹⁷

On December 9, 2016, Page went to dinner with NES employees Shlomo Weber and Andrej Krickovic.¹¹⁹⁸ Weber had contacted Dvorkovich to let him know that Page was in town and to invite him to stop by the dinner if he wished to do so, and Dvorkovich came to the restaurant for a few minutes to meet with Page.¹¹⁹⁹ Dvorkovich congratulated Page on Trump's election and expressed interest in starting a dialogue between the United States and Russia.¹²⁰⁰ Dvorkovich asked Page if he could facilitate connecting Dvorkovich with individuals involved in the transition to begin a discussion of future cooperation.¹²⁰¹ **Grand Jury**

¹²⁰² **Grand Jury**

¹²⁰³

¹¹⁹⁴ Aven 8/2/18 302, at 8; **Grand Jury**

¹¹⁹⁵ Page 3/10/17 302, at 4; Page 3/16/17 302, at 3; **Grand Jury** Among other meetings, Page contacted Andrey Baranov, head of investor relations at Rosneft, and they discussed the sale of Rosneft and meetings Baranov had attended with Rosneft CEO Igor Sechin. **Grand Jury**

¹¹⁹⁶ **Grand Jury**

¹¹⁹⁷ **Investigative Technique**

¹¹⁹⁸ Page 3/16/17 302, at 3; Page 3/30/17 302, at 8.

¹¹⁹⁹ Weber 7/28/17 302, at 4; Page 3/16/17 302, at 3; **Grand Jury**

¹²⁰⁰ Page 3/16/17 302, at 3; **Grand Jury**

¹²⁰¹ Page 3/16/17 302, at 3; **Grand Jury**

¹²⁰² **Grand Jury**

¹²⁰³ **Grand Jury**

Grand Jury [REDACTED] Dvorkovich separately discussed working together in the future by forming an academic partnership.¹²⁰⁴ **Grand Jury** [REDACTED]

¹²⁰⁵ **Grand Jury** [REDACTED]

[REDACTED]
²⁰⁶

7. Contacts With and Through Michael T. Flynn

Incoming National Security Advisor Michael Flynn was the Transition Team's primary conduit for communications with the Russian Ambassador and dealt with Russia on two sensitive matters during the transition period: a United Nations Security Council vote and the Russian government's reaction to the United States's imposition of sanctions for Russian interference in the 2016 election.¹²⁰⁷ Despite Kushner's conclusion that Kislyak did not wield influence inside the Russian government, the Transition Team turned to Flynn's relationship with Kislyak on both issues. As to the sanctions, Flynn spoke by phone to K.T. McFarland, his incoming deputy, to prepare for his call to Kislyak; McFarland was with the President-Elect and other senior members of the Transition Team at Mar-a-Lago at the time. Although transition officials at Mar-a-Lago had some concern about possible Russian reactions to the sanctions, the investigation did not identify evidence that the President-Elect asked Flynn to make any request to Kislyak. Flynn asked Kislyak not to escalate the situation in response to U.S. sanctions imposed on December 29, 2016, and Kislyak later reported to Flynn that Russia acceded to that request.

a. United Nations Vote on Israeli Settlements

On December 21, 2016, Egypt submitted a resolution to the United Nations Security Council calling on Israel to cease settlement activities in Palestinian territory.¹²⁰⁸ The Security Council, which includes Russia, was scheduled to vote on the resolution the following day.¹²⁰⁹ There was speculation in the media that the Obama Administration would not oppose the resolution.¹²¹⁰

¹²⁰⁴ **Grand Jury** [REDACTED]

¹²⁰⁵ **Grand Jury** [REDACTED]

¹²⁰⁶ **Grand Jury** [REDACTED]

¹²⁰⁷ As discussed further in Volume I, Section V.C.4, *infra*, Flynn pleaded guilty to making false statements to the FBI, in violation of 18 U.S.C. § 1001, about these communications with Ambassador Kislyak. Plea Agreement, *United States v. Michael T. Flynn*, No. 1:17-cr-232 (D.D.C. Dec. 1, 2017), Doc. 3. Flynn's plea agreement required that he cooperate with this Office, and the statements from Flynn in this report reflect his cooperation over the course of multiple debriefings in 2017 and 2018.

¹²⁰⁸ Karen DeYoung, *How the U.S. Came to Abstain on a U.N. Resolution Condemning Israeli Settlements*, Washington Post (Dec. 28, 2016).

¹²⁰⁹ Karen DeYoung, *How the U.S. Came to Abstain on a U.N. Resolution Condemning Israeli Settlements*, Washington Post (Dec. 28, 2016).

¹²¹⁰ Michelle Nichols & Lesley Wroughton, *U.S. Intended to Allow Passage of U.N. Draft Critical of Israel*, Reuters (Dec. 21, 2016).

According to Flynn, the Transition Team regarded the vote as a significant issue and wanted to support Israel by opposing the resolution.¹²¹¹ On December 22, 2016, multiple members of the Transition Team, as well as President-Elect Trump, communicated with foreign government officials to determine their views on the resolution and to rally support to delay the vote or defeat the resolution.¹²¹² Kushner led the effort for the Transition Team; Flynn was responsible for the Russian government.¹²¹³ Minutes after an early morning phone call with Kushner on December 22, Flynn called Kislyak.¹²¹⁴ According to Flynn, he informed Kislyak about the vote and the Transition Team's opposition to the resolution, and requested that Russia vote against or delay the resolution.¹²¹⁵ Later that day, President-Elect Trump spoke with Egyptian President Abdel Fattah al-Sisi about the vote.¹²¹⁶ Ultimately, Egypt postponed the vote.¹²¹⁷

On December 23, 2016, Malaysia, New Zealand, Senegal, and Venezuela resubmitted the resolution.¹²¹⁸ Throughout the day, members of the Transition Team continued to talk with foreign leaders about the resolution, with Flynn continuing to lead the outreach with the Russian government through Kislyak.¹²¹⁹ When Flynn again spoke with Kislyak, Kislyak informed Flynn that if the resolution came to a vote, Russia would not vote against it.¹²²⁰ The resolution later passed 14-0, with the United States abstaining.¹²²¹

b. U.S. Sanctions Against Russia

Flynn was also the Transition Team member who spoke with the Russian government when the Obama Administration imposed sanctions and other measures against Russia in response to Russia's interference in the 2016 presidential election. On December 28, 2016, then-President Obama signed Executive Order 13757, which took effect at 12:01 a.m. the following day and

¹²¹¹ Flynn 11/16/17 302, at 12; Flynn 11/17/17 302, at 2.

¹²¹² Flynn 11/16/17 302, at 12-14; Flynn 11/17/17 302, at 2.

¹²¹³ Flynn 11/16/17 302, at 12-14; Flynn 11/17/17 302, at 2; Kushner 11/1/17 302, at 3; 12/22/16 Email, Kushner to Flynn; 12/22/16 Email, McFarland to **Personal Privacy** et al.

¹²¹⁴ Flynn 11/16/17 302, at 13; Call Records of Michael T. Flynn **Grand Jury**.

¹²¹⁵ Statement of Offense ¶ 3(d), *United States v. Michael T. Flynn*, No. 1:17-cr-232 (D.D.C. Dec. 1, 2017), Doc. 4 ("*Flynn* Statement of Offense"); Flynn 11/16/17 302, at 12-13.

¹²¹⁶ Flynn 11/17/17 302, at 2; Flynn 11/16/17 302, at 13.

¹²¹⁷ *U.N. Vote on Israeli Settlement Postponed, "Potentially Indefinitely"*, Reuters (Dec. 22, 2016).

¹²¹⁸ Somini Sengupta & Rick Gladstone, *Rebuffing Israel, U.S. Allows Censure Over Settlements*, New York Times (Dec. 23, 2016).

¹²¹⁹ Flynn 11/16/17 302, at 12-14; Kushner 11/1/17 302, at 3; 12/23/16 Email, Flynn to Kushner et al.

¹²²⁰ *Flynn* Statement of Offense ¶ 3(g).

¹²²¹ *Israel's Settlements Have No Legal Validity, Constitute Flagrant Violation of International Law, Security Council Reaffirms*, 7853rd Meeting (PM), United Nations Security Council (Dec. 23, 2016).

imposed sanctions on nine Russian individuals and entities.¹²²² On December 29, 2016, the Obama Administration also expelled 35 Russian government officials and closed two Russian government-owned compounds in the United States.¹²²³

During the rollout of the sanctions, President-Elect Trump and multiple Transition Team senior officials, including McFarland, Steve Bannon, and Reince Priebus, were staying at the Mar-a-Lago club in Palm Beach, Florida. Flynn was on vacation in the Dominican Republic,¹²²⁴ but was in daily contact with McFarland.¹²²⁵

The Transition Team and President-Elect Trump were concerned that these sanctions would harm the United States's relationship with Russia.¹²²⁶ Although the details and timing of sanctions were unknown on December 28, 2016, the media began reporting that retaliatory measures from the Obama Administration against Russia were forthcoming.¹²²⁷ When asked about imposing sanctions on Russia for its alleged interference in the 2016 presidential election, President-Elect Trump told the media, "I think we ought to get on with our lives."¹²²⁸

Russia initiated the outreach to the Transition Team. On the evening of December 28, 2016, Kislyak texted Flynn, "can you kindly call me back at your convenience."¹²²⁹ Flynn did not respond to the text message that evening. Someone from the Russian Embassy also called Flynn the next morning, at 10:38 a.m., but they did not talk.¹²³⁰

The sanctions were announced publicly on December 29, 2016.¹²³¹ At 1:53 p.m. that day, McFarland began exchanging emails with multiple Transition Team members and advisors about the impact the sanctions would have on the incoming Administration.¹²³² At 2:07 p.m., a Transition Team member texted Flynn a link to a New York Times article about the sanctions.¹²³³ At 2:29

¹²²² *Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities*, The White House, Office of the Press Secretary (Dec. 29, 2016).

