

1 **FEDERAL ELECTION COMMISSION**

2 **FIRST GENERAL COUNSEL'S REPORT**

3 **MUR 7645**

4 COMPLAINT: Sept. 23, 2019

5 NOTIFICATION DATE: Sept. 27, 2019

6 LAST RESPONSE: June 17, 2020

7 ACTIVATION DATE: Jan. 31, 2020

8
9 **STATUTE OF LIMITATIONS:**

10 April 2024 (earliest) – September 2024 (latest)

11 **ELECTION CYCLE:** 2020

12 **COMPLAINANTS:**

Common Cause

13 Paul S. Ryan

14 **RESPONDENTS:**

Donald J. Trump

15 Donald J. Trump for President, Inc. and Bradley T.

16 Crate in his official capacity as treasurer

17 Rudolph "Rudy" Giuliani

18 Lev Parnas

19 Igor Fruman

20 Victoria Toensing

21
22 **MUR 7663**

23 COMPLAINT: Nov. 18, 2019

24 NOTIFICATION DATE: Nov. 25, 2019

25 LAST RESPONSE: June 17, 2020

26 ACTIVATION DATE: Jan. 31, 2020

27
28 **STATUTE OF LIMITATIONS:**

29 April 2024 (earliest) – September 2024 (latest)

30 **ELECTION CYCLE:** 2020

31 **COMPLAINANT:**

Erwin L. Rupert II

32 **RESPONDENTS:**

Donald J. Trump

33 Donald J. Trump for President, Inc. and Bradley T.

34 Crate in his official capacity as treasurer

MURs 7645, 7663, and 7705 (Donald J. Trump, *et al.*)

First General Counsel's Report

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1		MUR 7705¹
2		COMPLAINT: Feb. 26, 2020
3		NOTIFICATION DATE: Mar. 2, 2020
4		AMEND. COMPLAINT: Mar. 12, 2020
5		SECOND NOTIFICATION DATE: Mar. 17, 2020
6		LAST RESPONSE: June 17, 2020
7		ACTIVATION DATE: June 10, 2020
8		
9		STATUTE OF LIMITATIONS:
10		April 2024 (earliest) – September 2024 (latest)
11		ELECTION CYCLE: 2020
12	COMPLAINANT:	Rose Clara White
13	RESPONDENTS:	Donald J. Trump
14		Donald J. Trump for President, Inc. and Bradley T.
15		Crate in his official capacity as treasurer
16		
17	RELEVANT STATUTES AND	
18	REGULATIONS:	52 U.S.C. § 30101(8)
19		52 U.S.C. § 30121
20		11 C.F.R. § 100.52(d)
21		11 C.F.R. § 110.20(g), (h)
22		11 C.F.R. § 300.2(m)
23	INTERNAL REPORTS CHECKED:	Disclosure Reports
24	FEDERAL AGENCIES CHECKED:	None

¹ The complaint in MUR 7705 also contains allegations that Donald J. Trump and Donald J. Trump for President solicited help from the Russian Federation in connection with Trump's 2016 campaign. We administratively severed and merged this allegation into MUR 7207, which involves the same allegation. The complainant in MUR 7705, Rose Clara White, was also added to MUR 7207; respondents Trump and Donald J. Trump for President remain in MUR 7705 because additional allegations remain against them, which are addressed in this report.

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1 **I. INTRODUCTION**

2 This report discusses three complaints alleging violations of the Federal Election
3 Campaign Act of 1971, as amended (the “Act”), relating to President Donald J. Trump’s July 25,
4 2019, telephone call with the President of Ukraine, Volodymyr Zelensky. The complaints allege
5 that during that phone call, and in a months-long series of communications, Trump and his
6 personal attorney, Rudolph “Rudy” Giuliani, requested, recommended, and pressured Zelensky
7 to investigate two allegations: First, that 2020 presidential candidate and current President
8 Joseph R. Biden, while previously serving as Vice President, improperly coerced the Ukrainian
9 government to remove its chief prosecutor for allegedly investigating a Ukrainian company,
10 Burisma, in order to protect Biden’s son, Hunter Biden, who served on the Burisma board of
11 directors; and second, that Ukraine coordinated with the Democratic National Committee
12 (“DNC”) to interfere in the 2016 U.S. presidential election and to support Trump’s general-
13 election opponent, Hillary Clinton.

14 The complaints in these matters allege that Trump sought the investigation of these
15 allegations to advance his personal political goals — *i.e.*, to support his presidential candidacy
16 and his authorized campaign committee, Donald J. Trump for President, Inc. and Bradley T.
17 Crate in his official capacity as treasurer (the “Trump Committee”). The complaints allege, on
18 that basis, that Trump and the Trump Committee knowingly solicited prohibited foreign national
19 contributions. In addition, the complaint in MUR 7645 alleges that Giuliani, Lev Parnas, Igor
20 Fruman, and Victoria Toensing solicited, or provided substantial assistance in the solicitation of,
21 contributions from Ukraine.

22 Giuliani, the Trump Committee, and Toensing filed responses denying these allegations,
23 while Fruman requested a stay of the Commission’s proceedings pending resolution of a criminal

1 case in which Fruman had been indicted. Neither Trump nor Parnas filed a response, and Trump
2 did not join the Trump Committee's response.

3 As set forth below, the record indicates that, through a series of communications,
4 including the July 25, 2019 phone call between Trump and Ukrainian President Zelensky, Trump
5 and others on his behalf, requested, recommended, and pressured Zelensky to publicly announce
6 and conduct an investigation into allegations regarding Burisma and purported Ukrainian
7 interference in the 2016 presidential election in order to make Biden's alleged corruption a major
8 issue in Trump's 2020 presidential reelection campaign. Because the requested announcement
9 and investigations fall within the meaning of "anything of value" and, as the record reflects, were
10 sought for the purpose of influencing the 2020 presidential election, the requests constituted a
11 legally prohibited solicitation of a contribution from a foreign national in violation of the Act.

12 The complaint in MUR 7705 further alleges that Trump violated the Act by publicly
13 suggesting that the government of China should also investigate Biden. However, the available
14 information does not indicate that Trump directly or indirectly made statements regarding China
15 constituting a "solicitation" of a prohibited foreign national contribution.

16 Accordingly, we recommend that the Commission: (1) find reason to believe that Trump
17 and the Trump Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by
18 knowingly soliciting prohibited foreign national contributions from Zelensky; (2) find reason to
19 believe that Giuliani and Parnas violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or
20 (h) by knowingly soliciting, or providing substantial assistance in the solicitation of, prohibited
21 foreign national contributions from Zelensky; (3) dismiss the allegations that Toensing and
22 Fruman violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or (h) by knowingly
23 soliciting, or providing substantial assistance in the solicitation of, prohibited foreign national

1 contributions; and (4) dismiss the allegation that Trump and the Trump Committee violated
2 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign
3 national contributions from China.

4 **II. FACTUAL BACKGROUND**

5 **A. Overview**

6 The available information indicates that between April and September of 2019, President
7 Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to
8 request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly
9 announce, and thereafter conduct, an investigation into whether, when he was Vice President,
10 Joe Biden² acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to
11 end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter
12 was a board member; and an investigation into whether, during the 2016 presidential election,
13 the DNC coordinated with Ukraine to support Hillary Clinton, Trump's opponent in that
14 election. The available information indicates that Trump and Giuliani requested Zelensky's
15 announcement and the investigation of these allegations in order to advance Trump's personal
16 political goal of depicting Biden and his political party in a negative light during the 2020
17 presidential campaign.

18 During a July 25, 2019, phone call, Trump urged Zelensky to investigate these allegations
19 and work with Giuliani to do so. Giuliani, in turn, pressed diplomatic intermediaries — such as
20 Gordon Sondland and Kurt Volker — and his associate Parnas to communicate that the provision
21 of two items of significant value to Zelensky and the Ukrainian government were conditioned on

² Biden officially declared his candidacy for the 2020 presidential election on April 25, 2019. Statement of Candidacy, Joseph R. Biden Jr. (Apr. 25, 2019).

1 Zelensky announcing that the Ukrainian government would conduct these investigations.
2 Specifically, Trump refused to schedule a White House visit for Zelensky and blocked the
3 release of \$391 million in Congressionally-approved security aid for Ukraine until Zelensky
4 made the desired public announcement of investigations. Zelensky, directly and through his
5 aides, expressed concern about becoming embroiled in a U.S. domestic political matter. After
6 news of Trump and Giuliani's efforts became public, the security aid was released, and Zelensky
7 ultimately did not announce the requested investigations.

8 These events were the subject of widespread reporting, including the articles cited in the
9 complaints, and were the subject of testimony in connection with the U.S. House of
10 Representatives' Impeachment Inquiry into Trump in 2019.³ This report cites the sworn
11 testimony, taken in closed-door depositions and public hearings, of witnesses appearing as part
12 of that impeachment inquiry.

13 **B. Respondents' Early Efforts to Develop Allegations Regarding Burisma**

14 According to news reports and testimony, in 2018 and early 2019, Giuliani, along with
15 his associates Parnas and Fruman, engaged in a concerted effort to develop evidence supporting
16 the allegation that in 2016, while serving as Vice President, Biden had acted improperly by
17 pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin, to prevent an
18 investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-time board
19 member of Burisma.⁴ Giuliani made several attempts to meet with Shokin — including by

³ See U.S. House of Representatives Permanent Select Committee on Intelligence, Press Releases – 2019, <https://intelligence.house.gov/news/documentquery.aspx?DocumentTypeID=27>.

⁴ Compl. ¶ 20, MUR 7645 (Sept. 23, 2019) (citing Michael Sallah, *et al.*, *Two Unofficial US Operatives Reporting to Trump's Lawyer Privately Lobbied a Foreign Government in a Bid to Help the President Win in 2020*, BUZZFEEDNEWS (July 22, 2019), <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman> ("BuzzfeedNews Article")); Ben Protess, *et al.*, *Giuliani Pursued Business in Ukraine While Pushing*

1 seeking to obtain a U.S. visa for Shokin in exchange for a meeting to discuss the Bidens⁵ — and
 2 Shokin's successor, Yuriy Lutsenko — who had also made allegations underlying Giuliani's
 3 claims — to further this effort.⁶ Giuliani and Parnas were also in contact with Victoria
 4 Toensing, who appears to have served as counsel to both Shokin and Lutsenko,⁷ and Toensing
 5 may have relayed information regarding the allegations to them from her clients.⁸

for Inquiries for Trump, N.Y. TIMES (Nov. 27, 2019), www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html; *Giuliani: I didn't go to Ukraine to start an investigation, there already was one*, FOX NEWS (May 11, 2019), <https://video.foxnews.com/v/6035385372001#sp=show-clips>. Specifically, Biden stated that he, as part of a broader effort to remove Shokin due to corruption concerns, had threatened to withhold loan guarantees unless the Ukrainian government removed Shokin. Council on Foreign Relations, *Foreign Affairs Issue Launch with Joe Biden*, YOUTUBE, at 51:58–53:20, https://www.youtube.com/watch?v=Q0_AqpdwqK4. Giuliani alleged that Biden acted to protect his son, Hunter, who at the time sat on the board of a Ukrainian oil company, Burisma, whose owner had at one time been investigated for corruption in Ukraine. *Giuliani: I didn't go to Ukraine to start an investigation, there already was one*, FOX NEWS at 4:18–5:02; *see also, e.g.*, Deposition of Deputy Assistant Secretary George Kent before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 79–86 (Oct. 15, 2019) (“Kent Dep.”) (describing 2014 investigation of Burisma's beneficial owner, Mykola Zlochevsky, and subsequent hiring of Hunter Biden to Burisma board).

⁵ BuzzFeedNews Article; Kent Dep. at 44 (“The next time I heard Mr. Giuliani's name mentioned was on the 9th of January this year, 2019, when I was copied on an email that Giuliani was calling the State Department regarding the inability of the previous prosecutor general Viktor Shokin to get a visa to come to the United States.”).

⁶ BuzzFeedNews Article; Kent Dep. at 43; Deposition of Special Representative for Ukraine Negotiations Kurt Volker before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 104–5 (Oct. 3, 2019) (“Volker Dep.”).

⁷ Shokin appears to have retained Victoria Toensing, an attorney barred in the District of Columbia, “for the purpose of collecting evidence regarding his March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing, and presenting such evidence to U.S. and foreign authorities.” Letter from diGenova & Toensing, LLP to Viktor Shokin at 1 (Apr. 15, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD926.pdf> (“Shokin Retainer Agreement”). *But see* Resp. of Victoria Toensing at 2, MUR 7645 (Oct. 28, 2019) (denying that representation took place). Lutsenko also appears to have retained Toensing for, among other things, “assistance to meet and discuss with United States government officials the evidence of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016 U.S. elections[.]” Letter from diGenova & Toensing, LLP to Yuri Lutsenko at 1 (Apr. 12, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD927.pdf> (“Lutsenko Retainer Agreement”). Toensing had briefly served as counsel to President Trump in connection with Special Counsel Robert Mueller's investigation on Russian interference in the 2016 presidential election before she stepped down because of a conflict of interest. *See* Kenneth P. Vogel, *Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump*, N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html> (“May 9 NY Times Article”) (cited by Compl., MUR 7645).

⁸ *See, e.g.*, MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 1*, YOUTUBE, at 21:15-22 (Jan. 15, 2020), <https://www.youtube.com/watch?v=DVnZVuhOyys> (“Maddow Interview Pt. 1”) (statement by Parnas that Toensing was part of the “team”).

1 In early 2019, Giuliani, Parnas, and Fruman reportedly endeavored to have the U.S.
2 Ambassador to Ukraine, Marie Yovanovitch, removed from her post, primarily because they
3 viewed Yovanovitch, a holdover from the administration of President Barack Obama, as an
4 impediment to their investigation of the Biden/Burisma allegation.⁹ In a March 22, 2019,
5 communication to Parnas, Lutsenko suggested that he would withdraw his allegations regarding
6 Joe Biden and Burisma if Yovanovitch was not removed.¹⁰ Giuliani later wrote in a Twitter post
7 that Yovanovitch “needed to be removed” because she had impeded his efforts to push for the
8 investigations, including by “denying visas to Ukrainians who wanted to come to US and explain
9 Dem corruption in Ukraine.”¹¹ In May, 2019, President Trump recalled Yovanovitch, who was

⁹ BuzzfeedNews Article; Kent Dep. at 58 (“Mr. Giuliani was almost unmissable starting in mid-March. As the news campaign, or campaign of slander against, not only Ambassador Yovanovitch unfolded, he had a very high — a media promise, so he was on TV, his Twitter feed ramped up and it was all focused on Ukraine, and it was focused on the four story lines that unfolded in those days between March 20 and 23rd.”); Maddow Interview Pt. 1 at 26:58–27:14 (“Maddow: Do you believe that part of a motivation to get rid of Ambassador Yovanovitch, to get her out of post, was because she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden? Parnas: That was the only motivation. There was no other motivation.”).

