

TRUMP'S "OFFICIAL ACTS" TO PAY OFF A RUSSIAN BRIBE SHOULD MAKE IMPEACHMENT A LEGAL ISSUE, NOT JUST A POLITICAL ONE

Since Rashida Tlaib raised the stakes on impeaching Trump, both sides have treated impeachment as a political question. But if Mueller names Trump in a bribery conspiracy, it may make it clearer that it is also a legal one.

A LESS OBVIOUS QUESTION ABOUT NYT'S REPORTING ON TRUMP-RUSSIA

Over the last several years, one thing has bothered me about The New York Times, something not immediately obvious in these related pieces of what may be the most important work the paper published since the early 2000s.

PAUL MANAFORT'S ONGOING CONSPIRACY

WITH SUSPECTED RUSSIAN AGENT KONSTANTIN KILIMNIK

It doesn't actually help Paul Manafort's story much that he was sharing data with pro-Russian Ukrainian oligarchs rather than a Russian one.

OLEG DERIPASKA MET SERGEI MILLIAN AT THE ST. PETERSBURG FORUM MICHAEL COHEN WOULD HAVE MET PUTIN

Oleg Deripaska met with Sergei Millian at the same St. Petersburg Forum where Michael Cohen would have negotiated a Trump Tower deal with Vladimir Putin.

MANAFORT CLAIMS HE CAN'T BE A WITNESS TO TRUMP'S CONSPIRACY WITH RUSSIA BECAUSE HE MANAGED THE CAMPAIGN

Manafort is excusing his forgetfulness about anything that might show a conspiracy between

him, while he was campaign manager for the Trump campaign, and Kilimnik, by saying his activities as campaign manager prevent him from remembering conspiring with Kilimnik while working for the campaign.

MANAFORT'S REDACTION FAIL TELLS TRUMP THAT MUELLER CAUGHT HIM LYING ABOUT HIS RUSSIAN HANDLER, KONSTANTIN KILIMNIK

Boy do I look stupid! This morning, I suggested that Robert Mueller had finally found a way to shut Paul Manafort up. Then I went away for a few hours, and come back to discover Manafort's filing on the lies he got caught telling about the information he shared with Konstantin Kilimnik. The redactions covering up details of that information-sharing are easily reversible, showing the following:

Manafort lied about three communications with Kilimnik

Two redactions in a section on Manafort's interactions with Kilimnik hide that he went to Madrid and listened to a Kilimnik pitch on a peace plan for Ukraine.

(See, e.g., Doc. 460 at 5 (After being shown documents, Mr. Manafort "conceded" that he discussed or may have discussed

a Ukraine peace plan with Mr. Kilimnik on more than one occasion); id. at 6 (After being told that Mr. Kilimnik had traveled to Madrid on the same day that Mr. Manafort was in Madrid, Mr. Manafort “acknowledged” that he and Mr. Kilimnik met while they were both in Madrid)).

[snip]

In fact, during a proffer meeting held with the Special Counsel on September 11, 2018, Mr. Manafort explained to the Government attorneys and investigators that he would have given the Ukrainian peace plan more thought, had the issue not been raised during the period he was engaged with work related to the presidential campaign. Issues and communications related to Ukrainian political events simply were not at the forefront of Mr. Manafort’s mind during the period at issue and it is not surprising at all that Mr. Manafort was unable to recall specific details prior to having his recollection refreshed. The same is true with regard to the Government’s allegation that Mr. Manafort lied about sharing polling data with Mr. Kilimnik related to the 2016 presidential campaign. (See Doc. 460 at 6).

He excuses this lie by saying that he was just so busy with the campaign that he didn’t pay attention to the requests his Russian handler was making of him during the campaign.

Perhaps more damning still – given that the Russians were stealing Hillary’s analytics well into September – is the revelation that Manafort shared polling data with Kilimnik, a lie about which Manafort offers no real excuse.

Update: I believe the filing means to say Manafort lied about three things:

- Sharing polling data from the campaign
- Discussing a Ukraine peace deal multiple times
- Meeting in Madrid

Only the first definitively happened in 2016; the confusion regarding the rest stems from Manafort's excuse that he forgot about it all because he was running a campaign. But a number of his other excuses are stupid so it wouldn't be surprising if this was.

Manafort claims his pattern of covering for Kilimnik doesn't amount to a pattern of covering for Kilimnik

Most remarkable, in a brief that addresses three lies about Konstantin Kilimnik and one about Tom Barrack (who is believed to have been in the loop on at least one of their meetings), Manafort's lawyers claim there's no pattern here.

Notably, there is no identifiable pattern to Mr. Manafort's purported misrepresentations – no specific individual or potential crime is identified in the Government's submission.

I guess, sure, you could say there's no pattern to the many other people he attempted to protect with his obstruction.

But it's clear that Kilimnik is a key one, especially given Manafort's embarrassing lawyer that in spite of Kilimnik's agreement to help him tamper with witnesses, he can't say that Kilimnik entered into a conspiracy with him.