¹²²³ *Statement by the President on Actions in Response to Russian Malicious Cyber Activity and Harassment*, The White House, Office of the Press Secretary (Dec. 29, 2016).

¹²²⁴ Flynn 11/16/17 302, at 14; McFarland 12/22/17 302, at 3-8; Bannon 2/12/18 302, at 5.

¹²²⁵ Flynn 11/17/17 302, at 5; Flynn 1/19/18 302, at 1; McFarland 11/22/17 302, at 3-9.

¹²²⁶ Flynn 11/17/17 302, at 3.

¹²²⁷ Christine Wang, *US to announce new sanctions against Russia in response to election hacking*, CNBC (Dec. 28, 2016).

¹²²⁸ John Wagner, *Trump on alleged election interference by Russia: "Get on with our lives"*, Washington Post (Dec. 29, 2016).

¹²²⁹ SF000006 (12/28/16 Text Message, Kislyak to Flynn).

¹²³⁰ Call Records of Michael T. Flynn **Grand Jury**

¹²³¹ Flynn 11/17/17 302, at 2-3; McFarland 12/22/17 302, at 4-5.

¹²³² 12/29/16 Email, McFarland to O'Brien et al.; 12/29/16 Email, McFarland to Flynn et al.

¹²³³ SF000001 (12/29/16 Text Message, Flaherty to Flynn).

p.m., McFarland called Flynn, but they did not talk.¹²³⁴ Shortly thereafter, McFarland and Bannon discussed the sanctions.¹²³⁵ According to McFarland, Bannon remarked that the sanctions would hurt their ability to have good relations with Russia, and that Russian escalation would make things more difficult.¹²³⁶ McFarland believed she told Bannon that Flynn was scheduled to talk to Kislyak later that night.¹²³⁷ McFarland also believed she may have discussed the sanctions with Priebus, and likewise told him that Flynn was scheduled to talk to Kislyak that night.¹²³⁸ At 3:14 p.m., Flynn texted a Transition Team member who was assisting McFarland, “Time for a call???”¹²³⁹ The Transition Team member responded that McFarland was on the phone with Tom Bossert, a Transition Team senior official, to which Flynn responded, “Tit for tat w Russia not good. Russian AMBO reaching out to me today.”¹²⁴⁰

Flynn recalled that he chose not to communicate with Kislyak about the sanctions until he had heard from the team at Mar-a-Lago.¹²⁴¹ He first spoke with Michael Ledeen,¹²⁴² a Transition Team member who advised on foreign policy and national security matters, for 20 minutes.¹²⁴³ Flynn then spoke with McFarland for almost 20 minutes to discuss what, if anything, to communicate to Kislyak about the sanctions.¹²⁴⁴ On that call, McFarland and Flynn discussed the sanctions, including their potential impact on the incoming Trump Administration’s foreign policy goals.¹²⁴⁵ McFarland and Flynn also discussed that Transition Team members in Mar-a-Lago did not want Russia to escalate the situation.¹²⁴⁶ They both understood that Flynn would relay a message to Kislyak in hopes of making sure the situation would not get out of hand.¹²⁴⁷

¹²³⁴ Call Records of K.T. McFarland **Grand Jury** .

¹²³⁵ McFarland 12/22/17 302, at 5-6.

¹²³⁶ McFarland 12/22/17 302, at 5-6.

¹²³⁷ McFarland 12/22/17 302, at 6.

¹²³⁸ McFarland 12/22/17 302, at 6.

¹²³⁹ SF000001 (12/29/16 Text Message, Flynn to Flaherty).

¹²⁴⁰ SF000001 (12/29/16 Text Message, Flynn to Flaherty).

¹²⁴¹ Flynn 11/20/17 302, at 3.

¹²⁴² Michael Ledeen is married to Barbara Ledeen, the Senate staffer whose 2016 efforts to locate Hillary Clinton’s missing emails are described in Volume I, Section III.D.2, *supra*.

¹²⁴³ Flynn 11/17/17 302, at 3; Call Records of Michael Ledeen **Grand Jury** .

¹²⁴⁴ Flynn 11/17/17 302, at 3-4; *Flynn* Statement of Offense ¶ 3(c); Call Records of K.T. McFarland **Grand Jury** ; Call Records of Michael T. Flynn **Grand Jury** .

¹²⁴⁵ Flynn 11/17/17 302, at 3-4

¹²⁴⁶ Flynn 11/17/17 302, at 3-4; *Flynn* Statement of Offense ¶ 3(c); McFarland 12/22/17 302, at 6-7.

¹²⁴⁷ Flynn 11/17/17 302, at 4; McFarland 12/22/17 302, at 6-7.

Immediately after speaking with McFarland, Flynn called and spoke with Kislyak.¹²⁴⁸ Flynn discussed multiple topics with Kislyak, including the sanctions, scheduling a video teleconference between President-Elect Trump and Putin, an upcoming terrorism conference, and Russia's views about the Middle East.¹²⁴⁹ With respect to the sanctions, Flynn requested that Russia not escalate the situation, not get into a "tit for tat," and only respond to the sanctions in a reciprocal manner.¹²⁵⁰

Multiple Transition Team members were aware that Flynn was speaking with Kislyak that day. In addition to her conversations with Bannon and Reince Priebus, at 4:43 p.m., McFarland sent an email to Transition Team members about the sanctions, informing the group that "Gen [F]lynn is talking to russian ambassador this evening."¹²⁵¹ Less than an hour later, McFarland briefed President-Elect Trump. Bannon, Priebus, Sean Spicer, and other Transition Team members were present.¹²⁵² During the briefing, President-Elect Trump asked McFarland if the Russians did "it," meaning the intrusions intended to influence the presidential election.¹²⁵³ McFarland said yes, and President-Elect Trump expressed doubt that it was the Russians.¹²⁵⁴ McFarland also discussed potential Russian responses to the sanctions, and said Russia's response would be an indicator of what the Russians wanted going forward.¹²⁵⁵ President-Elect Trump opined that the sanctions provided him with leverage to use with the Russians.¹²⁵⁶ McFarland recalled that at the end of the meeting, someone may have mentioned to President-Elect Trump that Flynn was speaking to the Russian ambassador that evening.¹²⁵⁷

After the briefing, Flynn and McFarland spoke over the phone.¹²⁵⁸ Flynn reported on the substance of his call with Kislyak, including their discussion of the sanctions.¹²⁵⁹ According to McFarland, Flynn mentioned that the Russian response to the sanctions was not going to be escalatory because they wanted a good relationship with the incoming Administration.¹²⁶⁰ McFarland also gave Flynn a summary of her recent briefing with President-Elect Trump.¹²⁶¹

¹²⁴⁸ Flynn Statement of Offense ¶ 3(d).

¹²⁴⁹ Flynn 11/17/17 302, at 3-4; *Flynn* Statement of Offense ¶ 3(c); 12/30/16 Email, Flynn to McFarland.

¹²⁵⁰ Flynn 11/17/17 302, at 1; *Flynn* Statement of Offense ¶ 3(d).

¹²⁵¹ 12/29/16 Email, McFarland to Flynn et al.

¹²⁵² 12/29/16 Email, Westerhout to Flaherty; McFarland 12/22/17 302, at 7.

¹²⁵³ McFarland 12/22/17 302, at 7.

¹²⁵⁴ McFarland 12/22/17 302, at 7.

¹²⁵⁵ McFarland 12/22/17 302, at 7.

¹²⁵⁶ McFarland 12/22/17 302, at 7.

¹²⁵⁷ McFarland 12/22/17 302, at 7.

¹²⁵⁸ McFarland 12/22/17 302, at 7.

¹²⁵⁹ Flynn 11/17/17 302, at 4; *Flynn* Statement of Offense ¶ 3(e).

¹²⁶⁰ McFarland 12/22/17 302, at 8.

¹²⁶¹ McFarland 12/22/17 302, at 8.

The next day, December 30, 2016, Russian Foreign Minister Sergey Lavrov remarked that Russia would respond in kind to the sanctions.¹²⁶² Putin superseded that comment two hours later, releasing a statement that Russia would not take retaliatory measures in response to the sanctions at that time.¹²⁶³ Hours later President-Elect Trump tweeted, “Great move on delay (by V. Putin).”¹²⁶⁴ Shortly thereafter, Flynn sent a text message to McFarland summarizing his call with Kislyak from the day before, which she emailed to Kushner, Bannon, Priebus, and other Transition Team members.¹²⁶⁵ The text message and email did not include sanctions as one of the topics discussed with Kislyak.¹²⁶⁶ Flynn told the Office that he did not document his discussion of sanctions because it could be perceived as getting in the way of the Obama Administration’s foreign policy.¹²⁶⁷

On December 31, 2016, Kislyak called Flynn and told him the request had been received at the highest levels and that Russia had chosen not to retaliate to the sanctions in response to the request.¹²⁶⁸ Two hours later, Flynn spoke with McFarland and relayed his conversation with Kislyak.¹²⁶⁹ According to McFarland, Flynn remarked that the Russians wanted a better relationship and that the relationship was back on track.¹²⁷⁰ Flynn also told McFarland that he believed his phone call had made a difference.¹²⁷¹ McFarland recalled congratulating Flynn in response.¹²⁷² Flynn spoke with other Transition Team members that day, but does not recall whether they discussed the sanctions.¹²⁷³ Flynn recalled discussing the sanctions with Bannon the next day and that Bannon appeared to know about Flynn’s conversation with Kislyak.¹²⁷⁴ Bannon,

¹²⁶² *Comment by Foreign Minister Sergey Lavrov on recent US sanctions and the expulsion of Russian diplomats, Moscow, December 20, 2016*, The Ministry of Foreign Affairs of the Russian Federation (Dec. 30, 2016 (5:32 a.m.)).