¹⁰ Text from Yuriy Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), https://intelligence.house.gov/uploaded/files/20200114_-_parnas_excerpts_translated_slide_deck.pdf (“It’s just that if you don’t make a decision about Madam—you are bringing into question all my allegations. Including about B.” (rough translation)); *see* MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 2*, YOUTUBE (Jan. 15, 2020), <https://www.youtube.com/watch?v=Xj-4V5ui8H4> (“Maddow Interview Pt. 2”) at 7:55–8:48 (“Maddow: Is Mr. Lutsenko saying in effect ‘listen if you want me to make these Biden allegations you’re gonna have to get rid of this ambassador?’ Parnas: Oh absolutely.”).

¹¹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 17, 2019, 7:07AM), <https://twitter.com/RudyGiuliani/status/1206908888320221186> (“Yovanovitch needed to be removed for many reasons most critical she was denying visas to Ukrainians who wanted to come to US and explain Dem corruption in Ukraine. She was OBSTRUCTING JUSTICE and that’s not the only thing she was doing. She at minimum enabled Ukrainian collusion.”) (emphasis in original). *See* John Bolton, *THE ROOM WHERE IT HAPPENED* at 454 (Simon & Schuster, 1st ed. 2020) (“Bolton Book”) (“Trump had complained about our Ambassador Yovanovitch, for some time, noting to me on March 21[, 2019] during a telephone call covering a number of subjects that she was ‘bad-mouthing us like crazy’ and . . . saying he wanted her fired ‘today.’ . . . A few days later, on March 25[, . . . I learned Giuliani was the source of the stories about Yovanovitch . . .”); *id.* at 456 (“[On] April 23[, 2019,] I was called to the Oval to find Trump and [then-Acting White House Chief of Staff] Mulvaney on the phone, discussing Yovanovitch again with Giuliani, who was still pressing for her removal. . . . In Giuliani’s mind, Yovanovitch was protecting Hillary Clinton, whose campaign was purportedly the subject of Ukrainian criminal investigations, and there was some connection with Joe Biden’s son Hunter in there as well.”).

1 eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S.
2 Ambassador to Ukraine.¹²

3 Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to
4 arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a
5 meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.¹³ Parnas
6 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,
7 but Kolomoisky declined to do so.¹⁴ According to U.S. National Security Advisor John Bolton's
8 published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a
9 "desire to meet with President-Elect Zelensky to discuss his country's investigation" of the 2016
10 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky
11 and "make sure Giuliani got his meeting in Kiev next week."¹⁵

12 As reported in a New York Times interview published the following day, May 9, 2019,
13 Giuliani stated that he intended to travel to Ukraine for the purpose of "meddling" in Ukrainian
14 investigations, specifying that "this isn't [about] foreign policy" and that the investigations

¹² BuzzFeedNews Article; Deposition of Ambassador William B. Taylor before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 22 (Oct. 22, 2019) ("Taylor Dep.").

¹³ BuzzFeedNews Article.

¹⁴ *Id.*

¹⁵ Bolton Book at 459 ("On May 8, [2019,] . . . Trump called me to the Oval, where he was meeting with Giuliani, Mulvaney, Cipollone, and perhaps others. The subject was Ukraine, and Giuliani's desire to meet with President-Elect Zelensky to discuss his country's investigation of either Hillary Clinton's efforts to influence the 2016 campaign or something having to do with Hunter Biden and the 2020 election, or maybe both. . . . Trump was clear I was to call Zelensky and make sure Giuliani got his meeting in Kiev next week."); *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf ("In my capacity as personal counsel to President Trump and with his knowledge and consent, I request a meeting with you on this upcoming Monday, May 13th or Tuesday, May 14th. I will need no more than a half-hour of your time and I will be accompanied by my colleague Victoria Toensing, a distinguished American attorney who is very familiar with this matter.").

1 would uncover “information [that] will be very, very helpful to my client, and may turn out to be
2 helpful to my government.”¹⁶ Giuliani wrote to Zelensky on May 10, 2019, in an effort to set up
3 a meeting while on this trip, in which he stated: “I am private counsel to President Donald J.
4 Trump. Just to be precise, I represent him as a private citizen, not as President of the United
5 States.”¹⁷ Amid backlash following the publication of the New York Times article, however,
6 Giuliani canceled the trip.¹⁸ He later sought to clarify his intentions in a November 6, 2019,
7 Twitter post: “The investigation I conducted concerning 2016 Ukrainian collusion and
8 corruption, was done solely as a defense attorney to defend my client against false charges.”¹⁹
9 On October 2, 2019, Trump stated during a press conference: “And just so you know, we’ve
10 been investigating, on a personal basis — through Rudy and others, lawyers — corruption in the
11 2016 election.”²⁰

¹⁶ May 9 NY Times Article (“We’re not meddling in an election, we’re meddling in an investigation, which we have a right to do,” Mr. Giuliani said in an interview on Thursday when asked about the parallel to the special counsel’s inquiry. ‘There’s nothing illegal about it,’ he said. ‘Somebody could say it’s improper. And this isn’t foreign policy — I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop. And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.”); *see* Text from Rudy Giuliani to Lev Parnas [5/11/2019 8:07:39 AM(UTC-4)], https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“My purpose was to share information to assist their on-going investigation of Ukrainian officials being used by Americans to gather information to assist Clinton in last election. It was also to alert them to the very real dangers that their [sic] are people involved in the investigation as targets who are attempting to shut it down before it reaches a conclusion.”).

¹⁷ Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

¹⁸ *See* Bolton Book at 461 (noting that after the publication of the New York Times piece, Bolton, John Eisenberg, and Pat Cipollone met and “agreed Giuliani couldn’t be allowed to go to Ukraine”).

¹⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), <https://twitter.com/RudyGiuliani/status/1192180680391843841>.

²⁰ Remarks by President Trump and President Niinistö of the Republic of Finland in Joint Press Conference, The White House (Oct. 2, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-joint-press-conference/> (“Trump-Niinistö Press Conference”); *but see* Maddow Interview Pt. 1 at 8:58–9:37 (“Maddow: When you say that the President knew about your movements and knew what you were doing. Are you saying specifically . . . that the President was aware that you and Mr. Giuliani were working on this effort in Ukraine to basically try to hurt Joe Biden’s political career, he knew about that?”).

1 **C. Zelensky's Inauguration**

2 On April 21, 2019, President Trump called Ukrainian President-Elect Zelensky to
3 congratulate him on his recent election victory and extended him an invitation to visit the White
4 House.²¹ According to official records and testimony, Zelensky's aides and U.S. experts sought
5 to schedule a White House meeting, which they viewed as crucial to the public perception that
6 the U.S. supported Ukraine and the new Zelensky administration.²²

7 Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to
8 attend Zelensky's inauguration.²³ After Giuliani canceled his aforementioned trip to meet
9 Zelensky in Ukraine, however, Lev Parnas met with Zelensky's aide, Serhiy Shefir, in Kyiv on

Parnas: Basically. It was all about Joe Biden, Hunter Biden. . . . It was never about corruption. It was never — it was strictly about the Burisma which included Hunter Biden and Joe Biden.”).

²¹ The White House, Memorandum of Telephone Conversation (“April 21 Call Memo”) at 2 (Apr. 21, 2019), <https://assets.documentcloud.org/documents/6550349/First-Trump-Ukraine-Call.pdf>; Deposition of Lieutenant Colonel Alexander S. Vindman before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 16–17 (Oct. 29, 2019) (“Vindman Dep.”).

²² See, e.g., April 21 Call Memo at 2; Deposition of Christopher Anderson before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 50 (Oct. 30, 2019) (“But, you know, in sort of the scale of meetings, the best would be an Oval Office visit for President Zelensky. Q: And why is that? A: Because it is the best show of support and it has the greatest pomp and circumstance, and so that has the most impact, both in Ukraine but also in Moscow.”); Deposition of David A. Holmes before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 40–41 (Nov. 15, 2019) (“Holmes Dep.”) (“THE CHAIRMAN: Why was this White House meeting so important to Zelensky? Mr. Holmes: . . . [T]he Zelensky team were adamant that it was important. So we heard that from them in every interaction that it absolutely was critical for them for Zelensky to get the imprimatur of the U.S. President to indicate that the United States would continue to support Ukraine and his administration”); Taylor Dep. at 76–77 (“So a meeting with President Trump or any President for that matter, but President Trump in the Oval Office doesn’t happen regularly doesn’t happen to very many heads of state. And if you get that, you can be sure or you can think or people might be able to believe that you’ve got a good relationship between the two countries and I think that’s what they were looking for.”); Volker Dep. at 38 (“It was important to show support for the new Ukrainian President. He was taking on an effort to reform Ukraine, fight corruption, a big sea change in everything that had happened in Ukraine before, and demonstrating strong U.S. support for him would have been very important.”).

²³ Deposition of Jennifer Williams before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 36–37 (Nov. 7, 2019) (“Williams Dep.”). During the period at issue, Williams was detailed from the Department of State to the Office of the Vice President, where she served as Special Adviser on National Security Affairs; her role was to “keep the Vice President [Pence] aware and abreast of all foreign policy issues going on in that region [Europe and Russia], [and] prepare him for his foreign policy and foreign leader engagements.” *Id.* at 11–12.

1 May 12, 2019; Parnas stated in subsequent interviews that he told Shefir that “Zelensky needed
 2 to immediately make an announcement, . . . that they were opening up an investigation on
 3 Biden,” otherwise Vice President Pence would not attend the inauguration and that the two
 4 countries’ “relationships would be sour — that we would stop giving them any kind of aid.”²⁴
 5 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and
 6 Trump.²⁵ After their meeting, Parnas sent Shefir a follow-up message, and Shefir disconnected

²⁴ Maddow Interview Pt. 1 at 13:43–16:12 (Parnas: “The message that I was supposed to — that I gave Sergey Shefir was a very harsh message that was told to me to give it to him in a very harsh way, not in a pleasant way. Maddow: Who told you to give it to him in a harsh way? Parnas: Mayor Giuliani. Rudy told me after, you know, meeting at the White House; he called me . . . the message was, it wasn’t just military aid, it was all aid basically their relationships would be sour, that we would stop giving them any kind of aid, that — Maddow: unless — Parnas: Unless there was an announcement — well several things, several demands at that point. *The most important one was the announcement of the Biden investigation* . . . In the conversation I told him that if he doesn’t — the announcement was the key at that time because of the inauguration — that Pence would not show up, nobody would show up to his inauguration. Maddow: Unless he announced an investigation into Joe Biden, no U.S. officials, particularly Vice President Mike Pence, would not come to the inauguration? Parnas: It was particularly Mike Pence.”) (emphasis added); CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 1)*, YOUTUBE, at 2:32–3:33 (Jan. 16, 2020), https://www.youtube.com/watch?v=9JKraI_Rh6g (“Cooper Interview Pt. 1”) (“Parnas: I basically told him very strict and very stern that . . . Zelensky needed to immediately make an announcement, literally that night or tomorrow, within the next 24 hours, that they were opening up an investigation on Biden. . . . If they didn’t make the announcement, basically, there would be no relationship. . . . there was gonna be no inauguration, Pence wouldn’t be at the inauguration, there would be no visit to the White House, there would be, basically, they would have no communication. Cooper: You told the top official in the Zelensky inner circle that if they did not announce an investigation of the Bidens immediately and get rid of some folks around Zelensky who they believed were opposed to President Trump that there wouldn’t be any aid and Vice President Pence would not even come to the inauguration? Parnas: Correct.”); Parnas stated that it was through Fruman’s contacts that he was able to meet with Shefir. CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 2)*, YOUTUBE, at 2:04–2:20 (Jan 16, 2020), https://www.youtube.com/watch?v=QUXht__f3Rk (“Cooper Interview Pt. 2”).

²⁵ Maddow Interview Pt. 1 at 10:15–11:22 (“Maddow: And so did anybody in the U.S. Government or Mr. Giuliani actually convey to officials in Ukraine that you were there as a representative of President Trump? Parnas: Absolutely. To each one of those officials . . . I put Rudy on the phone The first thing I did is introduce myself and tell them: ‘I’m here on behalf of Rudy Giuliani and the President of the United States, and I’d like to put you on speaker phone,’ you know, to confirm him, which we did, we put Rudy on the phone. Rudy relayed to him basically that we were there on behalf of the President of the United States. Maddow: That you were there to speak on President Trump’s behalf? Parnas: Correct, exactly. Those exact words.”); *see also* Cooper Interview Pt. 1 at 4:21–4:35 (Cooper: How did you have the authority to say ‘the Vice President of the United States will not attend the inauguration’ if you don’t do what I say? Parnas: I mean that’s what I was told to do. Cooper: Who told you to do that? Parnas: Rudy Giuliani.”). Parnas stated that “President Trump knew exactly what was going on” with respect to his and Giuliani’s activities in Ukraine. Maddow Interview Pt. 1 at 6:30–6:44; *accord* Cooper Interview Pt. 2 at 3:20–3:34.

1 from the messenger app without response and blocked further messages from Parnas.²⁶ Parnas
2 took this to mean that Zelensky would not make the requested announcement and passed that
3 information along to Giuliani, who responded, “OK, they’ll see.”²⁷ The following day, Trump
4 instructed Pence not to attend the inauguration.²⁸

5 In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended
6 Zelensky’s inauguration in Ukraine on May 20, 2019, which included Ambassador to the
7 European Union Gordon Sondland, Special Representative for Ukraine Negotiations Kurt
8 Volker, and National Security Council Staff Member Lt. Col. Alexander Vindman.²⁹

9 **D. Conditioning of White House Visit on Announcement of Investigation**

10 Upon returning to the United States, Perry, Sondland, and Volker met with Trump on
11 May 23, 2019; according to their testimony, these officials offered a very positive report on the
12 situation in Ukraine and their impressions of its new president, Zelensky — particularly with
13 respect to his willingness and desire to combat corruption.³⁰ The three men encouraged Trump

²⁶ Maddow Interview Pt. 1 at 16:40–16:55 (“Parnas: Then around eight o’clock or nine o’clock I text him back again saying: ‘Any word? What’s the situation?’ And at that point — because on WhatsApp you can see when a person, like, disconnects you, and he disconnected me. Maddow: He blocked, you? Parnas: He blocked me.”); Cooper Interview Pt. 1 at 3:37–3:43.

²⁷ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

²⁸ Williams Dep. at 37.

²⁹ Vindman Dep. at 17; Deposition of Ambassador Gordon Sondland before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 24 (Oct. 17, 2019) (“Sondland Dep.”).

