

# THE \$30 MILLION LEVERAGE MUELLER HAS TO FORCE PAUL MANAFORT'S COOPERATION

Yesterday, Amy Berman Jackson moved a pre-trial hearing that had been scheduled for this morning to Friday morning. That has led to further reports that Paul Manafort is seeking a plea deal. But, as ABC reported, one sticking point is whether Mueller is willing to offer a plea deal without cooperation along with it.

Sources tell ABC News that Mueller's office is seeking cooperation from Manafort for information related to President Donald Trump and the 2016 campaign. Manafort, however, is resisting and his team is pushing prosecutors for a plea agreement that does not include cooperation, at least as related to the president, sources said.

To be clear, both sides have an incentive to find a way to avoid the trial. Mueller already has Manafort on the hook for an 8 year sentence or so, and if that's not going to make him cooperate in the case in chief, it's not clear that another 8 years will. And Manafort's legal bills have to be sky high already, without another trial where he's facing overwhelming evidence.

But the reason why Mueller isn't just going to let Manafort plead to some of the DC charges without cooperating is because that would mean giving up the considerable leverage – \$30 million worth – that Mueller built into this case a year ago.

While it hasn't gotten a lot of attention, both

Manafort indictments include forfeiture provisions, meaning the government will seize his ill-gotten gains. And because Manafort had a shit-ton of ill-gotten gains, there's a whole lot of stuff that the government can now seize, starting with his ostrich skin suits.

Having been found guilty of charges 25 and 27 in his EDVA trial, for example, the government will seize the funds from the \$16 million loan Manafort got by lying to Federal Savings Bank.

Upon conviction of the offenses charged in Counts Twenty-Four through Thirty-Two, defendants PAUL J. MANAFORT, JR., and RICHARD W. GATES III shall forfeit to the United States any property constituting, or derived from, proceeds 36 obtained, directly or indirectly, as a result of such violation(s). Notice is further given that, upon conviction, the United States intends to seek a judgment against each defendant for a sum of money representing the property described in this paragraph, as applicable to each defendant (to be offset by the forfeiture of any specific property).

76. The grand jury finds probable cause to believe that the property subject to forfeiture by PAUL J. MANAFORT, JR., includes, but is not limited to, the following listed assets: a. All funds held in account number XXXXXX0969 at Lender D, and any property traceable thereto.

Update: Andrew Prokop noted that the prosecutors had at least proposed a jury verdict form that tied forfeiture of these funds to just charges 29 and 30, which are both charges the jury hung on. That seems to suggest that these funds are *not* subject to seizure (which of course increases the stakes of retrial).

Update: SCO has confirmed that "forfeiture was

limited at trial to convictions on counts 29 or 30.”

In the DC case, even more ill-gotten gains are at stake. Manafort stands to lose the proceeds of his influence peddling, the laundered proceeds of which the indictment says amount to \$30 million. Manafort might lose, among other things, four of his homes.

Upon conviction of the offenses charged in Counts One [ConFraudUS tied to FARA], Three [FARA], Four [False Statements pertaining to FARA], Six [Obstruction], and Seven [Conspiracy to Obstruct], the defendants PAUL J. MANAFORT, JR., and KONSTANTIN KILIMNIK (as to Counts Six and Seven) shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to the offense(s) of conviction. Notice is further given that, upon conviction, the United States intends to seek a judgment against the defendants for a sum of money representing the property described in this paragraph (to be offset by the forfeiture of any specific property).

53. The grand jury finds probable cause to believe that the property subject to forfeiture by PAUL J. MANAFORT, JR., includes, but is not limited to, the following listed assets:

a. The real property and premises commonly known as 377 Union Street, Brooklyn, New York 11231 (Block 429, Lot 65), including all appurtenances, improvements, and attachments thereon, and any property traceable thereto;

b. The real property and premises commonly known as 29 Howard Street, #4D, New York, New York 10013 (Block 209, Lot 1104), including all appurtenances, improvements, and attachments thereon, and any property traceable thereto;

c. The real property and premises commonly known as 1046 N. Edgewood Street, Arlington, Virginia 22201, including all appurtenances, improvements, and attachments thereon, and any property traceable thereto;

d. The real property and premises commonly known as 174 Jobs Lane, Water Mill, New York 11976, including all appurtenances, improvements, and attachments thereon, and any property traceable thereto;

e. Northwestern Mutual Universal Life Insurance Policy 18268327, and any property traceable thereto;

f. All funds held in account number XXXX7988 at Charles A. Schwab & Co. Inc., and any property traceable thereto; and

g. All funds held in account number XXXXXX0969 at The Federal Savings Bank, and any property traceable thereto.

The question of how much of his ill-gotten gains is subject to forfeiture was a big deal in the Rick Gates plea (and likely was a big deal to Sam Patten when he pled guilty to earning \$1 million as an unregistered sleazy influence peddler). While Manafort doesn't have young kids to raise, as Gates does, the sheer scale of his possible forfeiture no doubt makes such discussions even more fraught.

Up until now, it has always seemed that the most logical explanation for Manafort's actions was a calculus that the evidence against him was so overwhelming and the prison sentence he faced so substantial that his best bet was to do anything he could to get a presidential pardon.

But now, he already faces losing around \$16 million and stands to lose \$30 million more. He's been effectively broke since 2016 anyway. And it's not clear that a presidential pardon

prevents that from happening.

So on top of calculating whether he trusts Trump enough to rely on that pardon, Manafort (and the lawyers he likely still has to pay) also have to be wondering how many houses his freedom is worth.

That certainly strengthens Mueller's hand in these negotiations.

*As I disclosed July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.*