¹²⁶³ *Statement of the President of the Russian Federation*, Kremlin, Office of the President (Dec. 30, 2016 (7:15 a.m.)).

¹²⁶⁴ @realDonaldTrump 12/30/16 (11:41 a.m.) Tweet.

¹²⁶⁵ 12/30/16 Email, Flynn to McFarland; 12/30/16 Email, McFarland to Kushner et al.

¹²⁶⁶ 12/30/16 Email, McFarland to Kushner et al.

¹²⁶⁷ Flynn 11/17/17 302, at 4.

¹²⁶⁸ Call Records of Michael T. Flynn **Grand Jury**; Flynn 11/17/17 302, at 1; Flynn 1/19/17 302, at 3; Flynn Statement of Offense ¶ 3(g).

¹²⁶⁹ Call Records of Michael T. Flynn **Grand Jury**; Flynn 11/17/17 302, at 5; Flynn 1/19/17 302, at 3; McFarland 12/22/17 302, at 10.

¹²⁷⁰ McFarland 12/22/17 302, at 10.

¹²⁷¹ McFarland 12/22/17 302, at 10.

¹²⁷² McFarland 12/22/17 302, at 10.

¹²⁷³ Flynn 11/17/17 302, at 5-6.

¹²⁷⁴ Flynn 11/21/17 302, at 1; Flynn 11/20/17 302, at 3; Flynn 1/19/17 302, at 5; *Flynn* Statement of Offense ¶ 3(h).

for his part, recalled meeting with Flynn that day, but said that he did not remember discussing sanctions with him.¹²⁷⁵

Additional information about Flynn's sanctions-related discussions with Kislyak, and the handling of those discussions by the Transition Team and the Trump Administration, is provided in Volume II of this report.

* * *

In sum, the investigation established multiple links between Trump Campaign officials and individuals tied to the Russian government. Those links included Russian offers of assistance to the Campaign. In some instances, the Campaign was receptive to the offer, while in other instances the Campaign officials shied away. Ultimately, the investigation did not establish that the Campaign coordinated or conspired with the Russian government in its election-interference activities.

¹²⁷⁵ Bannon 2/12/18 302, at 9.

V. PROSECUTION AND DECLINATION DECISIONS

The Appointment Order authorized the Special Counsel's Office "to prosecute federal crimes arising from [its] investigation" of the matters assigned to it. In deciding whether to exercise this prosecutorial authority, the Office has been guided by the Principles of Federal Prosecution set forth in the Justice (formerly U.S. Attorney's) Manual. In particular, the Office has evaluated whether the conduct of the individuals considered for prosecution constituted a federal offense and whether admissible evidence would probably be sufficient to obtain and sustain a conviction for such an offense. Justice Manual § 9-27.220 (2018). Where the answer to those questions was yes, the Office further considered whether the prosecution would serve a substantial federal interest, the individuals were subject to effective prosecution in another jurisdiction, and there existed an adequate non-criminal alternative to prosecution. *Id.*

As explained below, those considerations led the Office to seek charges against two sets of Russian nationals for their roles in perpetrating the active-measures social media campaign and computer-intrusion operations. **Harm to Ongoing Matter**

 The Office similarly determined that the contacts between Campaign officials and Russia-linked individuals either did not involve the commission of a federal crime or, in the case of campaign-finance offenses, that our evidence was not sufficient to obtain and sustain a criminal conviction. At the same time, the Office concluded that the Principles of Federal Prosecution supported charging certain individuals connected to the Campaign with making false statements or otherwise obstructing this investigation or parallel congressional investigations.

A. Russian "Active Measures" Social Media Campaign

On February 16, 2018, a federal grand jury in the District of Columbia returned an indictment charging 13 Russian nationals and three Russian entities—including the Internet Research Agency (IRA) and Concord Management and Consulting LLC (Concord)—with violating U.S. criminal laws in order to interfere with U.S. elections and political processes.¹²⁷⁶ The indictment charges all of the defendants with conspiracy to defraud the United States (Count One), three defendants with conspiracy to commit wire fraud and bank fraud (Count Two), and five defendants with aggravated identity theft (Counts Three through Eight). *Internet Research Agency* Indictment. Concord, which is one of the entities charged in the Count One conspiracy, entered an appearance through U.S. counsel and moved to dismiss the charge on multiple grounds. In orders and memorandum opinions issued on August 13 and November 15, 2018, the district court denied Concord's motions to dismiss. *United States v. Concord Management & Consulting LLC*, 347 F. Supp. 3d 38 (D.D.C. 2018). *United States v. Concord Management & Consulting LLC*, 317 F. Supp. 3d 598 (D.D.C. 2018). As of this writing, the prosecution of Concord remains ongoing before the U.S. District Court for the District of Columbia. The other defendants remain at large.

¹²⁷⁶ A more detailed explanation of the charging decision in this case is set forth in a separate memorandum provided to the Acting Attorney General before the indictment.

Although members of the IRA had contact with individuals affiliated with the Trump Campaign, the indictment does not charge any Trump Campaign official or any other U.S. person with participating in the conspiracy. That is because the investigation did not identify evidence that any U.S. person who coordinated or communicated with the IRA knew that he or she was speaking with Russian nationals engaged in the criminal conspiracy. The Office therefore determined that such persons did not have the knowledge or criminal purpose required to charge them in the conspiracy to defraud the United States (Count One) or in the separate count alleging a wire- and bank-fraud conspiracy involving the IRA and two individual Russian nationals (Count Two).

The Office did, however, charge one U.S. national for his role in supplying false or stolen bank account numbers that allowed the IRA conspirators to access U.S. online payment systems by circumventing those systems' security features. On February 12, 2018, Richard Pinedo pleaded guilty, pursuant to a single-count information, to identity fraud, in violation of 18 U.S.C. § 1028(a)(7) and (b)(1)(D). Plea Agreement, *United States v. Richard Pinedo*, No. 1:18-cr-24 (D.D.C. Feb. 12, 2018), Doc. 10. The investigation did not establish that Pinedo was aware of the identity of the IRA members who purchased bank account numbers from him. Pinedo's sales of account numbers enabled the IRA members to anonymously access a financial network through which they transacted with U.S. persons and companies. See Gov't Sent. Mem. at 3, *United States v. Richard Pinedo*, No. 1:18-cr-24 (D.D.C. Sept. 26, 2018), Doc. 24. On October 10, 2018, Pinedo was sentenced to six months of imprisonment, to be followed by six months of home confinement, and was ordered to complete 100 hours of community service.

B. Russian Hacking and Dumping Operations

1. Section 1030 Computer-Intrusion Conspiracy

a. Background

On July 13, 2018, a federal grand jury in the District of Columbia returned an indictment charging Russian military intelligence officers from the GRU with conspiring to hack into various U.S. computers used by the Clinton Campaign, DNC, DCCC, and other U.S. persons, in violation of 18 U.S.C. §§ 1030 and 371 (Count One); committing identity theft and conspiring to commit money laundering in furtherance of that hacking conspiracy, in violation of 18 U.S.C. §§ 1028A and 1956(h) (Counts Two through Ten); and a separate conspiracy to hack into the computers of U.S. persons and entities responsible for the administration of the 2016 U.S. election, in violation of 18 U.S.C. §§ 1030 and 371 (Count Eleven). *Netyksho* Indictment.¹²⁷⁷ As of this writing, all 12 defendants remain at large.

The *Netyksho* indictment alleges that the defendants conspired with one another and with others to hack into the computers of U.S. persons and entities involved in the 2016 U.S. presidential election, steal documents from those computers, and stage releases of the stolen documents to interfere in the election. *Netyksho* Indictment ¶ 2. The indictment also describes how, in staging

¹²⁷⁷ The Office provided a more detailed explanation of the charging decision in this case in meetings with the Office of the Acting Attorney General before the indictment.

the releases, the defendants used the Guccifer 2.0 persona to disseminate documents through WikiLeaks. On July 22, 2016, WikiLeaks released over 20,000 emails and other documents that the hacking conspirators had stolen from the DNC. *Netyksho* Indictment ¶ 48. In addition, on October 7, 2016, WikiLeaks began releasing emails that some conspirators had stolen from Clinton Campaign chairman John Podesta after a successful spearphishing operation. *Netyksho* Indictment ¶ 49.