³⁰ Taylor Dep. at 24; Volker Dep. at 29–30 (“The four of us [Volker, Sondland, Perry, and Senator Ron Johnson], who had been part of the Presidential delegation, had requested the meeting in order to brief the President after our participation at the inauguration on of the new Ukrainian President, and meeting with the new President, an hour-long meeting that we had with him. And we had a very favorable impression of President Zelensky. We believed that he was sincerely committed to reform in Ukraine, to fighting corruption. And we believed that this was the best opportunity that Ukraine has had for 20-some years to really break the grip of corruption that has set the country back for so long. And we wanted to convey this to the President and urge that the U.S. and that he personally engage with the President of Ukraine in order to demonstrate full U.S. support for him.”).

1 to schedule a meeting with Zelensky in the Oval Office.³¹ Participants in that meeting later
2 described Trump's negative reaction³² with accounts of Trump telling his advisors that they
3 would have to "talk to Rudy" before an Oval Office meeting would be scheduled.³³ Volker and
4 Sondland testified that they understood from Trump's directive to involve Giuliani in discussions
5 about Ukraine that Giuliani had essentially established an alternate channel of Ukraine-related
6 information and advice; as such, they concluded that they would have to work through the
7 Giuliani channel to advance U.S.-Ukraine policy goals, such as the White House meeting with
8 Zelensky.³⁴

³¹ Taylor Dep. at 24; Volker Dep. at 29–30.

³² See Holmes Dep. at 29 ("On September 5th, I took notes at Senator Johnson and Senator Chris Murphy's meeting with President Zelensky in Kyiv. . . . Senator Johnson cautioned President Zelensky that President Trump has a negative view of Ukraine and that President Zelensky would have a difficult time overcoming it. Senator Johnson further explained that he was, quote, 'shocked' by President Trump's negative reaction during an Oval Office meeting on May 23rd when he and [Volker, Sondland, and Perry] proposed that President Trump meet President Zelensky and show support for Ukraine."); see also Bolton Book at 462 ("I spoke with [Deputy National Security Advisor Charles] Kupperman, who had attended Trump's debriefing earlier that day (it was still May 23 in Washington when we spoke) from our delegation to Zelensky's inaugural: Perry, Sondland, Volker and Senator Ron Johnson. . . . 'I don't want to have any [] thing to do with Ukraine,' said Trump, per Kupperman. . . . 'They [] attacked me. I can't understand why. . . .' All this, he said, pertained to the Clinton campaign's efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.").

³³ Volker Dep. at 305 ("And I don't know how he phrased it with Rudy, but it was I think he said, not as an instruction but just as a comment, talk to Rudy, you know. He knows all of these things, and they've got some bad people around him."); Sondland Dep. at 25 ("On May 23rd, 2019, 3 days after the Zelensky inauguration, we were in the — we, in the U.S. delegation, briefed President Trump and key aides at the White House. We emphasized the strategic importance of Ukraine and the strengthening relationship with President Zelensky, a reformer who received a strong mandate from the Ukrainian people to fight corruption and pursue greater economic prosperity. We asked the White House to arrange a working phone call from President Trump and a working Oval Office visit. However, President Trump was skeptical that Ukraine was serious about reforms and anti-corruption, and he directed those of us present at the meeting to talk to Mr. Giuliani, his personal attorney about his concerns.").

³⁴ Sondland Dep. at 26 ("[B]ased on the President's direction we were faced with a choice. We could abandon the goal of a White House meeting for President Zelensky, which we all believed was crucial to strengthening U.S.-Ukrainian ties . . . or we could do as President Trump directed and talk to Mr. Giuliani to address the President's concerns. We chose the latter path."); Gordon D. Sondland before the United States House of Representatives Permanent Select Committee on Intelligence at 17 (Nov. 20, 2019), <https://docs.house.gov/meetings/IG/IG00/20191120/110233/HHRG-116-IG00-Transcript-20191120.pdf> ("Sondland Hearing") ("First, Secretary Perry, Ambassador Volker, and I worked with Mr. Rudy Giuliani on Ukraine matters at the express direction of the President of the United States. We did not want to work with Mr. Giuliani. Simply put, we were playing the hand we were dealt. We all understood that if we refused to work with Mr. Giuliani, we would lose a very important opportunity to cement relations between the United States and Ukraine."); Kurt Volker and Timothy Morrison

1 Giuliani, in communications with Sondland and Volker, made it clear that a White House
2 meeting would not be scheduled until Ukraine announced the two investigations and, according
3 to Sondland, “Giuliani also expressed those requests directly to the Ukrainians.”³⁵ At the same
4 time, Giuliani continued publicly calling for such investigations, tweeting on June 21, 2019:
5 “New Pres of Ukraine still silent on investigation of the Ukrainian interference in 2016 election
6 and alleged Biden bribery of President Poroshenko. Time for leadership and investigate both if
7 you want to purge how Ukraine was abused by Hillary and Obama people.”³⁶

8 On June 28, 2019, Volker told Sondland, Taylor, and Perry that he “planned to be explicit
9 with President Zelensky in a one-on-one meeting in Toronto on July 2nd about what President
10 Zelensky should do to get the meeting in the White House.”³⁷ Volker stated that “he would relay
11 that President Trump wanted to see rule of law, transparency, but also, specifically, cooperation

before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 19, 2019), <https://docs.house.gov/meetings/IG/IG00/20191119/110232/HHRG-116-IG00-Transcript-20191119.pdf> (“Volker & Morrison Hearing”) (Volker: “It was clear to me that despite the positive news and recommendations being conveyed by this official delegation about the new President, President Trump had a deeply rooted negative view on Ukraine rooted in the past. He was receiving other information from other sources, including Mayor Giuliani, that was more negative, causing him to retain this negative view.”).

³⁵ Sondland Hearing at 26–27 (“Mr. Giuliani conveyed to Secretary Perry, Ambassador Volker, and others that President Trump wanted a public statement from President Zelensky committing to investigations of Burisma and the 2016 election. Mr. Giuliani expressed those requests directly to the Ukrainians, and Mr. Giuliani also expressed those requests directly to us. We all understood that these prerequisites for the White House call and the White House meeting reflected President Trump's desires and requirements.”); *see also* Taylor Dep. at 26 (“By mid-July, it was becoming clear to me that the meeting President Zelensky wanted was conditioned on investigations of Burisma and alleged Ukrainian influence in the 2016 elections. It was also clear that this condition was driven by the irregular policy channel I had come to understand was guided by Mr. Giuliani.”); Fiona Hill and David Holmes before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 21, 2019), https://republicans-intelligence.house.gov/uploadedfiles/hill_and_holmes_hearing_transcript.pdf (“Hill & Holmes Hearing”) (Holmes: “[I]t was made clear that some action on Burisma/Biden investigation was a precondition for an Oval Office visit.”).

³⁶ Rudy W. Giuliani (@RudyGiuliani), Twitter (June 21, 2019 11:04 AM), <https://twitter.com/RudyGiuliani/status/1142085975230898176>.

³⁷ Taylor Dep. at 25–26.

1 on investigations to get to the bottom of things.”³⁸ On July 3, 2019, Volker met with Zelensky in
2 Toronto, Canada, and conveyed that Giuliani had Trump’s attention on Ukraine and had been
3 amplifying a negative impression of Ukraine with Trump.³⁹
4 On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian
5 counterpart, Oleksandr Danyliuk, and a number of others, including Sondland and Volker, as
6 well as National Security Council staff members Dr. Fiona Hill and Vindman.⁴⁰ According to
7 those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the
8 promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement
9 with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after
10 Ukraine initiated the investigations.⁴¹ Testimony reflects that Bolton “stiffened” at this comment

³⁸ *Id.* at 26.

³⁹ Volker Dep. at 137 (“I believed that Rudy Giuliani, as we saw in an earlier text message, he had been in touch with Prosecutor General Lutsenko. I believe he was getting bad information, and I believe that his negative messaging about Ukraine would be reinforcing the President’s already negative position about Ukraine. So I discussed this with President Zelensky when I saw him in Toronto on July 3rd, and I said I think this is a problem that we have Mayor Giuliani — so I didn’t discuss his meeting with Lutsenko then. That came later. I only learned about that later. But I discussed even on July 3rd with President Zelensky that you have a problem with your message of being, you know, clean, reform, that we need to support you, is not getting or is getting countermanded or contradicted by a negative narrative about Ukraine, that it is still corrupt, there’s still terrible people around you.”).

⁴⁰ Vindman Dep. at 17; Deposition of Dr. Fiona Hill before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 63 (Oct. 14, 2019) (“Hill Dep.”); Bolton Book at 464.

⁴¹ Vindman Dep. at 17 (“The meeting proceeded well until the Ukrainians broached the subject of a meeting between the two Presidents. The Ukrainians saw this meeting as critically important in order to solidify the support for their most important international partner. Ambassador Sondland started — when Ambassador Sondland started to speak about Ukraine delivering specific investigations in order to secure the meeting with the President”); Hill Dep. at 65–67 (“Then Ambassador Sondland blurted out: Well, we have an agreement with the Chief of Staff for a meeting if these investigations in the energy sector start.”); *see also* Bolton Book at 464 (“Since I knew, and [Perry, Sondland, and Volker] should have realized after their May 23[, 2019] Oval Office meeting with Trump, that he didn’t want to have anything to do with Ukrainians of any stripe . . . I didn’t play along.”); Sondland stated that he had no “recollection of referencing Mulvaney in the July 10th meeting” but that he did not “have any reason to agree or dispute” Vindman or Hill’s accounts of the meeting. Sondland Hearing at 96–97.

1 and quickly ended the meeting;⁴² Hill testified that Bolton asked her to inform the National
2 Security Council's legal counsel what Sondland had said, and to say that Bolton "was not part of
3 whatever drug deal Sondland and Mulvaney are cooking up."⁴³

4 At a follow-up meeting that took place immediately after the Bolton meeting, Sondland
5 more explicitly told the Ukrainians that a White House visit would happen only after Ukraine
6 announced the requested investigations.⁴⁴ After the Ukrainians left the meeting, Hill and
7 Vindman confronted Sondland about the conditioning of a White House meeting on announcing
8 investigations, which Hill and Vindman said they felt was inappropriate.⁴⁵

⁴² Hill Dep. at 67; *see* Bolton Book at 464–65 ("Danylyuk was surprised and uncomfortable that I didn't readily agree to a Zelensky visit, which came from the incessant boosterism of the others in the meeting, but I wasn't about to explain to foreigners that the three of them were driving outside their lanes. The more I resisted, the more Sondland pushed . . . I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the 'Giuliani issues' could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.").

⁴³ Hill Dep. at 70–71 ("I went back to talk to Ambassador Bolton. And Ambassador Bolton asked me to go over and report this to our NSC counsel, to John Eisenberg. And he told me, and this is, a direct quote from Ambassador Bolton: You go and tell Eisenberg that I am not part of whatever drug deal Sondland and Mulvaney are cooking up on this, and you go and tell him what you've heard and what I've said."); *see* Bolton Book at 465 (confirming Hill's testimony on this point).

⁴⁴ Vindman Dep. at 29 ("Ambassador Sondland relatively quickly went into outlining how the — you know, these investigations need to — on the deliverable for these investigations in order to secure this meeting. Again, I think, you know, I may not have agreed with what he was doing, but his intent was to normalize relationships with — between the U.S. and Ukraine, and this was — as far as I understand, this is what he believed the deliverable to be."); Hill Dep. at 69 ("And Ambassador Sondland, in front of the Ukrainians, as I came in, was talking about how he had an agreement with Chief of Staff Mulvaney for a meeting with the Ukrainians if they were going to go forward with investigations.").

⁴⁵ Vindman Dep. at 31 ("Q: What was the discord? A: The fact that it was clear that I, as the representative — I, as the representative of the NSC, thought it was inappropriate and that we were not going to get involved in investigations. Q: Did you say that to Ambassador Sondland? A: Yes, I did."); Hill Dep. at 70 ("And he asked the Ukrainians to basically leave the room. So they basically moved out into the corridor. And I said: Look, I don't know what's going on here, but Ambassador Bolton wants to make it very clear that we have to talk about, you know, how are we going to set up this meeting. It has to go through proper procedures. And he started to basically talk about discussions that he had had with the Chief of Staff. He mentioned Mr. Giuliani, but then I cut him off because I didn't want to get further into this discussion at all. And I said: Look, we're the National Security Council. We're basically here to talk about how we set this up, and we're going to set this up in the right way. And you know, Ambassador Bolton has asked me to make it completely clear that we're going to talk about this, and, you know, we will deal with this in the proper procedures. And Ambassador Sondland was clearly annoyed with this, but then, you know, he moved off. He said he had other meetings.").

1 In mid-July 2019, U.S. officials, at the urging of Giuliani, further pressured Ukrainian
2 officials to conduct investigations into alleged Ukrainian interference in the 2016 election to
3 benefit Clinton, and purported corruption relating to the Biden family's activities in Ukraine. On
4 July 19, 2019, Volker had breakfast with Giuliani and Parnas, and agreed to arrange for Giuliani
5 to meet one of Zelensky's closest advisors, Andriy Yermak, in Madrid, Spain.⁴⁶ After the
6 breakfast, Volker texted Sondland and Taylor to relay that, per Giuliani, it was most important
7 for Zelensky to say that he "will help" with the investigation.⁴⁷ The following day, July 20,
8 2019, Ukrainian national security advisor Danyliuk spoke with Taylor and expressed that
9 Zelensky "did not want to be used as a pawn" in U.S. election matters.⁴⁸

10 Despite Zelensky's apparent reservations, the messages from Trump's representatives
11 leading up to the July 25, 2019, call between Zelensky and Trump communicated that Zelensky
12 would need to convince Trump that he would look into the investigation matters in order for their
13 relationship to advance. Taylor testified that on July 20, 2019, the same day that Danyliuk
14 informed Taylor of Zelensky's reservations, Sondland told Taylor "that he had recommended to
15 President Zelensky that he use the phrase 'I will leave no stone unturned' with regard to
16 investigations when President Zelensky spoke with President Trump."⁴⁹ Further, thirty minutes

⁴⁶ Volker Dep. at 229; Letter from Eliot L. Engel, House Committee on Foreign Affairs Chairman, Adam B. Schiff, House Permanent Select Committee on Intelligence Chairman, and Elijah E. Cummings, House Committee on Oversight and Reform Chairman to Members of the Intelligence, Oversight and Reform, and Foreign Affairs Committees, Attachment at 1 (Oct. 3, 2019), https://foreignaffairs.house.gov/_cache/files/a/4/a4a91fab-99cd-4eb9-9c6c-ec1c586494b9/621801458E982E9903839ABC7404A917.chairmen-letter-on-state-department-texts-10-03-19.pdf ("First Volker Text Excerpts").

⁴⁷ First Volker Text Excerpts at 1 ("[7/19/19, 7:01:22 PM] Kurt Volker: Good. Had breakfast with Rudy this morning-teeing up call w Yermak Monday. Must have helped. Most imp't is for Zelensky to say that he will help investigation-and address any specific personnel issues-if there are any").

⁴⁸ Taylor Dep. at 30.

