

“I CAN GET ANY SOURCE ON THE PLANET.” THE PRE-HISTORY OF GAL LUFT’S PRE-“WHISTLEBLOWER” INDICTMENT

In this post I noted that Gal Luft – the guy who got James Comer all hot and bothered about having a “whistleblower” confirming his conspiracy theories about Hunter Biden – was indicted on November 1, 2022, before the Republicans even won back the House. The timing alone debunks Luft’s and GOP claims that he was charged as retaliation for coming forward to Republicans.

But he might have been *charged* even before that.

That’s because the statutes of limitation for many of the substantive charges against him – save the alleged conspiracy to violate FARA – would have expired before he was indicted if he hadn’t fled the country when the person referred in his indictment as co-conspirator-1, Chi Ping Patrick Ho, was arrested in November 2017.

Here’s what the charges, duration, and five year Statute of Limitation looks like for the indictment against Luft.

Count	Crime	Duration	Statute of Limitations
1	18 USC FARA Conspiracy	October 2015 through November 2, 2017	November 1, 2022
2	18 USC 371 Arms Control Conspiracy	March 2015 thorough mid-2017	Mid-2022
3	22 USC 2778 Arms control Libya	March 2015 through September 2016	September 2021
4	22 USC 2778 Arms control UAE	August through November 2015	November 2020
5	22 USC 2778 Arms control Kenya	March 2016	March 2021
6	18 USC 1001 False statements	March 28, 2019	March 27, 2024
7	50 USC 1705 Sanctions	April 2015 through June 2016	June 2021
8	18 USC 1001 False statements	March 29, 2019	March 28, 2024

It seems exceedingly likely that SDNY charged Luft on November 1, 2022 because that’s the day the Statute of Limitations would otherwise have expired on the headline charge: the conspiracy to get James Woolsey to act on behalf of CEFC by

using Luft's NGO as a cut-out.

But the five year Statutes of Limitations would have started expiring on the other substantive charges starting in November 2020.

DOJ could still indict Luft on those charges because – as they allude to in the indictment – once his alleged co-conspirator Patrick Ho was charged in November 2017, he fled the US and never returned.

Since the arrest of an associate ("CC-1") on different U.S. charges in mid-November 2017, LUFT has remained outside the United States.

The known Luft docket doesn't show any complaint prior to the indictment. But SDNY doesn't always include prior charges in the prosecution docket (note, for example, that the Oleg Deripaska docket starts with a superseding indictment as document number 1, thereby hiding the timing and content of the prior indictment).

But if DOJ wanted to preserve those other charges until such time as they indicted on the last-expiring one, they might have obtained one or several serial complaints charging them, in case Luft ever happened to fly into the US unexpectedly, which would otherwise have cause those Statutes of Limitation to expire. If that's right, then SDNY may have started charging Luft as early as November 2020, with more controversial charges involving Iran and Libya the following year.

With that in mind, I want to look at what the Patrick Ho prosecution – Luft's alleged co-conspirator in counts 1 and 2, as well as Hunter Biden's associate and legal client through the beginning of Ho's own prosecution in 2018 – says about the investigation into Luft.

Based on search warrant return dates, DOJ appears to have obtained probable cause against Ho by June 20, 2016 – possibly based off a FISA warrant noticed during the prosecution. Before

his arrest, DOJ continued to obtain Ho's cloud communications at least through March 6, 2017 – meaning they were collecting communications Ho had with Luft during the period he was cultivating the Woolsey deal, and *would* have been collecting emails with Hunter Biden, except – unless I fucked up the search – none of the noticed email accounts show up in the MarcoPolo set.

While it's clear CEFC did use charity to try to cultivate Hunter Biden, it's not entirely clear what role Ho's NGO played in that process (or whether Hunter had direct involvement with it). It's worth noting on this point, charges against the Chadian whom Ho was convicted of trying to bribe were dropped. And Woolsey is not known to have been charged, *in part* because the Chinese payments to him were too well laundered through (allegedly) entities like Luft's own NGO – likely the same reason why Tony Podesta wasn't charged for involvement in Paul Manafort's Ukrainian influence peddling.

Ho was first charged by complaint on November 16, 2017, then arrested as he landed in JFK two days later. On his arrest, the FBI took possession of six USB drives, at least two phones, and an iPad, all of which they presumably searched.

In the wake of Ho's arrest, DOJ took other overt steps, which they cited in a detention filing to describe how much more they learned after Ho's arrest. Those steps including interviewing witnesses, executing search warrants – including for Ho's Virginia NGO, and subpoenaing documents from third parties.

The government first publicly mentioned the arms and Iran conduct subsequently charged against Luft in an October 2018 motion in limine. Because Ho seemed to be preparing to claim his involvement in Chad and Uganda – the two countries he was charged with attempting to bribe – involved charity, a defense that would have skirted aspects of the charged crime, Foreign Corrupt Practices Act, the government

argued they should be able to introduce evidence that Ho was pushing CEFC business, not just charity.