Mr. Manafort was asked to agree that Mr. Kilimnik, too, possessed the requisite state of mind to legally establish his guilt. Mr. Manafort balked at this characterization, because he did not believe he could confirm what another person's internal thoughts or understandings were, i.e., another individual's state of mind.

Manafort doesn't much care that Mueller caught him lying

Manafort's lawyers don't offer much by way of explanation for his lies. They note he was being held in solitary, suffered from gout, and did not have an opportunity to review documents before telling these lies. But they concede that given the "good faith" standard on breaching the plea agreement they consented to, there's not much to argue about. So long as Mueller doesn't charge Manafort further, they won't contest the finding he breached the agreement, even while claiming the breach was not intentional.

Despite Mr. Manafort's position that he has not made intentional misstatements, he is not requesting a hearing on the breach issue. As discussed further below – given the highly deferential standard that applies to the Government's determination of a breach and the Government's stated intention to limit the effect of the breach determination to its advocacy at sentencing in this case¹ – Mr. Manafort suggests that any necessary factual determinations are better addressed as part of the presentencing report ("PSR") process.

¹ Based upon discussions occurring after the November 30 and December 11 hearings, the OSC has advised that the only remedies it currently plans to seek

related to the alleged breach relate to its position regarding sentencing in this matter. Should the Government seek to bring additional charges or take any other adverse action beyond its sentencing position, the defendant reserves his right to challenge the Government's breach determination at that time.

Manafort demands to have more witness testimony before he'll respond to other details on his lies

In a section on how Tom Barrack paid him via a third party contractor – for what is not yet clear – Manafort suggests he can't respond because the government hasn't shared the witness statements of others alleging to the fact.

The Government has indicated that Mr. Manafort's statements about this payment are inconsistent with those of others, but the defense has not received any witness statements to support this contention.

Then, in a section rebutting his lies about whether or not he had contacts with the Trump Administration, he claims the two instances that Mueller raised don't really count. He again demands more witness statements.

The first alleged misstatement identified in the Special Counsel's submission (regarding a text exchange on May 26, 2018) related to a text message from a third-party asking permission to use Mr. Manafort's name as an introduction in the event the third-party met the President. This does not

constitute outreach by Mr. Manafort to the President. The second example identified by the Special Counsel is hearsay purportedly offered by an undisclosed third party and the defense has not been provided with the statement (or any witness statements that form the basis for alleging intentional falsehoods).

Then, even as agreeing there's no need to have a breach hearing, Manafort asks for more witness statements again.

While a hearing regarding the Government's "good faith" in declaring a breach of the plea agreement is not necessary, to the extent that there are witness statements that the OSC contends demonstrate Mr. Manafort's intentional falsehoods, these should be produced to the defense. After having an opportunity to review such statements and any other documentary evidence, the defendant would then suggest that the issues be narrowed during the usual sentencing process in the parties' submissions to the U.S. Probation Office in the preparation of the PSR.

This mistaken non-redaction conveniently lets co-conspirators know what Mueller shared

I have no idea whether this non-redaction was a colossal mistake or whether this was a cute way to disclose what evidence Mueller has shared with Manafort (remember: these five lies were not the only ones that Manafort told; just the only ones that Mueller wanted to describe).

But even ignoring the redaction fail, the filing feels very contemptuous, as if they're still playing for a pardon.

Effectively, they're admitting their client maybe lied or just conveniently forgot to minimize his ongoing conspiracy with someone even Rick Gates has said has ties to Russian intelligence – the same Russian intelligence agency that hacked Democrats. But they don't think that's a big deal. They're just going to double down on obtaining more information on the evidence Mueller has while they wait for the pardon.

Update: Per CNN, Manafort says this Madrid meeting was after the campaign. Okay. That makes the explanation all the more ridiculous. Took out references to the campaign accordingly.

As I disclosed last 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.

ROBERT MUELLER FINALLY FOUND A WAY TO GET PAUL MANAFORT TO KEEP A SECRET

Paul Manafort's failure to file an unsealed filing due yesterday may have as much to do with the reasons Mueller couldn't wait to obtain Roger Stone's House Intelligence transcripts last month as with any tardiness on his lawyers' part.

WILL THE PRESS RECOGNIZE THEY ALSO DESERVE A SCOLDING FOR PARROTING ERIC DUBELIER'S NUDE SELFIE STUNT?

Judge Dabney Friedrich called Concord Management's trollish lawyers into today to yell at them for their recent trollish court filings. Will the press realize they, too, should be included in her accusations of unprofessional behavior?

IT IS FALSE AND DEFAMATORY TO ACCUSE WIKILEAKS OF A BUNCH OF THINGS THAT AREN'T THE KEY ALLEGATIONS AGAINST IT

WikiLeaks denies a lot in a list of things it says would be defamatory for journalists to print. None of those denials address the key charges against the organization.

THE WILLIAM BARR CASE FOR IMPEACHING DONALD TRUMP: FROM WHOM DID TRUMP SUBORN FALSE STATEMENTS?

Mueller's obstruction investigation was likely always premised on a theory of obstruction that Trump's presumed Attorney General nominee William Barr has argued does merit investigation and impeachment: that Trump ordered his subordinates to lie to obstruct an investigation.