⁴⁹ *Id.*

1 before the July 25 call between Zelensky and Trump, Volker texted Yermak to reiterate that, per
2 Volker's discussions with the White House, if Zelensky convinced Trump that he would
3 investigate foreign election interference in 2016, they could schedule a White House visit for
4 Zelensky.⁵⁰

5 **E. The July 25 Phone Call Between Trump and Zelensky**

6 During the July 25 phone call between Trump and Zelensky, Trump repeatedly asked
7 Zelensky to work with Giuliani and U.S. Attorney General William Barr to investigate the
8 allegations involving 2016 election interference and the Bidens. Specifically, according to the
9 White House's telephone conversation memorandum, Trump told Zelensky "I would like you to
10 do us a favor" and continued: "I would like you to find out what happened with this whole
11 situation with Ukraine, they say CrowdStrike . . . [t]he server, they say Ukraine has it" —
12 comments alluding to the allegation that proof of Ukraine's purported interference in the 2016
13 U.S. presidential election could be found on a DNC server in Ukraine.⁵¹ Trump added, "I would
14 like to have the Attorney General call you or your people and I would like you to get to the

⁵⁰ First Volker Text Excerpts at 2 ("[7/25/19, 8:36:45 AM] Kurt Volker: Good lunch - thanks. Heard from White House-assuming President Z convinces trump he will investigate / 'get to the bottom of what happened' in 2016, we will nail down date for visit to Washington. Good luck! See you tomorrow- kurt"); *see* Volker Dep. at 273 ("[W]hat I said concerning that message to Andriy Yermak is, 'convince the President,' so be convincing, 'and get to the bottom of what happened in 2016.' So this is looking backward at whether there was any election interference.").

⁵¹ Compl. Attachment, MUR 7663 (Nov. 18, 2019) (The White House, Memorandum of Telephone Conversation at 3 (July 25, 2019) ("July 25 Call Memo")) ("I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it. I would like you to find out what happened with this whole situation with Ukraine, they say Crowdstrike. . . . I guess you have one of your wealthy people. . . . The server, they say Ukraine has it. There are a lot of things that went on, the whole situation I think you're surrounding yourself with some of the same people. I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it. As you saw yesterday, that whole nonsense ended with a very poor performance by a man named Robert Mueller, an incompetent performance, but they say a lot of it started with Ukraine. Whatever you can do, it's very important that you do it if that's possible." (ellipses in original)). U.S. National Security Advisor John Bolton listened in on the July 25 call, and his recollection of the conversation is generally consistent with the White House memorandum. *See* Bolton Book at 466–68.

1 bottom of it.”⁵² Trump concluded the point by saying: “Whatever you can do, it’s very
 2 important that you do it if that’s possible.”⁵³ Zelensky replied by noting the importance of
 3 cooperation between the U.S. and Ukraine and stated: “[I]n addition to that investigation, I
 4 guarantee as the President of Ukraine that all the investigations will be done openly and
 5 candidly.”⁵⁴

6 Trump continued, bringing up former Prosecutor General Shokin, who had reportedly
 7 been fired at Biden’s urging:

8 The other thing, [t]here’s a lot of talk about Biden’s son, that Biden
 9 stopped the prosecution and a lot of people want to find out about
 10 that so whatever you can do with the Attorney General would be
 11 great. Biden went around bragging that he stopped the prosecution
 12 so if you can look into it It sounds horrible to me.⁵⁵

13 Zelensky responded to Trump, “I understand and I’m knowledgeable about the
 14 situation[,]” and stated that he would be appointing a new Ukrainian Prosecutor General who
 15 would be “100% my person, my candidate,” and that this person would “look into the situation,

⁵² July 25 Call Memo at 3.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 4 (ellipsis in original); *see also* Trump-Niinistö Press Conference (“Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: Look, Biden and his son are stone-cold crooked. And you know it. His son walks out with millions of dollars. The kid knows nothing. You know it, and so do we.”); Remarks by President Trump before Marine One Departure (Oct. 3, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-marine-one-departure-67/> (“October 3 Trump Remarks”) (“Q: Mr. President, what exactly did you hope Zelensky would do about the Bidens after your phone call? Exactly. THE PRESIDENT: Well, I would think that, if they were honest about it, they’d start a major investigation into the Bidens. It’s a very simple answer. They should investigate the Bidens So, I would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren’t crooked. That was a crooked deal — 100 percent. He had no knowledge of energy; didn’t know the first thing about it. All of a sudden, he is getting \$50,000 a month, plus a lot of other things. Nobody has any doubt. And they got rid of a prosecutor who was a very tough prosecutor. They got rid of him. Now they’re trying to make it the opposite way. But they got rid — So, if I were the President, I would certainly recommend that of Ukraine.”).

1 specifically to the company that you mentioned in this issue.”⁵⁶ Zelensky reiterated that “we will
2 take care of that and will work on the investigation of the case.”⁵⁷ Trump again told Zelensky
3 that he would have Giuliani and Barr call, adding: “[W]e will get to the bottom of it. I’m sure
4 you will figure it out.”⁵⁸

5 Later in the conversation, Zelensky thanked Trump “for your invitation to visit the United
6 States, specifically Washington[,] DC. On the other hand, I also want to ensure [sic] you that we
7 will be very serious about the case and will work on the investigation.”⁵⁹ Trump replied: “I will
8 tell Rudy and Attorney General Barr to call. Thank you. Whenever you would like to come to
9 the White House, feel free to call.”⁶⁰

10 **F. Events After the July 25 Phone Call**

11 After Trump and Zelensky spoke on July 25, 2019, Trump’s advisors began negotiating
12 with Zelensky’s aides on specific language to satisfy Trump’s demand for a public
13 announcement of the investigations.

14 The following day, July 26, 2019, Volker, Sondland, and Taylor met with Zelensky in
15 Kyiv, where, according to the sworn testimony of David Holmes, an official at the U.S. Embassy
16 in Ukraine, Zelensky mentioned that Trump had raised “very sensitive issues” on their call.⁶¹

⁵⁶ July 25 Call Memo at 4. Vindman, who listened in to the July 25 call, recalled that Zelensky had said “Burisma,” rather than “the company.” Vindman Dep. at 54. Bolton recalls Zelensky saying “the next Prosecutor General will be one hundred percent my candidate. He will start in September. He will look at the company.” Bolton Book at 468.

⁵⁷ July 25 Call Memo at 4.

⁵⁸ *Id.*

⁵⁹ *Id.* at 5.

⁶⁰ *Id.*

⁶¹ Holmes Dep. at 21–22 (describing meeting with Volker, Sondland, and Zelensky the day after the July 25 phone call, in which “President Zelensky stated that during the July 25th call, President Trump had, quote, unquote,

1 Sondland also separately met with Yermak.⁶² Sondland stated that he did not “recall the
 2 specifics of our conversation, but I believe the issue of investigations was probably a part of that
 3 agenda or meeting.”⁶³ That same day, Trump asked Sondland, by phone, if Zelensky was “going
 4 to do the investigation[,]”⁶⁴ and Sondland replied that Zelensky would do “anything you ask him
 5 to.”⁶⁵ Per Holmes’s sworn testimony, after the call ended, Sondland told Holmes that Trump
 6 “did not give a shit about Ukraine” and only cared about “‘big stuff’ that benefits [Trump], like
 7 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”⁶⁶ Sondland and
 8 Volker later stated to Taylor, in separate instances, “that President Trump is a businessman.
 9 When a businessman is about to sign a check to someone who owes him something . . . the
 10 businessman asks that person to pay up before signing the check.”⁶⁷

three times raised, quote, unquote, some very sensitive issues, and that he would have to follow up on those issues when they met, quote, unquote, in person. Not having received a read-out of the July 25th call, I did not know what those sensitive issues were.”); Sondland Hearing at 25 (testifying that Sondland met separately with Yermak and that he did not “recall the specifics of our conversation, but I believe the issue of investigations was probably a part of that agenda or meeting”).

⁶² Sondland Hearing at 25.

⁶³ *Id.*

⁶⁴ Holmes Dep. at 24 (“While Ambassador Sondland’s phone was not on speaker phone, I could hear the President’s voice through the ear piece of the phone. The President’s voice was very loud and recognizable, and Ambassador Sondland held the phone away from his ear for a period of time, presumably because of the loud volume. . . . I then heard President Trump ask, quote, ‘So he’s going to do the investigation?’ unquote.”); *see also* Sondland Hearing at 26 (“Other witnesses have recently shared their recollection of overhearing this call. For the most part, I have no reason to doubt their accounts.”).

⁶⁵ Holmes Dep. at 24.

⁶⁶ Holmes Dep. at 25 (“I then took the opportunity to ask Ambassador Sondland for his candid impression of the President’s views on Ukraine. In particular, I asked Ambassador Sondland if it was true that the President did not give a shit about Ukraine. Ambassador Sondland agreed that the President did not give a shit about Ukraine. I asked why not, and Ambassador Sondland stated, the President only cares about, quote, unquote, ‘big stuff.’ I noted that there was, quote, unquote, big stuff going on in Ukraine, like a war with Russia. And Ambassador Sondland replied that he meant, quote, unquote, ‘big stuff’ that benefits the President, like the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”).

⁶⁷ Taylor Dep. at 40.

1 Giuliani met with Yermak, Zelensky's advisor, in Madrid, on August 2, 2019.⁶⁸ They
2 agreed that Ukraine would make a public statement announcing the investigation, and they
3 discussed the White House visit.⁶⁹ Following additional phone and text conversations,⁷⁰ on
4 August 12, 2019, Yermak sent a draft statement to Volker, which lacked specific references to
5 the two investigations Trump had asked Zelensky to conduct.⁷¹ Sondland and Volker discussed
6 the proposed statement with Giuliani, who said that if the statement "doesn't say Burisma and if
7 it doesn't say 2016, . . . it's not credible."⁷² Parnas later stated in an interview that when Giuliani
8 learned that the Ukrainians were preparing to make a generic statement about fighting
9 corruption, "Giuliani blew his lid on that saying, 'That's not what we discussed.' That it wasn't
10 supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and

⁶⁸ *E.g.*, Volker Dep. at 112 ("THE CHAIRMAN: And some time after this call, Rudy Giuliani goes to Madrid to meet with Andriy Yermak. Do I have the chronology right? MR. VOLKER: Yes. That took place on August 2nd.").

⁶⁹ Kurt Volker Document Production, Bates KV00000019 (Oct. 2, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD677.pdf>; First Volker Text Excerpts at 3 ("[8/9/19, 11:27 AM] Kurt Volker: Hi Mr Mayor! Had a good chat with Yermak last night. He was pleased with your phone call. Mentioned Z making a statement. Can we all get on the phone to make sure I advise Z correctly as to what he should be saying? Want to make sure we get this done right. Thanks!")

⁷⁰ *See, e.g.*, First Volker Text Excerpts at 3 ("[8/9/19, 5:51:18 PM] Gordon Sondland: To avoid misunderstandings [sic], might be helpful to ask Andrey [Yermak] for a draft statement [sic] (embargoed) so that we can see exactly what they propose to cover. Even though Ze[lensky] does a live presser they can still summarize in a brief statement. Thoughts? [8/9/19, 5:51:42 PM] Kurt Volker: Agree!").

⁷¹ Volker Dep. at 113 ("[Q]: And so after [the August 2] meeting, Yermak proposes to include in this statement to get the meeting a mention of Burisma? MR. VOLKER: No. Andriy Yermak sent me a draft statement that did not include that. And I discussed that statement with Gordon Sondland and with Rudy Giuliani to see — in my — not knowing this, is this going to be helpful, will this help convey a sense of commitment of Ukraine to fighting corruption, et cetera. And in that conversation it was Mr. Giuliani who said: If it doesn't say Burisma and 2016, it's not credible, because what are they hiding? I then discussed that with Mr. Yermak after that conversation, and he did not want to include Burisma and 2016, and I agreed with him.").

⁷² Volker Dep. at 71–72 ("[Q]: And the draft statement went through some iterations. Is that correct? A: Yeah. It was pretty quick, though. I don't know the timeline exactly. We have it. But, basically, Andriy sends me a text. I share it with Gordon Sondland. We have a conversation with Rudy to say: The Ukrainians are looking at this text. Rudy says: Well, if it doesn't say Burisma and if it doesn't say 2016, what does it mean? You know, it's not credible.").

1 Burisma.”⁷³ Volker added specific references to Burisma and 2016 election interference to the
2 proposed statement and sent the revised draft to Yermak.⁷⁴ Yermak expressed several concerns
3 with adding these specific references to the statement, including that Ukraine would “be seen as
4 a factor or a football in American domestic politics.”⁷⁵ Yermak therefore asked if the U.S.
5 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the
6 investigations.⁷⁶ No such official inquiry was ever made, and Taylor later testified: “A formal
7 U.S. request to the Ukrainians to conduct an investigation based on violations of their own law
8 struck [him] as improper, and [he] recommended to Ambassador Volker that we stay clear.”⁷⁷
9 Volker agreed with Yermak that Zelensky should not issue the public statement with specific

⁷³ Maddow Interview Pt. 2 at 16:17–17:02 (“Parnas: I know that there was another conversation, that Perry called after the inauguration, telling him that he spoke to Zelensky and Zelensky’s going to do it. . . . And they did, they announced, but they didn’t announce that. . . . So they announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”).

⁷⁴ Volker Dep. at 72–73; *see* First Volker Text Excerpts at 4 (“[8/13/19, 10:26:44 AM] Kurt Volker: Special attention should be paid to the problem of interference in the political processes of the United States especially with the alleged involvement of some Ukrainian politicians. I want to declare that this is unacceptable. We intend to initiate and complete a transparent and unbiased investigation of all available facts and episodes, including those involving Burisma and the 2016 U.S. elections, which in turn will prevent the recurrence of this problem in the future. [8/13/19, 10:27:20 AM] Gordon Sondland: Perfect. Lets [sic.] send to Andrey [Yermak] after our call”); *id.* (“[8/17/19, 3:06:19 PM] Gordon Sondland: Do we still want Ze[lensky] to give us an unequivocal draft with 2016 and Boresma [sic]? [8/17/19, 4:34:21 PM] Kurt Volker: That’s the clear message so far”).

⁷⁵ Volker Dep. at 120 (“[Question]: Wasn’t there also a concern, Ambassador [Volker], with not being used to investigate a political candidate in the 2020 election? MR. VOLKER: I think the way they put it was they don’t want to be seen as a factor or a football in American domestic politics”); *see also* Bolton Book at 472 (“Flying to Kiev on August 26[, 2019], I spoke with Volker[, who] . . . stressed that Zelensky had no wish to become involved in US domestic politics, although he was happy to have investigated whatever may have happened in 2016, before his time.”).

⁷⁶ Volker Dep. at 197–8.