Harm to Ongoing Matter

Harm to Ongoing Matter

Grand Jury

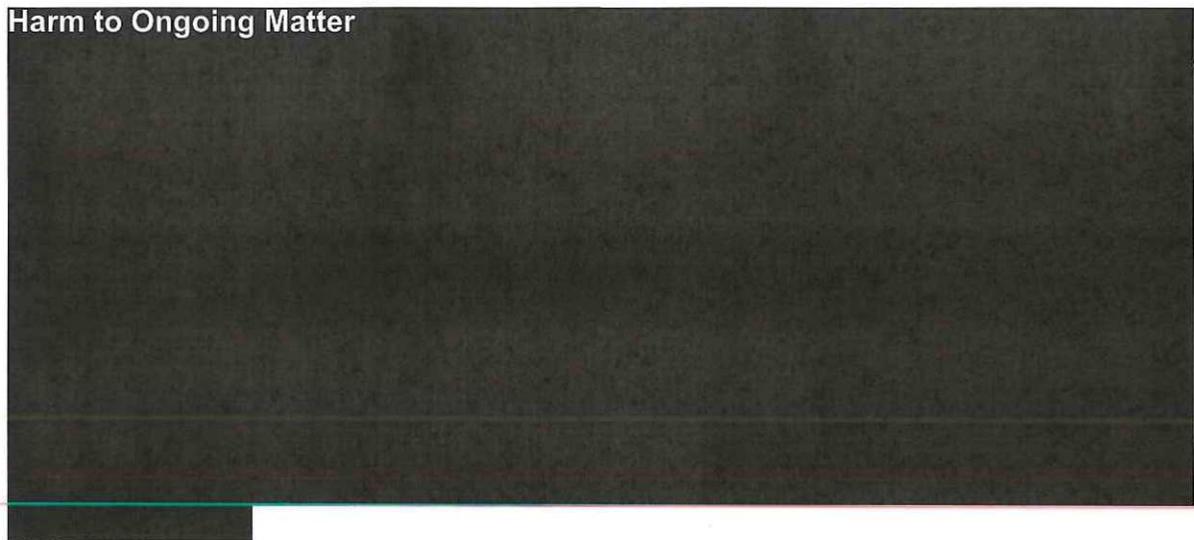
b. Charging Decision As to **Harm to Ongoing Matter**

Harm to Ongoing Matter

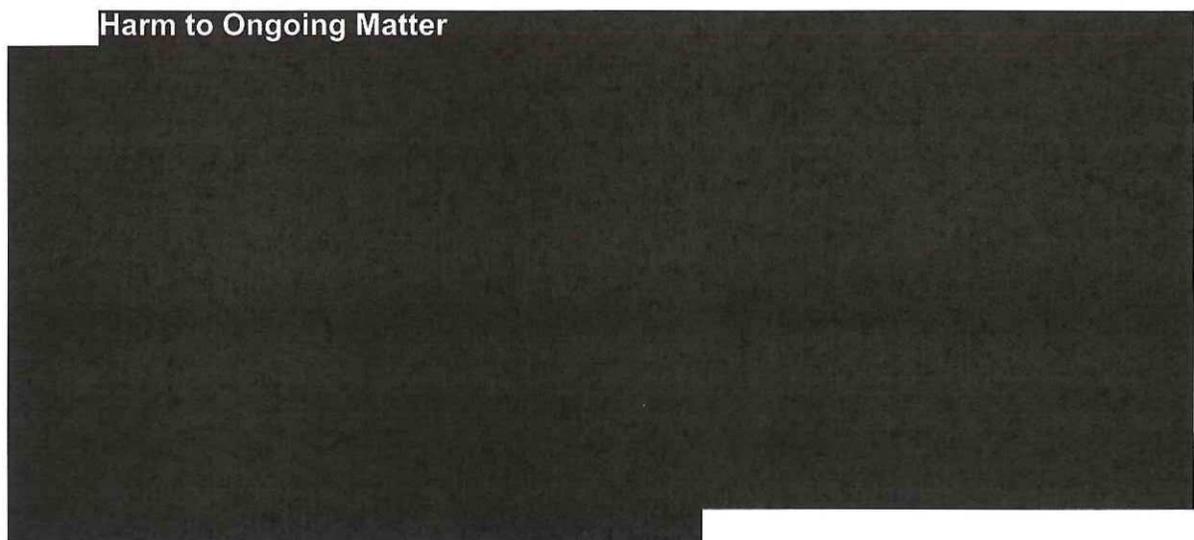
278 Harm to Ongoing Matter

¹²⁷⁸ The Office also considered, but ruled out, charges on the theory that the post-hacking sharing and dissemination of emails could constitute trafficking in or receipt of stolen property under the National Stolen Property Act (NSPA), 18 U.S.C. §§ 2314 and 2315. The statutes comprising the NSPA cover “goods, wares, or merchandise,” and lower courts have largely understood that phrase to be limited to tangible items since the Supreme Court’s decision in *Dowling v. United States*, 473 U.S. 207 (1985). See *United States v. Yijia Zhang*, 995 F. Supp. 2d 340, 344-48 (E.D. Pa. 2014) (collecting cases). One of those post-*Dowling* decisions—*United States v. Brown*, 925 F.2d 1301 (10th Cir. 1991)—specifically held that the NSPA does not reach “a computer program in source code form,” even though that code was stored in tangible items (*i.e.*, a hard disk and in a three-ring notebook). *Id.* at 1302-03. Congress, in turn, cited the *Brown* opinion in explaining the need for amendments to 18 U.S.C. § 1030(a)(2) that “would ensure that the theft of intangible information by the unauthorized use of a computer is prohibited in the same way theft of physical items [is] protected.” S. Rep. 104-357, at 7 (1996). That sequence of events would make it difficult to argue that hacked emails in electronic form, which are the relevant stolen items here, constitute “goods, wares, or merchandise” within the meaning of the NSPA.

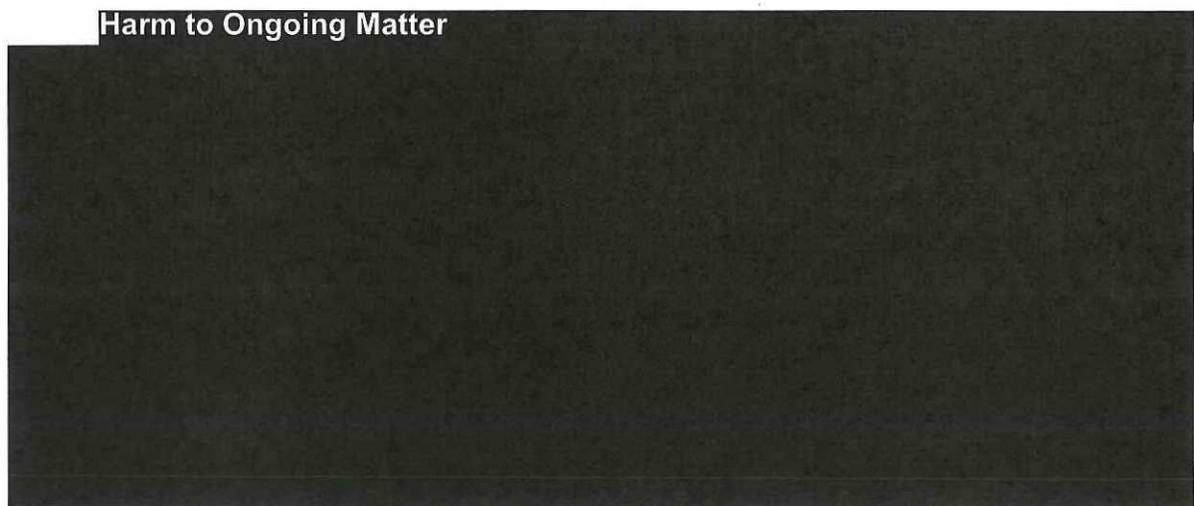
Harm to Ongoing Matter



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²⁷⁹ Harm to Ongoing Matter
[Redacted]

Harm to Ongoing Matter
[Redacted]

Harm to Ongoing Matter
[Redacted]

¹²⁷⁹ Harm to Ongoing Matter
[Redacted]

Harm to Ongoing Matter

[REDACTED]

2. Potential Section 1030 Violation By PP

Personal Privacy

[REDACTED]

Personal Privacy

[REDACTED]

See United States v. Willis, 476 F.3d 1121, 1125 n.1 (10th Cir. 2007) (explaining that the 1986 amendments to Section 1030 reflect Congress's desire to reach "intentional acts of unauthorized access—rather than mistaken, inadvertent, or careless ones") (quoting S. Rep. 99-432, at 5 (1986)). In addition, the computer **Personal Privacy** likely qualifies as a "protected" one under the statute, which reaches "effectively all computers with Internet access." *United States v. Nosal*, 676 F.3d 854, 859 (9th Cir. 2012) (en banc). **Personal Privacy**

[REDACTED]

Applying the Principles of Federal Prosecution, however, the Office determined that prosecution of this potential violation was not warranted. Those Principles instruct prosecutors to consider, among other things, the nature and seriousness of the offense, the person's culpability in connection with the offense, and the probable sentence to be imposed if the prosecution is successful. Justice Manual § 9-27.230. **Personal Privacy**

[REDACTED]

Personal Privacy

C. Russian Government Outreach and Contacts

As explained in Section IV above, the Office's investigation uncovered evidence of numerous links (*i.e.*, contacts) between Trump Campaign officials and individuals having or claiming to have ties to the Russian government. The Office evaluated the contacts under several sets of federal laws, including conspiracy laws and statutes governing foreign agents who operate in the United States. After considering the available evidence, the Office did not pursue charges under these statutes against any of the individuals discussed in Section IV above—with the exception of FARA charges against Paul Manafort and Richard Gates based on their activities on behalf of Ukraine.