On October 2014, the defendant sent his assistant an email stating, "I am going to BJ [i.e., Beijing] this Friday to see [the Chairman of CEFC NGO and CEFC China] on Sat afternoon. The documents I want to send him before hand in separate items are: . . . 7. Iranian connection (brief)."4 On the same date, the defendant sent his assistant another email, attaching a document, which stated, in pertinent part:

7) Iranian Connection . . . Iran has money in a Bank in china which is under sanction. Iran wishes to purchase precious metal with this money. The precious metal is available through a Bank in HK which cannot accept money from the Bank in China which holds the money but is under sanction. The Iranian agent is looking for a Chinese company acting as a middle man in such transactions and will pay commission. (details to be presented orally) The Iranian connection has strong urge to establish trading relationship with us in oil and products

The following year, in June 2015, the defendant received an email that stated, in pertinent part: "The Iranian team will arrive in BJ See the attached." The attachment referenced in the email was a PowerPoint presentation entitled "Presentation to Potential Partners Iran Petroleum Investments." The next day, the defendant forwarded the email to his assistant, stating, "For writing report to [the Chairman of CEFC NGO and CEFC China]."

The following year, in June 2016, the

defendant emailed another individual, blindcopying his assistant, and stated, in pertinent part, "Will get [two executives of CEFC China] to meet with [oil executive at company with operations in Iran] in BJ, and [another individual] also on another occasion if he comes. You can start organizing these. . . . Other matters ftf [i.e., face to face]." [paragraph 78]

[snip]

The defendant also sought to and did broker arms transactions unrelated to the Chad and Uganda schemes charged in this case. For example:

In March 2015, an individual sent the defendant an email, stating, "I have the list and end user agreement. Pls advise next step." On the same day, the defendant replied, in pertinent part, "Find a way to pass them onto me and we can execute that right away[]." The individual replied, "Attached. [W]e have the funding and processing mechanisms in place. If it works nice there will be much more. Also for S. Sudan." The attachment to this email was a document entitled "End User Certificate," certifying that the user of the goods in question would be the Ministry of Defense of the Republic of Libya. The goods listed on the document included numerous arms. [paragraph 48]

The following month, the defendant sent an email that stated in pertinent part: "It so turns out Qatar also needs urgently a list of toys from us. But for the same reason we had for Libya, we cannot sell directly to them. Is there a way you could act as an intermediary in both cases?" The person whom the defendant emailed replied: "Qatar good chance bc there is no embargo. Libya is another case bc going against an embargo

is tricky.” The defendant responded:
“Qatar needs new toys quite urgently.
Their chief is coming to China and we
hope to give them a piece of good news.
Please confirm soonest.” [paragraph 48]

As linked above, several of the documents described in this motion describing “other uncharged conduct” are documents listed in Luft’s own indictment. Given that he fled upon Ho’s arrest, he seems to have recognized the threat to himself at that point, in 2017. If not, the public docketing of these documents should have made that clear.

The government repeated these references to communications with Luft – among other places – in their sentencing memorandum for Ho, submitted on March 18, 2019, just days before the meeting with Luft in Belgium.

So Luft was on notice about this part of the criminal investigation into him when he arranged that meeting and pitched dirt on Hunter Biden. The meeting was literally days after Ho was sentenced on March 25, 2019.

SDNY didn’t charge Ho with either of the conspiracies in which he is named as Luft’s co-conspirator, even though their understanding of the arms control conspiracy was well-advanced by the time of his trial in November 2018. He remained imprisoned in the US until June 8, 2020, well over a year after the interview with Luft, after which Ho was deported to Hong Kong. Admittedly, that was the height of the pandemic and Ho was already 70, and so would have been difficult to keep jailed.

But the timing of Luft’s meeting with the SDNY and FBI – literally days after Ho’s sentencing – suggests that SDNY took that opportunity to advance the several overt prongs of the investigations against him, regardless of what dangle – true or not – about Hunter Biden Luft offered. They had already, publicly, made clear they believed it was criminal conduct.

Luft was on notice about that before the Brussels meeting and, as alleged in the indictment, he lied about the arms control scheme and discussions with Iran.

It probably would have been easier to extradite him from the US Embassy in Brussels than it would from Cyprus, so clearly SDNY wasn't ready to arrest him yet.

There's no False Statements charge in the indictment pertaining to Woolsey, however, so it's unclear whether the FBI asked Luft about that.

Trump's Criminal Division head, Brian Benczkowski, took credit for the Ho sentencing (and may have had to approve the meeting with Luft). So it seems likely even Bill Barr's DOJ were fine with those two prongs of the Luft prosecution.

The Woolsey allegation, of course is a different matter.

So, too, might another one be.

Count 7 of his indictment charges Luft with violating sanctions against Iran. It starts, as such charges do, with an explanation of the IEEPA authorizing such sanctions, generally. It spends six paragraphs describing the sanctions regime against Iran. It spends eight paragraphs describing the charged conduct involving Iran. Then, before the two paragraphs *charging* Luft for evading Iran sections, his indictment includes this paragraph:

80. Several months later, on or about October 10, 2016, CC-2 emailed GAL LUFT, the defendant, that CC-2 had a Chinese client who needed Russian oil, which LUFT confirmed he could help provide: "I just got off the phone with Russia. They have this." Forwarding this email to CC-1, LUFT wrote: "If [CC-2] really has this client we need to grab it. This is exactly what we need. . . . I can get any source on the planet."

That's not related to the current charges (though if Luft continued to pursue business with Russia, particularly after 2017 and 2022 sanctions, those might amount to IEEPA sanctions violations as well). But it suggests DOJ's interest into Luft may extend beyond China.