⁷⁷ Taylor Dep. at 32 (“On August 16, I exchanged text messages with Ambassador Volker, in which I learned that Mr. Yermak had asked that the United States submit an official request for an investigation into Burisma’s alleged violations of Ukrainian law, if that’s what the United States desired. A formal U.S. request to the Ukrainians to conduct an investigation based on violations of their own law struck me as improper, and I recommended to Ambassador Volker that we stay clear. To find out the legal aspects of the question, however, I gave him the name of a Deputy Assistant Attorney General whom I thought would be the proper point of contact for seeking a U.S. referral for a foreign investigation.”).

1 references to Burisma and 2016 election interference, because it was important to “avoid
2 anything that would look like it would play into [U.S.] domestic politics, and this could.”⁷⁸ As
3 such, efforts to prepare the statement did not proceed further.⁷⁹

4 **G. Withholding U.S. Security Aid to Ukraine**

5 Congress appropriated \$391 million in aid to Ukraine for fiscal year 2019, with \$250
6 million to be administered by the Department of Defense and the remaining \$141 million to be
7 administered by the Department of State.⁸⁰ On July 3, 2019, however, the Office of
8 Management and Budget (“OMB”) blocked the Congressional notification required to release the
9 funds to State and subsequently placed a hold on all military support funding.⁸¹ According to
10 Bolton’s account, Secretary of Defense Mark Esper, Secretary of State Mike Pompeo, and
11 Bolton repeatedly pressed Trump, individually and in tandem, to release the aid to Ukraine.⁸²
12 According to sworn testimony by Bill Taylor and Deputy Assistant Secretary of Defense Laura
13 Cooper, numerous officials at the Department of Defense, the Department of State, and the
14 National Security Council considered this aid to be crucial support for Ukraine in its ongoing

⁷⁸ Volker Dep. at 44–45.

⁷⁹ *Id.*

⁸⁰ Department of Defense Appropriations Act, 2019, Pub. L. No. 115-245, div. A, title IX, § 9013 (2018); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, §7046(a)(2) (2019); Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Title VIII (2017).

⁸¹ Vindman Dep. at 178–179; Taylor Dep. at 27; Deposition of Laura K. Cooper before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 47 (Oct. 23, 2019) (“Cooper Dep.”).

⁸² Bolton Book at 468–69 (“[T]he State and Defense Departments pressed to transfer nearly \$400 million of security assistance to Ukraine, calling for high-level meetings . . . Pompeo, Esper, and I had been discussing this subject quietly for some time, making efforts with Trump to free up the money, all of which had failed. (By the time I resigned [on September 10, 2019], we calculated that, individually and in various combinations, we had talked to Trump between eight and ten times to get the money released.)”).

1 war with Russia, which was viewed as serving the U.S. national security interest.⁸³ No specific
 2 official reason was given by the White House or OMB for putting a hold on the Congressionally-
 3 appropriated funds other than a footnote in an apportionment schedule that “described the
 4 withholding as necessary ‘to determine the best use of such funds.’”⁸⁴ Sworn testimony
 5 indicates that the Office of the Secretary of Defense raised a contemporaneous concern that the
 6 hold may even have violated federal law requiring the timely release of Congressionally-
 7 appropriated funds.⁸⁵

⁸³ Taylor Dep. at 28 (“At one point the Defense Department was asked to perform an analysis of the effectiveness of the assistance. Within a day, the Defense Department came back with the determination that the assistance was effective and should be resumed. My understanding was that the Secretaries of Defense and State, the CIA Director, and the National Security Advisor, sought a joint meeting with the President to convince him to release the hold, but such meeting was hard to schedule, and the hold lasted well into September.”); *id.* at 132 (stating that the opinion that aid should be resumed was the “[u]nanimous opinion of every level of interagency discussion.”); Cooper Dep. at 16 (“Q: In 2018 and 2019, has Ukrainian security assistance received bipartisan support? A: It has always received bipartisan support, in my experience. Q: And that’s both in the House and the Senate? A: Absolutely, in my experience. Q: And what about at the interagency level? A: I have witnessed, even in the recent past, overwhelming consensus in favor of providing Ukraine security assistance. Q: And when you say ‘within the recent past,’ you mean even over the course of this year? A: Even over the course of the summer.”).

⁸⁴ U.S. Government Accountability Office, Decision, *Matter of Office of Management and Budget—Withholding of Ukraine Security Assistance*, B-331564 at 6 (Jan. 16, 2020) (“GAO Decision”) (“OMB did not identify — in either the apportionment schedules themselves or in its response to us — any contingencies as recognized by the ICA [Impoundment Control Act], savings or efficiencies that would result from a withholding, or any law specifically authorizing the withholding. Instead, the footnote in the apportionment schedules described the withholding as necessary “to determine the best use of such funds.”); *see also* Volker Dep. at 80 (“I don’t believe — in fact, I am quite sure that at least I, Secretary Pompeo, the official representatives of the U.S., never communicated to Ukrainians that it is being held for a reason. We never had a reason.”).

⁸⁵ Deposition of Timothy Morrison before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 163 (Oct. 31, 2019) (“Morrison Dep.”) (“Q: Was there any discussion of the legality or illegality of the hold at the PCC meeting? A: Yes. Q: What was — can you explain what was discussed? A: Because of the nature of the appropriations, is it actually legally permissible for the President to not allow for the disbursement of the funding. . . . Q: Okay. Who was raising concerns that there may be a legal problem? A: OSD. Q: That’s Office — A: Office of the Secretary of Defense. Q: DOD, okay. And did they raise concerns about possible violations of the Impoundment Act? A: Yes.”). The U.S. Government Accountability Office issued a report on January 16, 2020, finding that OMB violated the Impoundment Control Act when it withheld from obligation \$214 million of the security assistance for a “policy reason.” GAO Decision at 7.

1 Ukrainian officials apparently noticed the withholding of security aid at some point in
2 late July or early August 2019,⁸⁶ and the aid remained frozen throughout August 2019.⁸⁷
3 According to Bolton's published account, on August 20, 2019, Trump "said he wasn't in favor"
4 of sending Ukraine anything until all the materials related to Biden and 2016 election
5 interference investigations had been turned over, and added "[t]hat could take years, so it didn't
6 sound like there was much of a prospect that the military aid would proceed."⁸⁸ The fact that the
7 aid had been frozen became public knowledge when it was publicly reported on August 28,
8 2019, prompting concern by Ukrainian officials.⁸⁹ Because the White House and OMB had
9 provided no particular explanation for the hold, U.S. officials, including Taylor, could not
10 explain the hold to Ukrainian officials, though Taylor did express, in a text to Volker the next

⁸⁶ Deposition of Catherine Croft before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 86–87 (Oct. 30, 2019) ("I think it was sort of known among the circles that do Ukraine security assistance, sort of gradually, as I said. From July 18 on it was sort of inevitable that it was eventually going to come out. . . . Two individuals from the Ukrainian Embassy approached me quietly and in confidence to ask me about an OMB hold on Ukraine security assistance. Q: And when was that? A: I don't have those dates. Q: But it was before the August 28th time period, do you think? A: I believe it was, yes.").

⁸⁷ Karoun Demirjian, *et al.*, *Trump Ordered Hold on Military Aid Days before Calling Ukrainian President, Officials Say*, WASH. POST (Sept. 23, 2019), https://www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html; Sondland Dep. at 107.

⁸⁸ Bolton Book at 471.

⁸⁹ Volker Dep. at 80–81 ("A: By the time it hit Politico publicly, I believe it was the end of August. And I got a text message from, it was either the Foreign Minister or — I think it was the future Foreign Minister. And, you know, basically, you're just — you're — I have to verbalize this. You're just trying to explain that we are trying this. We have a complicated system. We have a lot of players in this. We are working this. Give us time to fix it. Q: So anybody on the Ukrainian side of things ever express like grave concern that this would not get worked out? A: Not that it wouldn't get worked out, no, they did not. They expressed concern that, since this has now come out publicly in this Politico article, it looks like that they're being, you know, singled out and penalized for some reason. That's the image that that would create in Ukraine."); *see* Caitlin Emma and Connor O'Brien, *Trump Holds Up Ukraine Military Aid Meant to Confront Russia*, POLITICO (Aug. 28, 2019), www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531 ("Politico Article"); *see also* Compl. ¶ 14, MUR 7645 (citing Josh Dawsey, Paul Sonne, Michael Kranish and David L. Stern, *How Trump and Giuliani Pressured Ukraine to Investigate the President's Rivals*, WASH. POST (Sept. 20, 2019), https://www.washingtonpost.com/politics/how-trump-and-giuliani-pressured-ukraine-to-investigate-the-presidents-rivals/2019/09/20/0955801c-dbb6-11e9-a688-303693fb4b0b_story.html).

1 week, his understanding of the reason for the hold: “[I]t’s crazy to withhold security assistance
2 for help with a political campaign.”⁹⁰ On September 1, 2019, Zelensky met with Vice President
3 Pence in Warsaw, Poland, where the status of the security aid was “the very first question that
4 President Zelensky had.”⁹¹ Zelensky said that even the appearance of U.S. support for Ukraine
5 faltering might embolden Russian aggression towards Ukraine.⁹² During a briefing before the
6 meeting, Sondland had raised concerns with Pence that the delay in security assistance had
7 “become tied to the issue of investigations.”⁹³

8 Sondland spoke with Yermak later that day, explaining that the security assistance was
9 conditioned on the public announcement of the investigations.⁹⁴ On learning of this discussion,

⁹⁰ Taylor Dep. at 138 (“And I couldn’t tell them. I didn’t know and I didn’t tell them, because we hadn’t — we hadn’t — there’d been no guidance that I could give them.”); First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

⁹¹ Williams Dep. at 81 (“Once the cameras left the room, the very first question that President Zelensky had was about the status of security assistance.”).

⁹² *Id.* at 82–83 (“He made the point, though, that as important as the funding itself was, that it was the strategic value of — the symbolic value of U.S. support in terms of security assistance that was just as valuable to the Ukrainians as the actual dollars. . . . He was making the point that, you know, any hold or appearance of reconsideration of such assistance might embolden Russia to think that the United States was no longer committed to Ukraine.”).

⁹³ Sondland Hearing at 30; *see also id.* at 57 (“A: I don’t know exactly what I said to him. This was a briefing attended by many people, and I was invited at the very last minute. I wasn’t scheduled to be there. But I think I spoke up at some point late in the meeting and said, it looks like everything is being held up until these statements get made, and that’s my, you know, personal belief. Q: And Vice President Pence just nodded his head? A: Again, I don’t recall any exchange or where he asked me any questions. I think he — it was sort of a duly noted response.”).

⁹⁴ Declaration of Ambassador Gordon D. Sondland (Nov. 4, 2019), <https://docs.house.gov/meetings/IG/IG00/CPRT-116-IG00-D006.pdf> (“Also, I now do recall a conversation on September 1, 2019, in Warsaw with Mr. Yermak. This brief pull-aside conversation followed the larger meeting involving Vice President Pence and President Zelensky, in which President Zelensky had raised the issue of the suspension of U.S. aid to Ukraine directly with Vice President Pence. After that large meeting, I now recall speaking individually with Mr. Yermak, where I said that resumption of U.S. aid would likely not occur until Ukraine provided the public anti-corruption statement that we had been discussing for many weeks. I also recall some question as to whether the public statement could come from the newly appointed Ukrainian Prosecutor General, rather than from President Zelensky directly.”).

1 Taylor texted Sondland: “Are we now saying that security assistance and WH meeting are
2 conditioned on investigations?”⁹⁵ In an ensuing phone call, Sondland explained to Taylor that he
3 had made a mistake telling the Ukrainians that only the White House meeting was conditioned
4 on the investigations announcement; in fact, to his understanding, “everything” was conditioned
5 on the announcement and that Trump had said that he “wanted President Zelensky in a box, by
6 making [a] public statement about ordering such investigations.”⁹⁶

7 Sondland said, at the time, that Trump told him, on September 7, 2019, that “there was no
8 *quid pro quo*, but President Zelensky must announce the opening of the investigations” for the
9 hold on security aid to be lifted.⁹⁷ Sondland further relayed that Trump had also made clear that
10 Zelensky himself would have to announce the investigations and do so publicly.⁹⁸ The
11 Ukrainians notified Sondland and Volker that Zelensky was to appear on CNN for an interview,
12 and would use that forum to make the announcement; Zelensky ultimately did not do so.⁹⁹

⁹⁵ First Volker Text Excerpts at 5.

⁹⁶ Sondland Hearing at 31 (“I told Mr. Yermak that I believed that the resumption of U.S. aid would likely not occur until Ukraine took some kind of action on the public statement that we had been discussing for many weeks.”); First Volker Text Excerpts at 5; Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. Ambassador Sondland also told me that he now recognized that he had made a mistake by earlier telling Ukrainian officials to whom he spoke that a White House meeting with President Zelensky was dependent on a public announcement of investigations. In fact, Ambassador Sondland said everything was dependent on such an announcement, including security assistance. He said that President Trump wanted President Zelensky in a box by making [a] public statement about ordering such investigations.”).

⁹⁷ Morrison Dep. at 190–91 (“THE CHAIRMAN: And what did Ambassador Sondland tell you in the phone call? . . . MR. MORRISON: He told me, as is related here in Ambassador Taylor’s statement, that there was no *quid pro quo*, but President Zelensky must announce the opening of the investigations and he should want to do it.”).

⁹⁸ Taylor Dep. at 39 (“The following day, on September 8th, Ambassador Sondland and I spoke on the phone. He said he had talked to President Trump, as I had suggested a week earlier, but that President Trump was adamant that President Zelensky himself had to clear things up and do it in public. President Trump said it was not a *quid pro quo*.”).

⁹⁹ Sondland Hearing at 110–11 (“The Ukrainians said to me or to Ambassador Volker or both of us that they had planned to do an interview anyway on CNN and they would use that occasion to mention these items.”); Taylor Dep. at 39 (“Ambassador Sondland said that he had talked to President Zelensky and Mr. Yermak and told them

1 After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine
 2 on September 11, 2019.¹⁰⁰ No official reason for the hold was ever given, although in
 3 subsequent public statements, Trump stated that he was concerned about Ukrainian corruption
 4 and felt that European Union countries should be providing Ukraine with more security
 5 assistance.¹⁰¹ At a White House press briefing on October 17, 2019, Mulvaney said that the
 6 security aid had been withheld to pressure Ukraine to cooperate with “an ongoing investigation”
 7 by DOJ into 2016 election interference, and that “[t]here’s going to be political influence in
 8 foreign policy . . . that is going to happen.”¹⁰²

that, although this was not a quid pro quo, if President Zelensky did not clear things up in public, we would be at a stalemate. I understood a stalemate to mean that Ukraine would not receive the much-needed military assistance. Ambassador Sondland said that this conversation concluded with President Zelensky agreeing to make a public statement in an interview with CNN.”); *see also* Holmes Dep. at 30 (“On September 13th, an Embassy colleague received a phone call from a colleague at the U.S. Embassy to the European Union under Ambassador Sondland and texted me regarding the call, quote, Sondland said the Zelensky interview is supposed to be on Monday — that would be September 16th — sorry, today or Monday, September 16th, and they plan to announce that a certain investigation that was, quote, ‘on hold’ will progress. The text also explained that our European Union Embassy colleague did not know if this was decided or if Ambassador Sondland was advocating for it.”).