One of the interactions between the Trump Campaign and Russian-affiliated individuals—the June 9, 2016 meeting between high-ranking campaign officials and Russians promising derogatory information on Hillary Clinton—implicates an additional body of law: campaign-finance statutes. Schemes involving the solicitation or receipt of assistance from foreign sources raise difficult statutory and constitutional questions. As explained below, the Office evaluated those questions in connection with the June 9 meeting **Harm to Ongoing Matter**. The Office ultimately concluded that, even if the principal legal questions were resolved favorably to the government, a prosecution would encounter difficulties proving that Campaign officials or individuals connected to the Campaign willfully violated the law.

Finally, although the evidence of contacts between Campaign officials and Russia-affiliated individuals may not have been sufficient to establish or sustain criminal charges, several U.S. persons connected to the Campaign made false statements about those contacts and took other steps to obstruct the Office's investigation and those of Congress. This Office has therefore charged some of those individuals with making false statements and obstructing justice.

1. Potential Coordination: Conspiracy and Collusion

As an initial matter, this Office evaluated potentially criminal conduct that involved the collective action of multiple individuals not under the rubric of "collusion," but through the lens of conspiracy law. In so doing, the Office recognized that the word "collud[e]" appears in the Acting Attorney General's August 2, 2017 memorandum; it has frequently been invoked in public reporting; and it is sometimes referenced in antitrust law, *see, e.g., Brooke Group v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 227 (1993). But collusion is not a specific offense or theory of liability found in the U.S. Code; nor is it a term of art in federal criminal law. To the contrary, even as defined in legal dictionaries, collusion is largely synonymous with conspiracy as that crime is set forth in the general federal conspiracy statute, 18 U.S.C. § 371. *See Black's Law Dictionary* 321 (10th ed. 2014) (collusion is "[a]n agreement to defraud another or to do or obtain something forbidden by law"); 1 Alexander Burrill, *A Law Dictionary and Glossary* 311 (1871) ("An agreement between two or more persons to defraud another by the forms of law, or to employ such forms as means of accomplishing some unlawful object."); 1 *Bouvier's Law Dictionary* 352

(1897) (“An agreement between two or more persons to defraud a person of his rights by the forms of law, or to obtain an object forbidden by law.”).

For that reason, this Office’s focus in resolving the question of joint criminal liability was on conspiracy as defined in federal law, not the commonly discussed term “collusion.” The Office considered in particular whether contacts between Trump Campaign officials and Russia-linked individuals could trigger liability for the crime of conspiracy—either under statutes that have their own conspiracy language (*e.g.*, 18 U.S.C. §§ 1349, 1951(a)), or under the general conspiracy statute (18 U.S.C. § 371). The investigation did not establish that the contacts described in Volume I, Section IV, *supra*, amounted to an agreement to commit any substantive violation of federal criminal law—including foreign-influence and campaign-finance laws, both of which are discussed further below. The Office therefore did not charge any individual associated with the Trump Campaign with conspiracy to commit a federal offense arising from Russia contacts, either under a specific statute or under Section 371’s offenses clause.

The Office also did not charge any campaign official or associate with a conspiracy under Section 371’s defraud clause. That clause criminalizes participating in an agreement to obstruct a lawful function of the U.S. government or its agencies through deceitful or dishonest means. *See Dennis v. United States*, 384 U.S. 855, 861 (1966); *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924); *see also United States v. Concord Mgmt. & Consulting LLC*, 347 F. Supp. 3d 38, 46 (D.D.C. 2018). The investigation did not establish any agreement among Campaign officials—or between such officials and Russia-linked individuals—to interfere with or obstruct a lawful function of a government agency during the campaign or transition period. And, as discussed in Volume I, Section V.A, *supra*, the investigation did not identify evidence that any Campaign official or associate knowingly and intentionally participated in the conspiracy to defraud that the Office charged, namely, the active-measures conspiracy described in Volume I, Section II, *supra*. Accordingly, the Office did not charge any Campaign associate or other U.S. person with conspiracy to defraud the United States based on the Russia-related contacts described in Section IV above.

2. Potential Coordination: Foreign Agent Statutes (FARA and 18 U.S.C. § 951)

The Office next assessed the potential liability of Campaign-affiliated individuals under federal statutes regulating actions on behalf of, or work done for, a foreign government.

a. Governing Law

Under 18 U.S.C. § 951, it is generally illegal to act in the United States as an agent of a foreign government without providing notice to the Attorney General. Although the defendant must act on behalf of a foreign government (as opposed to other kinds of foreign entities), the acts need not involve espionage; rather, acts of any type suffice for liability. *See United States v. Duran*, 596 F.3d 1283, 1293-94 (11th Cir. 2010); *United States v. Latchin*, 554 F.3d 709, 715 (7th Cir. 2009); *United States v. Dumeisi*, 424 F.3d 566, 581 (7th Cir. 2005). An “agent of a foreign government” is an “individual” who “agrees to operate” in the United States “subject to the direction or control of a foreign government or official.” 18 U.S.C. § 951(d).

The crime defined by Section 951 is complete upon knowingly acting in the United States as an unregistered foreign-government agent. 18 U.S.C. § 951(a). The statute does not require willfulness, and knowledge of the notification requirement is not an element of the offense. *United States v. Campa*, 529 F.3d 980, 998-99 (11th Cir. 2008); *Duran*, 596 F.3d at 1291-94; *Dumeisi*, 424 F.3d at 581.

The Foreign Agents Registration Act (FARA) generally makes it illegal to act as an agent of a foreign principal by engaging in certain (largely political) activities in the United States without registering with the Attorney General. 22 U.S.C. §§ 611-621. The triggering agency relationship must be with a foreign principal or “a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal.” 22 U.S.C. § 611(c)(1). That includes a foreign government or political party and various foreign individuals and entities. 22 U.S.C. § 611(b). A covered relationship exists if a person “acts as an agent, representative, employee, or servant” or “in any other capacity at the order, request, or under the [foreign principal’s] direction or control.” 22 U.S.C. § 611(c)(1). It is sufficient if the person “agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal.” 22 U.S.C. § 611(c)(2).

The triggering activity is that the agent “directly or through any other person” in the United States (1) engages in “political activities for or in the interests of [the] foreign principal,” which includes attempts to influence federal officials or the public; (2) acts as “public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal”; (3) “solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal”; or (4) “represents the interests of such foreign principal” before any federal agency or official. 22 U.S.C. § 611(c)(1).

It is a crime to engage in a “[w]illful violation of any provision of the Act or any regulation thereunder.” 22 U.S.C. § 618(a)(1). It is also a crime willfully to make false statements or omissions of material facts in FARA registration statements or supplements. 22 U.S.C. § 618(a)(2). Most violations have a maximum penalty of five years of imprisonment and a \$10,000 fine. 22 U.S.C. § 618.

b. Application

The investigation uncovered extensive evidence that Paul Manafort’s and Richard Gates’s pre-campaign work for the government of Ukraine violated FARA. Manafort and Gates were charged for that conduct and admitted to it when they pleaded guilty to superseding criminal informations in the District of Columbia prosecution.¹²⁸⁰ The evidence underlying those charges is not addressed in this report because it was discussed in public court documents and in a separate

¹²⁸⁰ *Gates Superseding Criminal Information; Waiver of Indictment, United States v. Richard W. Gates III*, 1:17-cr-201 (D.D.C. Feb. 23, 2018), Doc. 203; *Waiver of Trial by Jury, United States v. Richard W. Gates III*, 1:17-cr-201 (D.D.C. Feb. 23, 2018), Doc. 204; *Gates Plea Agreement; Statement of Offense, United States v. Richard W. Gates III*, 1:17-cr-201 (D.D.C. Feb. 23, 2018), Doc. 206; *Plea Agreement, United States v. Paul J. Manafort, Jr.*, 1:17-cr-201 (D.D.C. Sept. 14, 2018), Doc. 422; *Statement of Offense, United States v. Paul J. Manafort, Jr.*, 1:17-cr-201 (D.D.C. Sept. 14, 2018), Doc. 423.

prosecution memorandum submitted to the Acting Attorney General before the original indictment in that case.

In addition, the investigation produced evidence of FARA violations involving Michael Flynn. Those potential violations, however, concerned a country other than Russia (*i.e.*, Turkey) and were resolved when Flynn admitted to the underlying facts in the Statement of Offense that accompanied his guilty plea to a false-statements charge. Statement of Offense, *United States v. Michael T. Flynn*, No. 1:17-cr-232 (D.D.C. Dec. 1, 2017), Doc. 4 (“*Flynn* Statement of Offense”).¹²⁸¹

The investigation did not, however, yield evidence sufficient to sustain any charge that any individual affiliated with the Trump Campaign acted as an agent of a foreign principal within the meaning of FARA or, in terms of Section 951, subject to the direction or control of the government of Russia, or any official thereof. In particular, the Office did not find evidence likely to prove beyond a reasonable doubt that Campaign officials such as Paul Manafort, George Papadopoulos, and Carter Page acted as agents of the Russian government—or at its direction, control, or request—during the relevant time period.¹²⁸² Personal Privacy

As a result, the Office did not charge PP any other Trump Campaign official with violating FARA or Section 951, or attempting or conspiring to do so, based on contacts with the Russian government or a Russian principal.

