16 HOUSE DEMS ASK LAW FIRMS THAT CAPITULATED TO TRUMP IF THEY'VE THOUGHT ABOUT THEIR BRIBERY EXPOSURE

Back on April 15, I wrote a post highlighting an amicus brief submitted in the Perkins Coie case that raised concerns that the agreements law firms made with Trump might expose the firms to bribery prosecution.

> Just as the President's decision to issue executive orders that sanction certain law firms is an official act, so too is the President's decision to withhold issuing executive orders that would sanction other law firms. See McDonnell v. United States, 579 U.S. 550, 574 (2016) (holding that for purposes of construing § 201, an "official act" essentially has two components: (1) "the public official must make a decision or take an action" on (2) "something specific and focused that is 'pending' or 'may by law be brought'" before a public official). A law firm's commitment to provide valuable pro bono services to the President's preferred causes, made "with intent to influence" the decision whether to issue or withhold an executive order targeting those law firms, would appear to meet the quid pro quo requirement of federal bribery law.
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> [snip]
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> In the present circumstances, the Department of Justice likely would conclude that it is not in the public interest to prosecute law firms that

> offer pro bono services in exchange for avoiding the consequences of an executive order, even if that offer arguably constitutes a violation of § 201.3 Regardless, the President's exertion of pressure on law firms to engage in conduct that could violate federal anti-bribery law further illustrates the ethical quandaries these executive orders create. Allowing Executive Order 14,230 to take effect would put more pressure on law firms to reach agreements with the President to avoid a similar fate, and in doing so compromise themselves to potential criminal liability.
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> 3 Or perhaps not: the threat of criminal prosecution is a potent form of influence the federal government could exert to compel law firms to continue complying with the President's demands. Cf. United States v. Adams, No. 24-CR-556, 2025 WL 978572, at *36 (S.D.N.Y. Apr. 2, 2025) (stating that the government "extract[ing] a public official's cooperation with the administration's agenda in exchange for dropping a prosecution . . . would be 'clearly contrary to the public interest'" because it "violate[s] norms against using prosecutorial power for political ends" (quoting United States v. Cowan, 524 F.2d 504, 513 (5th Cir. 1975))).

Today, a group of House Democrats led by Dave Min wrote the firms that capitulated to Trump, raising the same concern.

> While we do not know all of the particular facts about the circumstances of the Skadden agreement with President Trump, this agreement on the surface appears to have been struck in order to appease President Trump so that he would not issue an Executive Order targeting

> Skadden. If this is the case, Skadden's settlement raises a number of concerns, including potential violations of federal and state statutes, as well as several Rules of Professional Conduct, including the below:
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> Potential Federal Law Violations
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> 1. 18 U.S.C. § 201(b)(1): The Skadden agreement could potentially implicate this federal anti-bribery statute, which prohibits anyone, under threat of both criminal and civil liability, from corruptly offering and promising something of value to public officials with the intent to influence their official acts.
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> 2. 18 U.S.C. § 1951: The Hobbs Act prohibits obstruction, delay, or affecting commerce by extortion under color of official right. By participating in this arrangement, performance under the Skadden agreement may be argued to constitute the aiding, abetting, and/or conspiracy with officials in the commission of these offenses, as established in precedents such as United States v. Torcasio, 959 F.2d 503, 505-506 (4th Cir. 1992); United States v. Spitler, 800 F.2d 1267, 1276-79 (4th Cir. 1986); and United States v. Wright, 797 F.2d 245 (5th Cir. 1986).
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> 3. 18 U.S.C. §§ 1341/1343, 1346, 1349: These statutes prohibit schemes to defraud the public of the honest services of public officials using mail and wire communications. The Skadden agreement may be argued to constitute such a scheme involving bribery, as defined by the Supreme Court in Skilling v. United States, 561 U.S. 358 (2010).
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> 4. 18 U.S.C. § 1962: The RICO statute prohibits participation in an enterprise

> engaged in a pattern of racketeering activity. It may be argued that the Skadden agreement, which involves Skadden, its partners, the President, and other executive officials may constitute an association-in-fact enterprise engaged in predicate offenses including bribery.

This effort follows a more timid previous effort from Richard Blumenthal and Jamie Raskin.

A lot of lefties complain that members of Congress aren't standing up to oppose Trump's authoritarianism.

Letters like this are an example of things that fit solidly within normal legislative effort that help with messaging in the short term but might serve as a powerful lever down the road.

And if they give firms an excuse to renege on the deals in the short term? All the better.