¹⁰⁰ *See, e.g.*, Taylor Dep. at 40; Trump- Niinistö Press Conference (“I gave the money because [Senator] Rob Portman and others called me and asked.”); Politico Article.

¹⁰¹ Seung Min Kim and Colby Itkowitz, *Trump Says He Has Authorized Release of Transcript of Call with the Ukrainian President*, WASH. POST at 0:04–0:42 (Sept. 24, 2019), https://www.washingtonpost.com/politics/trump-confirms-he-withheld-military-aid-from-ukraine-says-he-wants-other-countries-to-help-pay/2019/09/24/42bdf66c-ded2-11e9-8dc8-498eabc129a0_story.html (“Sep. 24 Trump Press Conference”) (“My complaint has always been, and I’d withhold again and I’ll continue to withhold until such time as Europe and other nations contribute to Ukraine because they’re not doing it”); Trump- Niinistö Press Conference (“We give money to Ukraine, and it’s bothered me from day one. . . . But what I was having a problem with are two things. Number one, Ukraine is known — before him — for tremendous corruption. Tremendous. More than just about any country in the world. In fact, they’re rated one of the most corrupt countries in the world. And I don’t like giving money to a country that’s that corrupt. Number two . . . European countries are helped far more than we are, and those countries should pay more to help Ukraine.”).

¹⁰² The White House, *Press Briefing by Acting Chief of Staff Mick Mulvaney* (Oct. 17, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/press-briefing-acting-chief-staff-mick-mulvaney/> (“Q: So the demand for an investigation into the Democrats was part of the reason that he ordered to withhold funding to Ukraine? MULVANEY: The look back to what happened in 2016 certainly was part of the thing that he was worried about in corruption with that nation. And that is absolutely appropriate. . . . And I have news for everybody: Get over it. There’s going to be political influence in foreign policy. . . . [There were] [t]hree — three factors. Again, I was involved with the process by which the money was held up temporarily, okay? Three issues for that: the corruption

1 In a March 4, 2020, televised interview, Trump said that with respect to the Ukrainian
 2 investigation of Joe Biden's alleged misconduct while serving as U.S. Vice President, he
 3 intended to make the allegation "a major issue in [his 2020 reelection] campaign," saying that he
 4 "will bring that up all the time" ¹⁰³

5 Biden became the Democratic Party's nominee for President on June 5, 2020. ¹⁰⁴

6 **H. Trump's Statements on China Investigating the Bidens**

7 On October 3, 2019, a reporter asked Trump, "What exactly did you hope Zelensky
 8 would do about the Bidens after the phone call?" — referring to Trump's July 25, 2019, call with
 9 Zelensky. ¹⁰⁵ While responding to that question, Trump included a mid-sentence comment that
 10 he believed China should also investigate the Bidens:

11 Well, I would think if they [Ukraine] were honest about it, they'd
 12 start a major investigation into the Bidens. It's a very simple
 13 answer. They [Ukraine] should investigate the Bidens because how
 14 does a company that's newly formed and all these companies, and
 15 by the way, likewise, China should start an investigation into the
 16 Bidens because what happened in China is just about as bad as
 17 what happened with Ukraine. So I would say that President

of the country; whether or not other countries were participating in the support of the Ukraine; and whether or not they were cooperating in an ongoing investigation with our Department of Justice. That's completely legitimate.")

¹⁰³ Fox News, *Trump blasts Biden's record in 'Hannity' exclusive interview*, YOUTUBE (Mar. 4, 2020) at 5:54–7:47, <https://www.youtube.com/watch?v=fqjrlKfW93I&feature=youtu.be&t=354> ("Hannity Interview") ("HANNITY: Let me ask you, because we now know that there is a corruption issue and there's an investigation officially in the country of Ukraine as it relates to Joe Biden . . . after all you went through, and now that you see Ron Johnson in the Senate and you see Ukraine investigating this issue . . . it has to be a campaign issue; how do you plan to use it, or do you plan to use it? TRUMP: . . . That will be a major issue in the campaign, I will bring that up all the time because I don't see any way out. . . . That was purely corrupt.").

¹⁰⁴ *E.g.*, Stephen Ohlemacher and Will Weissert, *Biden formally clinches Democratic presidential nomination*, ASSOCIATED PRESS (June 6, 2020), <https://apnews.com/bb261be1a4ca285b9422b2f6b93d8d75>.

¹⁰⁵ David Knowles, *Election Commission chair hints that Trump asking foreign countries for help against Biden violates law*, YAHOO NEWS (Oct. 3, 2019), <https://www.yahoo.com/news/after-trump-solicits-biden-investigations-from-china-and-ukraine-fec-chair-post-reminder-that-doing-so-is-illegal-193941937.html> ("Yahoo News Article") (cited in Compl. at 4, MUR 7705 (Feb. 26, 2020)); *see* Kevin Breuninger, *Trump says China should investigate the Bidens, doubles down on Ukraine probe*, CNBC (Oct. 3, 2019), <https://www.cnbc.com/2019/10/03/trump-calls-for-ukraine-china-to-investigate-the-bidens.html> ("CNBC Article") (cited in Compl. at 4, MUR 7705).

1 Zelensky, if it were me, I would recommend that they start an
2 investigation into the Bidens, because nobody has any doubt that
3 they weren't crooked.¹⁰⁶
4

5 A reporter followed up on Trump's comment regarding China, asking "Have you asked President
6 Xi to investigate at all?" Trump responded: "I haven't but it's certainly something we can start
7 thinking about" ¹⁰⁷

8 **I. The Complaints and Responses**

9 The complaint in MUR 7645, which was filed on September 23, 2019, alleged that
10 Trump knowingly "solicited a contribution from foreign nationals," and that Giuliani, Toensing,
11 Parnas, and Fruman "solicited, or provided substantial assistance in the solicitation of, a
12 contribution from foreign nationals" in connection with Trump's request to Zelensky that
13 Ukraine investigate Joe Biden and 2016 election interference.¹⁰⁸ It further alleges that, in the
14 "July 25, 2019, phone call, President Trump solicited a 'contribution' as defined [in the Act]
15 from Ukraine President Zelensky in connection with the 2020 U.S. presidential election and for
16 the purpose of influencing the 2020 presidential election candidacy of Joe Biden" and that
17 Giuliani, Toensing, Parnas, and Fruman did the same "[i]n multiple meetings with Ukraine
18 prosecutors and other Ukraine officials."¹⁰⁹

¹⁰⁶ CNBC Article.

¹⁰⁷ *Id.*

¹⁰⁸ Compl. ¶¶ 1, 41, 45, MUR 7645.

¹⁰⁹ *Id.* ¶¶ 41, 44.

1 The complaint in MUR 7663, which was filed on November 18, 2019, summarily raised
2 the same allegations as to Trump and the Trump Committee, and attached a copy of the White
3 House call memorandum for the July 25, 2019, call between Trump and Zelensky.¹¹⁰

4 The complaint in MUR 7705, which was filed on February 26, 2020, and supplemented
5 on March 12, 2020, likewise alleged that Trump and the Trump Committee knowingly soliciting
6 prohibited foreign national contributions from Zelensky.¹¹¹ That complaint also alleged that
7 Trump “solicited something of value” by making a statement “suggesting that China investigate
8 Hunter Biden’s business dealings.”¹¹²

9 Giuliani filed a response to the complaint in MUR 7645 denying the allegations and
10 asserting that as Trump’s personal attorney he had attempted to acquire and develop “rebuttal
11 information” to defend Trump from the allegation that Trump may have colluded with Russia
12 during the 2016 election, which was the subject of Special Counsel Robert Mueller’s then-
13 ongoing investigation.¹¹³ Giuliani also contended that because his actions preceded the April

¹¹⁰ Compl. at 1–2, MUR 7663.

¹¹¹ Compl. ¶ 2, MUR 7705; Supp. Compl. at 2, MUR 7705 (Mar. 12, 2020). The complaint in MUR 7705 also alleges that Trump solicited a contribution from China. *See infra*, Part II.H.

¹¹² Compl. at 1, MUR 7705; *see id.* at 4 (citing Yahoo News Article). The supplement to the complaint in MUR 7705 alleges that the complainant “watch[ed Trump] on television referenced above and on September 26, 2019 suggesting that China investigate Hunter Biden’s business dealings.” MUR 7705 Supp. Compl. at 2. This allegation appears to refer to a statement by Trump: “When Biden’s son walks out of China with \$1.5 billion in a fund, and the biggest funds in the world can’t get money out of China, and he’s there for one quick meeting and he flies in on Air Force Two, I think that’s a horrible thing.” Glenn Kessler, *Trump’s False Claims about Hunter Biden’s China Dealings*, WASH. POST (Sep. 26, 2019), <https://www.washingtonpost.com/politics/2019/09/26/trumps-false-claims-about-hunter-bidens-china-dealings/>.

¹¹³ Resp. of Rudy Giuliani at 2, MUR 7645 (Oct. 29, 2019). Giuliani’s response states that he received information from a private investigator and former Assistant U.S. Attorney “concerning actual collusion by Ukraine in 2016 and investigated it as fully as he could. He asserts that he developed evidence of substantial collusion by Ukraine officials with members of the Obama Administration, the U.S. Embassy, the Democratic National Committee (DNC) and the Clinton campaign. He also states that he corroborated allegations of prime facie bribery by then Vice President Biden in ‘strong arming’ the President of the Ukraine to fire the prosecutor who was investigating Biden’s son.” *Id.*

1 2019 announcement of Joe Biden's presidential candidacy in the 2020 election, they could not be
2 construed as attempting to generate "opposition research" to influence a federal election.¹¹⁴

3 Giuliani acknowledged that he met with "a Ukrainian prosecutor" and a "former official"
4 who "offered very detailed information and additional evidence about substantial collusion
5 between Ukraine government officials and officials of the Clinton campaign and employees of
6 the DNC" as well as "corroborating evidence of the Biden bribery and money laundering."¹¹⁵
7 Giuliani's response denies that he ever saw a proposed draft of Zelensky's announcement
8 regarding investigations, but it acknowledges that when Volker and Sondland asked him about "a
9 statement the Ukrainians were going to make," he told them that "the statement should make
10 clear that the President [Zelensky] was committed to rooting out corruption including completing
11 the investigation of the 2016 corruption. Collusion, Burisma and whatever else remained."¹¹⁶

12 The Trump Committee filed a response to the complaints in MURs 7645, 7663, and 7705
13 on June 17, 2020, arguing that the facts as alleged do not constitute a violation of federal
14 campaign finance law.¹¹⁷ The response cites to a news article that quotes a DOJ spokesperson's
15 statement representing that DOJ's Criminal Division "reviewed the official record of the call and
16 determined, based on the facts and applicable law, that there was no campaign finance
17 violation."¹¹⁸ The Trump Committee's response contends that Trump's alleged conduct does not

¹¹⁴ *Id.* at 1–2.

¹¹⁵ *Id.* at 2.

¹¹⁶ *Id.* at 3.

¹¹⁷ Resp. of Donald J. Trump for President, Inc. at 1, MURs 7645 and 7663 (June 17, 2020) ("Trump Comm. Resp.").

¹¹⁸ *Id.* (emphasis and quotation marks omitted) (citing Mairead McArdle, *DOJ Declined to Investigate Trump Ukraine Call, Found No Campaign Finance Violation*, NAT'L REV., Sept. 25, 2019).

1 qualify as a solicitation under the Act and that “the legal and constitutional viability of such
2 claims was directly called into doubt by Special Counsel Robert Mueller” in his *Report on the*
3 *Investigation into Russian Interference in the 2016 Presidential Election* (the “Special Counsel’s
4 Report”).¹¹⁹ The response appears to base this argument on a general cautionary point raised in
5 the Special Counsel’s Report: “[N]o judicial decision has treated the voluntary provision of
6 uncompensated opposition research or similar information as a thing of value that could amount
7 to a contribution under campaign-finance law. Such an interpretation could have implications
8 beyond the foreign-source ban . . . and raise First Amendment questions.”¹²⁰ The Trump
9 Committee’s response did not address the allegation raised in the MUR 7705 complaint that
10 Trump solicited a contribution from China.

11 Trump did not join the Trump Committee’s response, and did not submit a separate
12 response to any of the complaints addressed in this report.

13 Igor Fruman did not file a substantive response to the complaint in MUR 7645, but filed a
14 letter on October 23, 2019, requesting a stay in the Commission’s enforcement proceedings
15 because he had been indicted by federal prosecutors in the Southern District of New York on
16 alleged campaign finance violations that he claims have “substantial overlap” with the
17 allegations in these matters.¹²¹

¹¹⁹ *Id.* at 1–2 (citing Robert S. Mueller III, *Report on the Investigation into Russian Interference in the 2016 Presidential Election* Vol. I at 187 (March 22, 2019)).

¹²⁰ Special Counsel’s Report at 187.

¹²¹ Letter to CELA, FEC, from John M. Dowd, Counsel to Igor Fruman (Oct. 25, 2019). *See Lev Parnas And Igor Fruman Charged With Conspiring To Violate Straw And Foreign Donor Bans*, Press Release, U.S. Dep’t of Justice, U.S. Attorney’s Office, S.D.N.Y. (Oct. 10, 2019), <https://www.justice.gov/usao-sdny/pr/lev-parnas-and-igor-fruman-charged-conspiring-violate-straw-and-foreign-donor-bans> (“In or about May 2018, to obtain access to exclusive political events and gain influence with politicians, PARNAS and FRUMAN made a \$325,000 contribution to an independent expenditure committee (‘Committee-1’) and a \$15,000 contribution to a second independent expenditure committee (‘Committee-2’). Despite the fact that the FEC forms for these contributions

1 Victoria Toensing filed a response to the complaint in MUR 7645 denying the allegations
2 and asserting that she “is not now and never has been an employee of, consultant to or
3 ‘operative’ of [the Trump] campaign.”¹²² Further, she asserts that she engaged in “exploring the
4 possibility” of providing legal representation for “a Ukrainian citizen” in a twenty-minute phone
5 call with that person, who was referred to her by an American attorney.¹²³ Toensing states that
6 although she had planned a trip to Ukraine to further that possible representation, “the proposed
7 engagement never materialized.”¹²⁴

8 Parnas did not submit a response to any of the complaints addressed in this report.

9 **III. LEGAL ANALYSIS**

10 The available information indicates that Donald J. Trump and his personal attorney, Rudy
11 Giuliani, requested, recommended, and pressured Ukrainian President Volodymyr Zelensky,
12 both directly and indirectly through their representatives — including Giuliani’s associate, Lev
13 Parnas, and diplomatic officials Gordon Sondland and Kurt Volker — to make an official public
14 announcement and conduct an investigation into Burisma, Joe and Hunter Biden, and purported

required PARNAS and FRUMAN to disclose the true donor of the funds, they falsely reported that the contributions came from Global Energy Producers (‘GEP’), a purported liquefied natural gas (‘LNG’) import-export business that was incorporated by FRUMAN and PARNAS around the time the contributions were made. In truth and in fact, the donations to Committee-1 and Committee-2 did not come from GEP funds. Rather, the donations came from a private lending transaction between FRUMAN and third parties, and never passed through a GEP account”). The Indictment in the Southern District of New York is based primarily on alleged activity that is distinct from the conduct alleged in MURs 7645 and 7663, but is the basis for another enforcement matter, MUR 7442, in which the complainant alleged that Fruman and Lev Parnas made contributions in the name of another using a limited liability company they formed for that purpose, to prevent the public disclosure of their identities, in violation of 52 U.S.C. § 30122. *See* Compl. ¶¶ 18–25, MUR 7442 (Global Energy Producers, LLP, *et al.*)

¹²² Resp. of Victoria Toensing at 1–2, MUR 7645 (Oct. 28, 2019).