Finally, the Office investigated whether one of the above campaign advisors—George Papadopoulos—acted as an agent of, or at the direction and control of, the government of Israel. While the investigation revealed significant ties between Papadopoulos and Israel (and search warrants were obtained in part on that basis), the Office ultimately determined that the evidence was not sufficient to obtain and sustain a conviction under FARA or Section 951.

3. Campaign Finance

Several areas of the Office’s investigation involved efforts or offers by foreign nationals to provide negative information about candidate Clinton to the Trump Campaign or to distribute that information to the public, to the anticipated benefit of the Campaign. As explained below, the Office considered whether two of those efforts in particular—the June 9, 2016 meeting at Trump

¹²⁸¹ Harm to Ongoing Matter

¹²⁸² On four occasions, the Foreign Intelligence Surveillance Court (FISC) issued warrants based on a finding of probable cause to believe that Page was an agent of a foreign power. 50 U.S.C. §§ 1801(b), 1805(a)(2)(A). The FISC’s probable-cause finding was based on a different (and lower) standard than the one governing the Office’s decision whether to bring charges against Page, which is whether admissible evidence would likely be sufficient to prove beyond a reasonable doubt that Page acted as an agent of the Russian Federation during the period at issue. *Cf. United States v. Cardoza*, 713 F.3d 656, 660 (D.C. Cir. 2013) (explaining that probable cause requires only “a fair probability,” and not “certainty, or proof beyond a reasonable doubt, or proof by a preponderance of the evidence”).

Tower **Harm to Ongoing Matter** —constituted prosecutable violations of the campaign-finance laws. The Office determined that the evidence was not sufficient to charge either incident as a criminal violation.

a. Overview Of Governing Law

“[T]he United States has a compelling interest . . . in limiting the participation of foreign citizens in activities of democratic self-government, and in thereby preventing foreign influence over the U.S. political process.” *Bluman v. FEC*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011) (Kavanaugh, J., for three-judge court), *aff’d*, 565 U.S. 1104 (2012). To that end, federal campaign-finance law broadly prohibits foreign nationals from making contributions, donations, expenditures, or other disbursements in connection with federal, state, or local candidate elections, and prohibits anyone from soliciting, accepting, or receiving such contributions or donations. As relevant here, foreign nationals may not make—and no one may “solicit, accept, or receive” from them—“a contribution or donation of money or other thing of value” or “an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election.” 52 U.S.C. § 30121(a)(1)(A), (a)(2).¹²⁸³ The term “contribution,” which is used throughout the campaign-finance law, “includes” “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i). It excludes, among other things, “the value of [volunteer] services.” 52 U.S.C. § 30101(8)(B)(i).

Foreign nationals are also barred from making “an expenditure, independent expenditure, or disbursement for an electioneering communication.” 52 U.S.C. § 30121(a)(1)(C). The term “expenditure” “includes” “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9)(A)(i). It excludes, among other things, news stories and non-partisan get-out-the-vote activities. 52 U.S.C. § 30101(9)(B)(i)-(ii). An “independent expenditure” is an expenditure “expressly advocating the election or defeat of a clearly identified candidate” and made independently of the campaign. 52 U.S.C. § 30101(17). An “electioneering communication” is a broadcast communication that “refers to a clearly identified candidate for Federal office” and is made within specified time periods and targeted at the relevant electorate. 52 U.S.C. § 30104(f)(3).

The statute defines “foreign national” by reference to FARA and the Immigration and Nationality Act, with minor modification. 52 U.S.C. § 30121(b) (cross-referencing 22 U.S.C. § 611(b)(1)-(3) and 8 U.S.C. § 1101(a)(20), (22)). That definition yields five, sometimes-overlapping categories of foreign nationals, which include all of the individuals and entities relevant for present purposes—namely, foreign governments and political parties, individuals

¹²⁸³ Campaign-finance law also places financial limits on contributions, 52 U.S.C. § 30116(a), and prohibits contributions from corporations, banks, and labor unions, 52 U.S.C. § 30118(a); *see Citizens United v. FEC*, 558 U.S. 310, 320 (2010). Because the conduct that the Office investigated involved possible electoral activity by foreign nationals, the foreign-contributions ban is the most readily applicable provision.

outside of the U.S. who are not legal permanent residents, and certain non-U.S. entities located outside of the U.S.

A “knowing[] and willful[]” violation involving an aggregate of \$25,000 or more in a calendar year is a felony. 52 U.S.C. § 30109(d)(1)(A)(i); see *Bluman*, 800 F. Supp. 2d at 292 (noting that a willful violation will require some “proof of the defendant’s knowledge of the law”); *United States v. Danielczyk*, 917 F. Supp. 2d 573, 577 (E.D. Va. 2013) (applying willfulness standard drawn from *Bryan v. United States*, 524 U.S. 184, 191-92 (1998)); see also *Wagner v. FEC*, 793 F.3d 1, 19 n.23 (D.C. Cir. 2015) (en banc) (same). A “knowing[] and willful[]” violation involving an aggregate of \$2,000 or more in a calendar year, but less than \$25,000, is a misdemeanor. 52 U.S.C. § 30109(d)(1)(A)(ii).

b. Application to June 9 Trump Tower Meeting

The Office considered whether to charge Trump Campaign officials with crimes in connection with the June 9 meeting described in Volume I, Section IV.A.5, *supra*. The Office concluded that, in light of the government’s substantial burden of proof on issues of intent (“knowing” and “willful”), and the difficulty of establishing the value of the offered information, criminal charges would not meet the Justice Manual standard that “the admissible evidence will probably be sufficient to obtain and sustain a conviction.” Justice Manual § 9-27.220.

In brief, the key facts are that, on June 3, 2016, Robert Goldstone emailed Donald Trump Jr., to pass along from Emin and Aras Agalarov an “offer” from Russia’s “Crown prosecutor” to “the Trump campaign” of “official documents and information that would incriminate Hillary and her dealings with Russia and would be very useful to [Trump Jr.’s] father.” The email described this as “very high level and sensitive information” that is “part of Russia and its government’s support to Mr. Trump—helped along by Aras and Emin.” Trump Jr. responded: “if it’s what you say I love it especially later in the summer.” Trump Jr. and Emin Agalarov had follow-up conversations and, within days, scheduled a meeting with Russian representatives that was attended by Trump Jr., Manafort, and Kushner. The communications setting up the meeting and the attendance by high-level Campaign representatives support an inference that the Campaign anticipated receiving derogatory documents and information from official Russian sources that could assist candidate Trump’s electoral prospects.

This series of events could implicate the federal election-law ban on contributions and donations by foreign nationals, 52 U.S.C. § 30121(a)(1)(A). Specifically, Goldstone passed along an offer purportedly from a Russian government official to provide “official documents and information” to the Trump Campaign for the purposes of influencing the presidential election. Trump Jr. appears to have accepted that offer and to have arranged a meeting to receive those materials. Documentary evidence in the form of email chains supports the inference that Kushner and Manafort were aware of that purpose and attended the June 9 meeting anticipating the receipt of helpful information to the Campaign from Russian sources.

The Office considered whether this evidence would establish a conspiracy to violate the foreign contributions ban, in violation of 18 U.S.C. § 371; the solicitation of an illegal foreign-source contribution; or the acceptance or receipt of “an express or implied promise to make a

[foreign-source] contribution,” both in violation of 52 U.S.C. § 30121(a)(1)(A), (a)(2). There are reasonable arguments that the offered information would constitute a “thing of value” within the meaning of these provisions, but the Office determined that the government would not be likely to obtain and sustain a conviction for two other reasons: first, the Office did not obtain admissible evidence likely to meet the government’s burden to prove beyond a reasonable doubt that these individuals acted “willfully,” *i.e.*, with general knowledge of the illegality of their conduct; and, second, the government would likely encounter difficulty in proving beyond a reasonable doubt that the value of the promised information exceeded the threshold for a criminal violation, *see* 52 U.S.C. § 30109(d)(1)(A)(i).

i. Thing-of-Value Element

A threshold legal question is whether providing to a campaign “documents and information” of the type involved here would constitute a prohibited campaign contribution. The foreign contribution ban is not limited to contributions of money. It expressly prohibits “a contribution or donation of money or *other thing of value*.” 52 U.S.C. § 30121(a)(1)(A), (a)(2) (emphasis added). And the term “contribution” is defined throughout the campaign-finance laws to “include[]” “any gift, subscription, loan, advance, or deposit of money or *anything of value*.” 52 U.S.C. § 30101(8)(A)(i) (emphasis added).

The phrases “thing of value” and “anything of value” are broad and inclusive enough to encompass at least some forms of valuable information. Throughout the United States Code, these phrases serve as “term[s] of art” that are construed “broad[ly].” *United States v. Nilsen*, 967 F.2d 539, 542 (11th Cir. 1992) (per curiam) (“thing of value” includes “both tangibles and intangibles”); *see also, e.g.*, 18 U.S.C. §§ 201(b)(1), 666(a)(2) (bribery statutes); *id.* § 641 (theft of government property). For example, the term “thing of value” encompasses law enforcement reports that would reveal the identity of informants, *United States v. Girard*, 601 F.2d 69, 71 (2d Cir. 1979); classified materials, *United States v. Fowler*, 932 F.2d 306, 310 (4th Cir. 1991); confidential information about a competitive bid, *United States v. Matzkin*, 14 F.3d 1014, 1020 (4th Cir. 1994); secret grand jury information, *United States v. Jeter*, 775 F.2d 670, 680 (6th Cir. 1985); and information about a witness’s whereabouts, *United States v. Sheker*, 618 F.2d 607, 609 (9th Cir. 1980) (per curiam). And in the public corruption context, “‘thing of value’ is defined broadly to include the value which the defendant subjectively attaches to the items received.” *United States v. Renzi*, 769 F.3d 731, 744 (9th Cir. 2014) (internal quotation marks omitted).