¹²³ *Id.* at 1, 2. Toensing represents that the referring attorney told her that the “Ukrainian citizen appeared to have first-hand knowledge of misconduct by US Government officials in Ukraine but that officials at the US Embassy in Kiev had directed this individual not to provide such information.” *Id.* at 2.

¹²⁴ *Id.*

1 Ukrainian electoral interference intended to support Hillary Clinton during the 2016 U.S.
2 presidential election, in order to influence the 2020 presidential election. The record indicates
3 that Trump, Giuliani, and Parnas asked that Zelensky investigate these two allegations and
4 announce the investigation with explicit references to the allegations, for the purpose of
5 benefiting Trump's reelection campaign. As such, Trump and the Trump Committee, Giuliani,
6 and Parnas knowingly solicited a foreign national to provide in-kind "contributions" — *i.e.*,
7 things "of value" sought "for the purpose of influencing" the 2020 U.S. presidential election —
8 from Ukrainian nationals.¹²⁵

9 However, the available information does not support a finding that Fruman or Toensing
10 knowingly solicited or provided substantial assistance in soliciting Zelensky to make a prohibited
11 contribution, as alleged in MUR 7645, or that Trump or the Trump Committee knowingly
12 solicited China to make a prohibited contribution, as alleged in MUR 7705.

13 **A. The Act and Commission Regulations Prohibit the Solicitation of Foreign**
14 **National Contributions or Donations in Connection with a Federal Election**

15 The Act and Commission regulations prohibit any "foreign national" from directly or
16 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
17 independent expenditure, or disbursement, in connection with a federal, state, or local
18 election.¹²⁶ Moreover, the Act and Commission regulations prohibit any person from knowingly

¹²⁵ See 52 U.S.C. § 30101(8)(A)(i).

¹²⁶ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have upheld the provisions of the Act prohibiting foreign national contributions and independent expenditures on the ground that the government "has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American 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), *aff'd* 565 U.S. 1104 (2012); see *United States v. Singh*, 924 F.3d 1030, 1041–44 (9th Cir. 2019).

1 soliciting, accepting, or receiving any such contribution or donation from a foreign national,¹²⁷
2 and Commission regulations further prohibit any person from knowingly providing substantial
3 assistance in soliciting, making, accepting, or receiving any such contribution or donation.¹²⁸
4 Under Commission regulations, “to solicit” means “to ask, request, or recommend, explicitly or
5 implicitly, that another person make a contribution, donation, transfer of funds, or otherwise
6 provide anything of value.”¹²⁹

7 The Act’s definition of “foreign national” includes an individual who is not a citizen or
8 national of the United States and who is not lawfully admitted for permanent residence,¹³⁰ as
9 well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a
10 government of a foreign country.”¹³¹ A “contribution” includes “any gift, subscription, loan,
11 advance, or deposit of money or anything of value made by any person for the purpose of
12 influencing any election for Federal office.”¹³² Under Commission regulations, “anything of
13 value” includes all in-kind contributions, which include “the provision of any goods or services

¹²⁷ 52 U.S.C. § 30121(a)(2); *see also* 11 C.F.R. § 110.20(g) (providing that “no person shall *knowingly* solicit” a foreign national contribution (emphasis added); 11 C.F.R. § 110.20(a)(4) (defining “knowingly” to include “actual knowledge” that the target of the solicitation is a foreign national).

¹²⁸ 11 C.F.R. § 110.20(h). In this context, the Commission has explained that “substantial assistance means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction[.]” and “does not include strictly ministerial activity undertaken pursuant to the instructions of an employer, manager or supervisor.” Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,945–46 (Nov. 19, 2002) (“Prohibitions E&J”).

¹²⁹ 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

¹³⁰ 52 U.S.C. § 30121(b)(2).

¹³¹ 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

¹³² 52 U.S.C. § 30101(8)(A).

1 without charge or at a charge that is less than the usual and normal charge for such goods or
 2 services.”¹³³

3 Under the Act, “soliciting, accepting, or receiving information in connection with an
 4 election from a foreign national, as opposed to purchasing the information at the usual and
 5 normal charge or hiring a foreign national in a bona fide commercial transaction to perform
 6 services for the political committee, could potentially result in the receipt of a prohibited in-kind
 7 contribution.”¹³⁴ Indeed, the Commission has recognized the “broad scope” of the foreign
 8 national contribution prohibition and found that even where the value of a good “may be nominal
 9 or difficult to ascertain,” such contributions are nevertheless prohibited.¹³⁵

10 **B. The Commission Should Find Reason to Believe the Trump Committee,**
 11 **Trump, Giuliani, and Parnas Knowingly Solicited Contributions from a**
 12 **Foreign National**

13 1. Trump, Giuliani, and Parnas Knowingly Solicited Zelensky to Publicly
 14 Announce and Investigate Allegations Regarding Joe Biden and Burisma,
 15 and Foreign Interference in the 2016 U.S. Presidential Election

16 The available record indicates that Trump, Giuliani, and Parnas knowingly solicited a
 17 prohibited contribution when they directly and indirectly asked, requested, or recommended that
 18 Zelensky issue a public announcement and investigate allegations that Joe Biden pressured

¹³³ 11 C.F.R. § 100.52(d).

¹³⁴ Factual & Legal Analysis at 6-7, MUR 7271 (DNC)

¹³⁵ Advisory Op. 2007-22 at 6 (Hurysz) (“Advisory Op. 2007-22”) (quoting 120 Cong. Rec. 8,782 (Mar. 28, 1974) (statement of Sen. Bentsen, author of the amendment prohibiting foreign national contributions) (“I am saying that contributions by foreigners are wrong, and they have no place in the American political system”)); Prohibitions E&J, 67 Fed. Reg. at 69,940 (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and *expand* the ban on contributions, donations, and other things of value by foreign nationals.” (emphasis added)); *see also* Gen. Counsel’s Rpt. at 24, MUR 4250 (Republican Nat’l Comm., *et al.*) (describing the legislative history of the foreign national prohibition, which, “unlike other provisions of the Act, has its origins in, and essentially remains, a national security provision with broad application”).

1 Ukraine to fire its Prosecutor General in order to terminate an investigation of Burisma and thus
 2 protect his son, Hunter Biden, and that foreign interference in the 2016 U.S. presidential election
 3 originated in Ukraine in coordination with the DNC.¹³⁶

4 Commission regulations specify:

5 A solicitation is an oral or written communication that, construed
 6 as reasonably understood in the context in which it is made,
 7 contains a clear message asking, requesting, or recommending that
 8 another person make a contribution, donation, transfer of funds, or
 9 otherwise provide anything of value. A solicitation may be made
 10 directly or indirectly. The context includes the conduct of persons
 11 involved in the communication. A solicitation does not include
 12 mere statements of political support or mere guidance as to the
 13 applicability of a particular law or regulation.¹³⁷

14 Commission regulations also provide examples of statements that would constitute
 15 solicitations, including but not limited to: “The candidate will be very pleased if we can count
 16 on you for \$10,000;”¹³⁸ “I will not forget those who contribute at this crucial stage;”¹³⁹ and
 17 “Your contribution to this campaign would mean a great deal to the entire party and to me
 18 personally.”¹⁴⁰ However, the Commission has “emphasize[d] that the definition . . . is not tied in
 19 any way to a candidate’s use of particular ‘magic words’ or specific phrases.”¹⁴¹ The

¹³⁶ See 11 C.F.R. § 300.2(m) (defining “solicit”).

¹³⁷ *Id.*

¹³⁸ *Id.* § 300.2(m)(2)(xii).

¹³⁹ *Id.* § 300.2(m)(2)(xi).

¹⁴⁰ *Id.* § 300.2(m)(2)(xiii).

¹⁴¹ Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13,926, 13,928 (Mar. 20, 2006) (“Solicitation E&J”). The Commission revised the definition of “to solicit” in 2006, specifically in response to *Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005), in which the U.S. Court of Appeals for the D.C. Circuit invalidated the Commission’s original definition because it covered only “explicit direct requests” and left open the possibility that candidates could evade the statutory restriction on soft money solicitations with “winks, nods, and circumlocutions to channel money in favored directions — anything that makes their intention clear without overtly ‘asking’ for money.” *Id.* at 106.

1 Commission has also explained that communications must be reasonably construed in context,
2 such that “the Commission’s objective standard hinges on whether the recipient should have
3 reasonably understood that a solicitation was made.”¹⁴²

4 Applying these provisions, the Commission has previously found that asking a foreign
5 national to make a political contribution, while offering a potential benefit in return, results in a
6 prohibited solicitation. In MUR 6528, the Commission found reason to believe that a federal
7 candidate knowingly and willfully “solicited or played an active role in the solicitation” of
8 foreign national contributions, including by offering to help obtain immigration status for a
9 foreign national if he contributed to the candidate’s campaign, and telling the foreign national
10 that although he could not legally contribute to the candidate’s campaign, he could provide funds
11 to third parties to make such contributions.¹⁴³

12 Here, Trump, Giuliani, and Parnas knowingly solicited Zelensky by asking, requesting, or
13 recommending, directly and through intermediaries,¹⁴⁴ that Zelensky provide two deliverables:

¹⁴² Solicitation E&J, 71 Fed. Reg. at 13,929 (“[I]t is necessary to reasonably construe the communication in context, rather than hinging the application of the law on subjective interpretations of the Federal candidate’s or officeholder’s communications or on the varied understandings of the listener. The revised definition reflects the need to account for the context of the communication and the necessity of doing so through an objective test.”); *see* Factual & Legal Analysis (“F&LA”) at 6, MUR 6939 (Mike Huckabee, *et al.*) (dismissing an allegation that a candidate solicited an excessive contribution by saying, in a speech announcing his candidacy, “[i]f you want to give a million dollars, please do it” because, in context, “an objective listener would not reasonably have understood” the statement to be a solicitation for “million-dollar contributions” as opposed to “a humorous aside in the course of his speech”).

¹⁴³ Factual & Legal Analysis at 2–3, 6 MUR 6528 (Michael Grimm for Congress, *et al.*); *see also* 52 U.S.C. § 30122 (prohibiting making a contribution in the name of another).

¹⁴⁴ That a solicitation is made through intermediaries does not change the analysis. Commission regulations specify that a “solicitation may be made directly or indirectly” and thus capture solicitations made through persons acting on behalf of the principal or principals. 11 C.F.R. § 300.2(m) (incorporated in foreign national prohibition at 11 C.F.R. § 110.20(a)(6)); *see* Factual & Legal Analysis at 5–6, MUR 7122 (Right to Rise USA, *et al.*) (Oct. 11, 2018) (finding that the agent of an independent-expenditure-only political committee (“IEOPC”) solicited foreign national contributions by having a conversation with a foreign national, the majority owner of a foreign company, about the foreign company’s U.S. subsidiary contributing to the IEOPC, and then emailing both the Chief Executive and a foreign national board member of the subsidiary to indicate that the foreign parent company’s majority owner “expressed interest” in making a contribution to the IEOPC); Conciliation Agreement, MUR 7122 (Right to Rise

1 The Ukrainian investigation of allegations regarding Burisma/Biden and 2016 election
2 interference, and a public announcement of that investigation. Trump, Giuliani, and Parnas
3 interacted with Zelensky (directly or through his aides) after his election as President of Ukraine
4 and therefore had “actual knowledge” that Zelensky was a foreign national and the head of a
5 foreign government.¹⁴⁵ In the July 25, 2019, phone call between Trump and Zelensky, and in
6 discussions between intermediaries leading up to and after that call, Trump and Giuliani asked
7 Zelensky to provide these deliverables, linking them to a White House visit for Zelensky and
8 U.S. security aid to Ukraine, both of which the record reflects that Zelensky and the Ukrainians
9 desired and which U.S. officials testified was considered crucial to U.S. interests, but which
10 Trump and Giuliani sought to use as leverage to obtain the deliverables.¹⁴⁶

11 As discussed above, efforts to solicit Zelensky began with a May 12, 2019, meeting
12 between Parnas and Serhiy Shefir, Zelensky’s aide, in which Parnas expressed that he
13 represented Trump and Giuliani and told Shefir that Zelensky needed to announce an
14 investigation into the Bidens before Vice President Pence would attend Zelensky’s inauguration

USA) (settling IEOPC’s violations of 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) arising from agent’s solicitation).

¹⁴⁵ See 11 C.F.R. § 110.20(a)(3) (defining “foreign national”); *id.* § 110.20(a)(4) (defining “knowingly”).

¹⁴⁶ For the Act’s purposes, a solicitation need not involve any coercion, pressure, or reciprocal inducement; to “solicit” requires only that someone “ask, request, or recommend” another person provide a contribution, donation, transfer of funds, or other thing of value. 11 C.F.R. § 300.2(m). Nevertheless, any such coercion, pressure, or inducement offered may provide relevant “context” in which the communications must be viewed to determine whether they would have been “reasonably understood” to convey “a clear message” asking, requesting, or recommending that the listener provide a contribution, donation, transfer of funds, or other thing of value. *Id.* As such, even if the White House meeting and the release of U.S. security aid to Ukraine were not conditioned on or linked to the public announcement and investigation — *i.e.*, even if there was no *quid pro quo* — the record would still support the conclusion that the request for Zelensky to publicly announce and conduct the investigation was a solicitation. The fact that Trump, Giuliani, and Parnas pressured and induced Zelensky, by using the White House visit and U.S. security aid to Ukraine as leverage, only adds further contextual support for that conclusion.