Federal Election Commission (FEC) regulations recognize the value to a campaign of at least some forms of information, stating that the term “anything of value” includes “the provision of any goods or services without charge,” such as “membership lists” and “mailing lists.” 11 C.F.R. § 100.52(d)(1). The FEC has concluded that the phrase includes a state-by-state list of activists. *See Citizens for Responsibility and Ethics in Washington v. FEC*, 475 F.3d 337, 338 (D.C. Cir. 2007) (describing the FEC’s findings). Likewise, polling data provided to a campaign constitutes a “contribution.” FEC Advisory Opinion 1990-12 (Strub), 1990 WL 153454 (citing 11 C.F.R. § 106.4(b)). And in the specific context of the foreign-contributions ban, the FEC has concluded that “election materials used in previous Canadian campaigns,” including “flyers, advertisements, door hangers, tri-folds, signs, and other printed material,” constitute “anything of

value,” even though “the value of these materials may be nominal or difficult to ascertain.” FEC Advisory Opinion 2007-22 (Hurysz), 2007 WL 5172375, at *5.

These authorities would support the view that candidate-related opposition research given to a campaign for the purpose of influencing an election could constitute a contribution to which the foreign-source ban could apply. A campaign can be assisted not only by the provision of funds, but also by the provision of derogatory information about an opponent. Political campaigns frequently conduct and pay for opposition research. A foreign entity that engaged in such research and provided resulting information to a campaign could exert a greater effect on an election, and a greater tendency to ingratiate the donor to the candidate, than a gift of money or tangible things of value. At the same time, no judicial decision has treated the voluntary provision of uncompensated opposition research or similar information as a thing of value that could amount to a contribution under campaign-finance law. Such an interpretation could have implications beyond the foreign-source ban, *see* 52 U.S.C. § 30116(a) (imposing monetary limits on campaign contributions), and raise First Amendment questions. Those questions could be especially difficult where the information consisted simply of the recounting of historically accurate facts. It is uncertain how courts would resolve those issues.

ii. Willfulness

Even assuming that the promised “documents and information that would incriminate Hillary” constitute a “thing of value” under campaign-finance law, the government would encounter other challenges in seeking to obtain and sustain a conviction. Most significantly, the government has not obtained admissible evidence that is likely to establish the scienter requirement beyond a reasonable doubt. To prove that a defendant acted “knowingly and willfully,” the government would have to show that the defendant had general knowledge that his conduct was unlawful. U.S. Department of Justice, *Federal Prosecution of Election Offenses* 123 (8th ed. Dec. 2017) (“*Election Offenses*”); *see Bluman*, 800 F. Supp. 2d at 292 (noting that a willful violation requires “proof of the defendant’s knowledge of the law”); *Danielczyk*, 917 F. Supp. 2d at 577 (“knowledge of general unlawfulness”). “This standard creates an elevated scienter element requiring, at the very least, that application of the law to the facts in question be fairly clear. When there is substantial doubt concerning whether the law applies to the facts of a particular matter, the offender is more likely to have an intent defense.” *Election Offenses* 123.

On the facts here, the government would unlikely be able to prove beyond a reasonable doubt that the June 9 meeting participants had general knowledge that their conduct was unlawful. The investigation has not developed evidence that the participants in the meeting were familiar with the foreign-contribution ban or the application of federal law to the relevant factual context. The government does not have strong evidence of surreptitious behavior or efforts at concealment at the time of the June 9 meeting. While the government has evidence of later efforts to prevent disclosure of the nature of the June 9 meeting that could circumstantially provide support for a showing of scienter, *see* Volume II, Section II.G, *infra*, that concealment occurred more than a year later, involved individuals who did not attend the June 9 meeting, and may reflect an intention to avoid political consequences rather than any prior knowledge of illegality. Additionally, in light of the unresolved legal questions about whether giving “documents and information” of the sort offered here constitutes a campaign contribution, Trump Jr. could mount a factual defense that he

did not believe his response to the offer and the June 9 meeting itself violated the law. Given his less direct involvement in arranging the June 9 meeting, Kushner could likely mount a similar defense. And, while Manafort is experienced with political campaigns, the Office has not developed evidence showing that he had relevant knowledge of these legal issues.

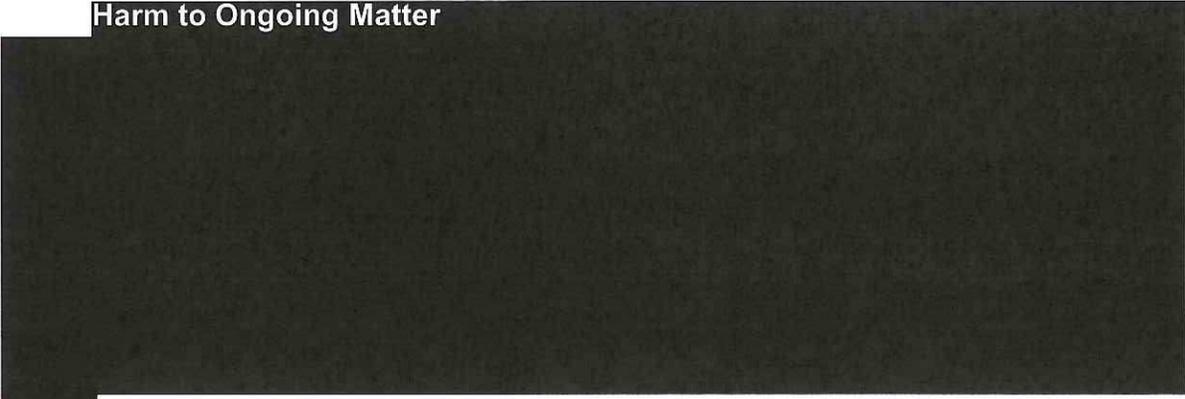
iii. Difficulties in Valuing Promised Information

The Office would also encounter difficulty proving beyond a reasonable doubt that the value of the promised documents and information exceeds the \$2,000 threshold for a criminal violation, as well as the \$25,000 threshold for felony punishment. *See* 52 U.S.C. § 30109(d)(1). The type of evidence commonly used to establish the value of non-monetary contributions—such as pricing the contribution on a commercial market or determining the upstream acquisition cost or the cost of distribution—would likely be unavailable or ineffective in this factual setting. Although damaging opposition research is surely valuable to a campaign, it appears that the information ultimately delivered in the meeting was not valuable. And while value in a conspiracy may well be measured by what the participants expected to receive at the time of the agreement, *see, e.g., United States v. Tombrello*, 666 F.2d 485, 489 (11th Cir. 1982), Goldstone’s description of the offered material here was quite general. His suggestion of the information’s value—*i.e.*, that it would “incriminate Hillary” and “would be very useful to [Trump Jr.’s] father”—was non-specific and may have been understood as being of uncertain worth or reliability, given Goldstone’s lack of direct access to the original source. The uncertainty over what would be delivered could be reflected in Trump Jr.’s response (“*if it’s what you say I love it*”) (emphasis added).

Accordingly, taking into account the high burden to establish a culpable mental state in a campaign-finance prosecution and the difficulty in establishing the required valuation, the Office decided not to pursue criminal campaign-finance charges against Trump Jr. or other campaign officials for the events culminating in the June 9 meeting.

c. Application to **Harm to Ongoing Matter**

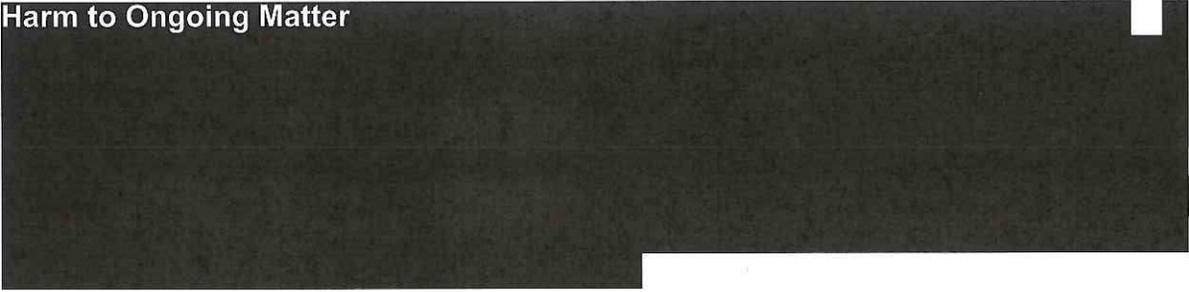
Harm to Ongoing Matter



Harm to Ongoing Matter



Harm to Ongoing Matter



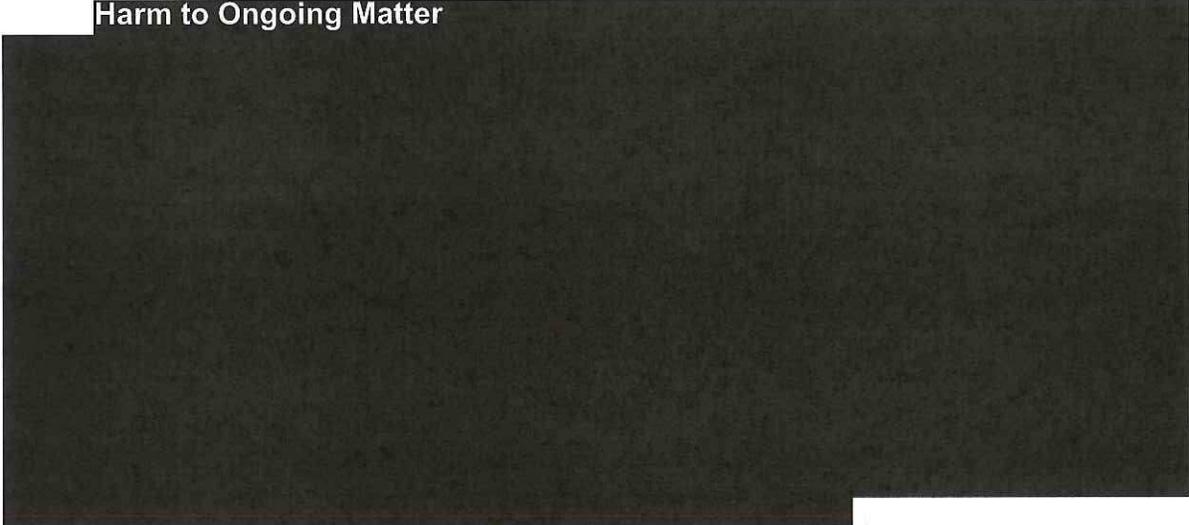
i. *Questions Over Whether* Harm to Ongoing Matter



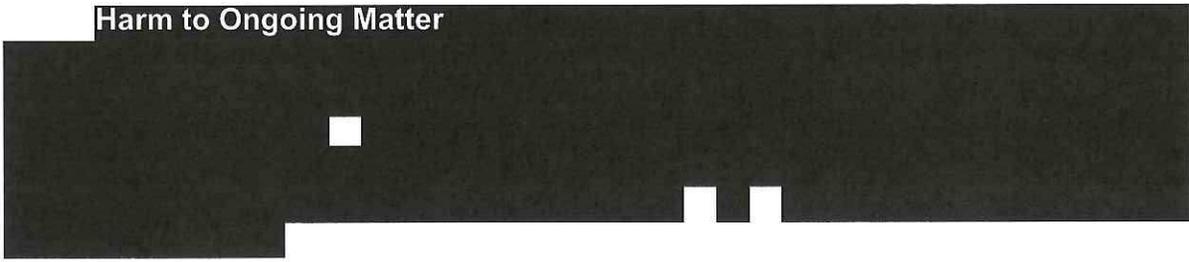
Harm to Ongoing Matter



Harm to Ongoing Matter



Harm to Ongoing Matter



ii. Willfulness

As discussed, to establish a criminal campaign-finance violation, the government must prove that the defendant acted “knowingly and willfully.” 52 U.S.C. § 30109(d)(1)(A)(i). That standard requires proof that the defendant knew generally that his conduct was unlawful. *Election Offenses* 123. Given the uncertainties noted above, the “willfulness” requirement would pose a substantial barrier to prosecution.

iii. Constitutional Considerations

Finally, the First Amendment could pose constraints on a prosecution.

Harm to
Ongoing Matter

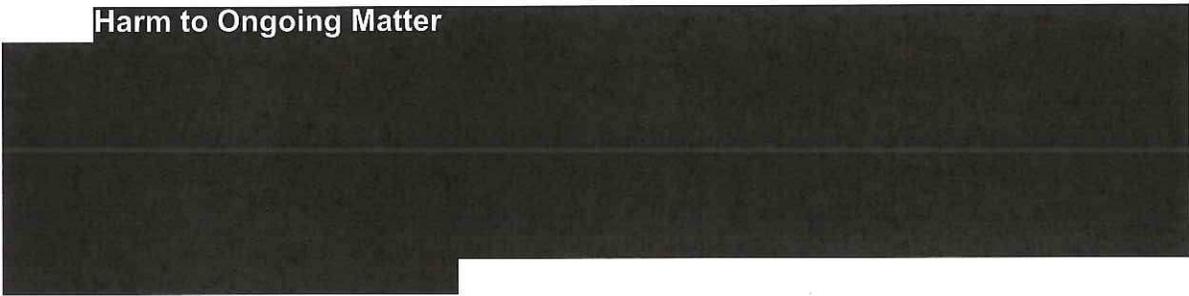
iv. Analysis as to **HOM**

Harm to Ongoing Matter

Harm to Ongoing Matter



Harm to Ongoing Matter



4. False Statements and Obstruction of the Investigation

The Office determined that certain individuals associated with the Campaign lied to investigators about Campaign contacts with Russia and have taken other actions to interfere with the investigation. As explained below, the Office therefore charged some U.S. persons connected to the Campaign with false statements and obstruction offenses.

a. Overview Of Governing Law

False Statements. The principal federal statute criminalizing false statements to government investigators is 18 U.S.C. § 1001. As relevant here, under Section 1001(a)(2), it is a crime to knowingly and willfully “make[] any materially false, fictitious, or fraudulent statement or representation” “in any matter within the jurisdiction of the executive . . . branch of the Government.” An FBI investigation is a matter within the Executive Branch’s jurisdiction. *United States v. Rodgers*, 466 U.S. 475, 479 (1984). The statute also applies to a subset of legislative branch actions—*viz.*, administrative matters and “investigation[s] or review[s]” conducted by a congressional committee or subcommittee. 18 U.S.C. § 1001(c)(1) and (2); *see United States v. Pickett*, 353 F.3d 62, 66 (D.C. Cir. 2004).

Whether the statement was made to law enforcement or congressional investigators, the government must prove beyond a reasonable doubt the same basic non-jurisdictional elements: the statement was false, fictitious, or fraudulent; the defendant knew both that it was false and that it was unlawful to make a false statement; and the false statement was material. *See, e.g., United States v. Smith*, 831 F.3d 1207, 1222 n.27 (9th Cir. 2017) (listing elements); *see also* Ninth Circuit Pattern Instruction 8.73 & cmt. (explaining that the Section 1001 jury instruction was modified in light of the Department of Justice’s position that the phrase “knowingly and willfully” in the statute requires the defendant’s knowledge that his or her conduct was unlawful). In the D.C. Circuit, the government must prove that the statement was actually false; a statement that is misleading but “literally true” does not satisfy Section 1001(a)(2). *See United States v. Milton*, 8 F.3d 39, 45

(D.C. Cir. 1993); *United States v. Dale*, 991 F.2d 819, 832-33 & n.22 (D.C. Cir. 1993). For that false statement to qualify as “material,” it must have a natural tendency to influence, or be capable of influencing, a discrete decision or any other function of the agency to which it is addressed. *See United States v. Gaudin*, 515 U.S. 506, 509 (1995); *United States v. Moore*, 612 F.3d 698, 701 (D.C. Cir. 2010).

Perjury. Under the federal perjury statutes, it is a crime for a witness testifying under oath before a grand jury to knowingly make any false material declaration. *See* 18 U.S.C. § 1623. The government must prove four elements beyond a reasonable doubt to obtain a conviction under Section 1623(a): the defendant testified under oath before a federal grand jury; the defendant’s testimony was false in one or more respects; the false testimony concerned matters that were material to the grand jury investigation; and the false testimony was knowingly given. *United States v. Bridges*, 717 F.2d 1444, 1449 n.30 (D.C. Cir. 1983). The general perjury statute, 18 U.S.C. § 1621, also applies to grand jury testimony and has similar elements, except that it requires that the witness have acted willfully and that the government satisfy “strict common-law requirements for establishing falsity.” *See Dunn v. United States*, 442 U.S. 100, 106 & n.6 (1979) (explaining “the two-witness rule” and the corroboration that it demands).

Obstruction of Justice. Three basic elements are common to the obstruction statutes pertinent to this Office’s charging decisions: an obstructive act; some form of nexus between the obstructive act and an official proceeding; and criminal (*i.e.*, corrupt) intent. A detailed discussion of those elements, and the law governing obstruction of justice more generally, is included in Volume II of the report.

b. Application to Certain Individuals

i. George Papadopoulos

Investigators approached Papadopoulos for an interview based on his role as a foreign policy advisor to the Trump Campaign and his suggestion to a foreign government representative that Russia had indicated that it could assist the Campaign through the anonymous release of information damaging to candidate Clinton. On January 27, 2017, Papadopoulos agreed to be interviewed by FBI agents, who informed him that the interview was part of the investigation into potential Russian government interference in the 2016 presidential election.

During the interview, Papadopoulos lied about the timing, extent, and nature of his communications with Joseph Mifsud, Olga Polonskaya, and Ivan Timofeev. With respect to timing, Papadopoulos acknowledged that he had met Mifsud and that Mifsud told him the Russians had “dirt” on Clinton in the form of “thousands of emails.” But Papadopoulos stated multiple times that those communications occurred before he joined the Trump Campaign and that it was a “very strange coincidence” to be told of the “dirt” before he started working for the Campaign. This account was false. Papadopoulos met Mifsud for the first time on approximately March 14, 2016, after Papadopoulos had already learned he would be a foreign policy advisor for the Campaign. Mifsud showed interest in Papadopoulos only after learning of his role on the Campaign. And Mifsud told Papadopoulos about the Russians possessing “dirt” on candidate Clinton in late April 2016, more than a month after Papadopoulos had joined the Campaign and