1 as planned.¹⁴⁷ Parnas also told Shefir that if Zelensky did not comply, the two countries'
2 "relationships would be sour" and that the U.S. "would stop giving them any kind of aid."¹⁴⁸
3 Interviews and testimony reflect that when Shefir did not respond to these overtures, Parnas
4 informed Giuliani of the apparent rejection and, the following day, Trump instructed Pence not
5 to attend Zelensky's inauguration.¹⁴⁹

6 Parnas's statements conveyed, on behalf of Trump and Giuliani, a clear request and
7 recommendation that Zelensky provide the desired announcement of the investigation —
8 particularly when those statements are reasonably construed in the context of Parnas's comment
9 that refusal would "sour" the U.S.-Ukraine relationship and lead to the loss of future U.S. aid, as
10 well as the planned attendance of Vice President Pence at Zelensky's inauguration. Giuliani also
11 directly told Zelensky's aides, as well as Sondland and Volker, that Trump wanted Zelensky to
12 make a public announcement committing Ukraine to conducting the desired investigation.¹⁵⁰
13 Both personally and through his associate, Parnas, Giuliani conveyed a clear request that
14 Zelensky publicly announce and conduct the investigation.

15 Sondland, acting on Trump's behalf, also raised the request during a July 10, 2019,
16 meeting between U.S. National Security Advisor John Bolton and his Ukrainian counterpart,
17 Oleksandr Danyliuk, a close aide to Zelensky.¹⁵¹ At this meeting, upon being asked by
18 Ukrainian officials about scheduling a White House meeting for Zelensky, Sondland conveyed

¹⁴⁷ *Supra* note 24 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

¹⁴⁸ *Id.*

¹⁴⁹ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

¹⁵⁰ Sondland Hearing at 26–27; Taylor Dep. at 26.

¹⁵¹ *Supra* notes 40–41 and accompanying text.

1 that the White House meeting could be scheduled after Ukraine initiated the desired
2 investigations.¹⁵² Sondland was even more explicit in a smaller follow-up meeting, convened
3 immediately after Bolton's departure, in which testimony reflects that Sondland told the
4 Ukrainians that they would need to provide the "deliverable" — publicly announcing the
5 investigations — to secure the White House meeting for Zelensky.¹⁵³ Viewed together,
6 Sondland's statements conveyed a request, on Trump's behalf, and thus a solicitation, that
7 Zelensky announce and conduct the investigation of the Biden/Burisma and 2016 election
8 interference allegations.¹⁵⁴

9 Trump directly delivered that same request to Zelensky during their July 25, 2019, phone
10 call, when Trump specifically asked Zelensky to work with his personal attorney, Giuliani, and
11 U.S. Attorney General William Barr to investigate the two allegations. Trump told Zelensky, "I
12 would like you to do us a favor though because our country has been through a lot and Ukraine
13 knows a lot about it" and referred to the allegation that interference in the 2016 U.S. presidential
14 election originated in Ukraine, adding "I would like to have the Attorney General call you or
15 your people and I would like you to get to the bottom of it. . . . Whatever you can do, it's very
16 important that you do it if that's possible."¹⁵⁵ Trump also asked that Zelensky work with Barr to
17 investigate the allegation that Joe Biden had urged the removal of Ukrainian Prosecutor General
18 Shokin to protect his son, Hunter Biden — Trump said, "[t]here's a lot of talk about Biden's son,

¹⁵² Vindman Dep. at 17; Hill Dep. at 65–67.

¹⁵³ Vindman Dep. at 29; Hill Dep. at 69.

¹⁵⁴ As discussed *supra* at note 269, information indicates that, while Trump and Giuliani encouraged Sondland to convey these requests for electoral purposes, Sondland made these requests in order to further U.S. policy goals.

¹⁵⁵ July 25 Call Memo at 3.

1 that Biden stopped the prosecution,” adding “a lot of people want to find out about that so
2 whatever you can do with the Attorney General would be great. Biden went around bragging
3 that he stopped the prosecution so if you can look into it.”¹⁵⁶ Trump’s use of “I would like you
4 to do us a favor” and “[w]hatever you can do, it’s very important” is similar to the example
5 solicitation phrase in the Commission’s regulations that “the candidate will be very pleased, if
6 we can count on you.”¹⁵⁷

7 Trump’s statements, read together and “construed as reasonably understood in the context
8 in which [they were] made,” conveyed “a clear message asking, requesting, or recommending”
9 that Zelensky provide the announcement and investigation of the Biden/Burisma and 2016
10 election interference allegations.¹⁵⁸ That Trump made a solicitation is further underscored by the
11 context of the prior communications from Sondland and Volker, conveying to Zelensky and his
12 aides the importance of convincing Trump that Ukraine would thoroughly investigate the
13 allegations regarding Biden/Burisma and 2016 election interference. Prior to the call, Sondland
14 had specifically “recommended to President Zelensky that he use the phrase ‘I will leave no
15 stone unturned’ with regard to investigations” when speaking with Trump, and Volker texted
16 Zelensky’s advisor, Andrey Yermak, thirty minutes before the two presidents’ phone call, to
17 reiterate that based on Volker’s discussions with the White House, Zelensky’s visit to the White
18 House could be scheduled if Zelensky convinced Trump that he would conduct the desired
19 investigation.¹⁵⁹

¹⁵⁶ *Id.* at 4.

¹⁵⁷ 11 C.F.R. § 300.2(m)(2)(xii).

¹⁵⁸ *See* 11 C.F.R. § 300.2(m).

¹⁵⁹ Taylor Dep. at 30; First Volker Text Excerpts at 4.

1 In the context of the phone call and the earlier communications, Trump's statements to
2 Zelensky that "I would like you to get to the bottom of it" contained a "clear message asking,
3 requesting, or recommending" that Zelensky investigate the Biden/Burisma and 2016 election
4 interference allegations.¹⁶⁰ Indeed, Zelensky's responses during the call further reflect that
5 conclusion: Zelensky assured Trump that he would investigate both allegations and, later in the
6 conversation, he appeared to acknowledge the apparent linkage of the White House visit and the
7 request to investigate the allegations, telling Trump, "I also wanted to thank you for your
8 invitation to visit the United States, specifically Washington[,] DC. On the other hand, I also
9 want to ensure [sic] you that we will be very serious about the case and will work on the
10 investigation."¹⁶¹

11 Trump's discussion with Sondland on July 26, 2019, the day after the Zelensky phone
12 call, further demonstrates that Trump intended his statements to Zelensky to be understood as a
13 request that Ukraine investigate the allegations. Knowing that Sondland had met with Zelensky
14 the morning after the call, Trump called Sondland and asked if Zelensky was "going to do the
15 investigation."¹⁶²

16 Accordingly, the overall record establishes that Trump, Giuliani, and Parnas knowingly
17 solicited Zelensky to provide the announcement and investigation of these allegations.¹⁶³

¹⁶⁰ 11 C.F.R. § 300.2(m).

¹⁶¹ July 25 Call Memo at 5.

¹⁶² Holmes Dep. at 24.

¹⁶³ Trump's solicitation of a prohibited contribution is also imputed to the Trump Committee because a federal candidate acts as an agent of his or her authorized campaign committee. *See* 52 U.S.C. § 30102(e)(2); 11 C.F.R. § 101.2(a); Advisory Op. 1986-02 (Robbins) (concluding that candidate's authorized committee is responsible for all costs incurred by candidate to solicit contributions).

1 2. The Announcement and Investigation Were “Contributions” Under the Act

2 As set forth above, the record indicates that Trump, Giuliani, and Parnas solicited
3 Zelensky to provide an official public announcement and investigation of allegations regarding
4 Joe Biden and foreign interference in the 2016 U.S. presidential election. In so doing, they
5 solicited “contributions” from a foreign national, in that the announcement and investigation
6 were each a thing “of value” sought “for the purpose of influencing” a federal election.¹⁶⁴

7 a. The Act Defines a “Contribution” to Include “Anything of Value”

8 In defining a “contribution,” the Act uses a broadly-encompassing phrase, “anything of
9 value,”¹⁶⁵ which, under the Commission’s regulation, includes “*all* in-kind contributions” and
10 “the provision of *any* goods or services” at no charge or at a reduced charge.¹⁶⁶ The regulation
11 also provides a non-exhaustive list of examples that satisfy various campaign needs and
12 represent a wide variety of electoral “value,” such as: places to operate (“facilities”), methods of
13 conveying a message (“advertising services”), and raw voter data (“mailing lists”), as well as
14 physical and human resources (“supplies” and “personnel,” respectively).¹⁶⁷ The list of

¹⁶⁴ 52 U.S.C. § 30101(8)(A).

¹⁶⁵ 52 U.S.C. § 30101(8)(A); *see also United States v. Girard*, 601 F.2d 69, 71 (2d Cir. 1979) (holding that law enforcement report disclosing the names of confidential informants is a “thing of value” under federal theft statute, 18 U.S.C. § 641) (“These words [‘thing of value’] are found in so many criminal statutes throughout the United States that they have in a sense become words of art. The word ‘thing’ notwithstanding, *the phrase is generally construed to cover intangibles as well as tangibles.* For example, amusement is held to be a thing of value under gambling statutes. Sexual intercourse, or the promise of sexual intercourse, is a thing of value under a bribery statute. So also are a promise to reinstate an employee, and an agreement not to run in a primary election. The testimony of a witness is a thing of value under 18 U.S.C. § 876, which prohibits threats made through the mails with the intent to extort money or any other ‘thing of value.’ Although the content of a writing is an intangible, it is nonetheless a thing of value. The existence of a property in the contents of unpublished writings was judicially recognized long before the advent of copyright laws.” (emphasis added, citations omitted)).

¹⁶⁶ 11 C.F.R. § 100.52(d)(1) (emphases added).

¹⁶⁷ *Id.* (“Examples of such goods or services *include, but are not limited to:* Securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.” (emphasis added)).

1 examples conveys that a wide variety of things that may confer a benefit to a campaign, and thus
 2 potentially spare the campaign's own resources, conceivably constitute things of value.

3 The phrase "anything of value" facially contemplates a broad, case-by-case application,
 4 and in prior matters, the Commission has found that many tangible and intangible things fall
 5 within the scope of the regulatory text.¹⁶⁸ In prior matters, when evaluating whether something
 6 is a thing "of value" under the Act, the Commission has considered questions such as the
 7 following: whether the thing may confer a benefit on the recipient campaign;¹⁶⁹ whether
 8 political campaigns have previously used their own resources to procure the thing in question;¹⁷⁰
 9 whether the provision of the thing would "relieve" the campaign of an "expense it would

¹⁶⁸ See Advisory Op. 2000-30 (pac.com) (stock); Advisory Op. 1980-125 (Cogswell for Senate Comm. 1980) (silver coins); Advisory Op. 1982-8 (Barter PAC) (barter credit units); Factual and Legal Analysis at 3,7-8, MUR 6725 (Ron Paul 2012) (finding reason to believe committee failed to disclose value of gold coin as in-kind contribution of commodity to be liquidated); Factual and Legal Analysis at 10-11, MUR 6040 (Rangel for Congress, *et al.*) (finding reason to believe that rent-controlled apartment occupied by political committees under terms and conditions that differed from other tenants was excessive in-kind contribution); First Gen. Counsel's Report at 10, MUR 5409 (Grover Norquist, *et al.*) (adopted as dispositive by Comm'n on Oct. 1, 2004) (finding reason to believe that master contact list of activists was something of value under Act even though it lacked commercial or market value and despite difficulty in quantifying its precise worth); Factual and Legal Analysis at 29-30, MUR 6718 (John Ensign, *et al.*) (finding reason to believe severance payment made by candidate's parents to committee's former treasurer for the loss of her job following extramarital affair was in-kind contribution); Gen. Counsel's Brief at 7-8, MUR 5225 (New York Senate 2000) (probable cause finding by Comm'n on Oct. 20, 2005) (detailing approximately \$395,000 worth of in-kind contributions related to benefit concert production costs); *see also* Certification, MUR 5409 (Oct. 19, 2004) (approving recommendations in First General Counsel's Report).

¹⁶⁹ See, *e.g.*, Advisory Op. 1990-12 (Strub for Congress) at 2 ("Advisory Op. 1990-12") (finding that the provision of poll results by a campaign volunteer who paid for the poll would result in an in-kind contribution); Advisory Op. 2007-22 at 6 (finding that the provision of printed foreign election materials, including "flyers, advertisements, door hangers, tri-folds, signs, and other printed material," would result in an in-kind contribution); First Gen. Counsel's Report at 10, MUR 5409 (Norquist) (adopted as dispositive) (finding that contact lists provided to a campaign without charge were "of value" because they "may at least point [the campaign] in the direction of persons who might help [its] election efforts").

¹⁷⁰ See, *e.g.*, Advisory Op. 1990-12 at 2 (discussing Commission regulations addressing the making and acceptance of contributions in the form of poll results) (citing 11 C.F.R. § 106.4); *see also* First Gen. Counsel's Report at 14, MUR 6651 (noting that campaigns often pay advance staff to generate crowds for campaign events).

1 otherwise incur”;¹⁷¹ whether the provider of the thing or any third party “utilized its resources”
 2 to produce, organize, or collect the thing provided;¹⁷² and whether the thing “may not have been
 3 publicly available” for the campaign’s use absent the provider’s actions.¹⁷³

4 The Commission has concluded that the provision of free opposition research may
 5 constitute a contribution under the Act. In MUR 7271, based on the information available prior
 6 to initiating an investigation, the Commission found reason to believe that the DNC, through the
 7 actions of a consultant operating as an agent of the DNC, solicited and received prohibited in-
 8 kind contributions “by seeking and obtaining the Ukrainian Embassy’s research [on the Trump
 9 campaign], which is a thing of value,” at no cost.¹⁷⁴ The information before the Commission
 10 prior to the investigation suggested that the Ukrainian Embassy “utilized its resources and
 11 expended funds to conduct the research.”¹⁷⁵ Significantly, the Commission determined that “the

¹⁷¹ See Advisory Op. 2007-22 at 6 (noting that the provision of election materials to a campaign results in a contribution because it “would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials”); Advisory Op. 1990-12 at 2.

¹⁷² See, e.g., Factual & Legal Analysis at 8, MUR 7271 (Chalupa, *et al.*) (“F&LA”) (finding, on the pre-investigatory record, that a foreign embassy made a contribution when it “utilized its resources and expended funds for opposition research” that it provided to campaign at no charge); First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation “utilized its resources to obtain and compile”).

¹⁷³ Compare First Gen. Counsel’s Report at 9, MUR 5409 (adopted as dispositive) (observing that attendee lists provided to a campaign “may not have been publicly available”); with Factual & Legal Analysis at 4–5, MUR 6938 (Rand Paul for President) (“F&LA”) (finding it unclear that author’s private discussion of a forthcoming book has value for a candidate, particularly when the book information had also been publicly discussed).

¹⁷⁴ Factual & Legal Analysis, at 7, MUR 7271 (DNC) ; see Second Gen. Counsel’s Report, MUR 7271 (DNC, *et al.*) (recommending dismissal of this allegation based on additional information obtained through an investigation).

¹⁷⁵ F&LA at 8, MUR 7271); see *id.* at 7-8 (“The record indicates that, in response to Chalupa’s inquiries, the Ukrainian Embassy reportedly utilized its resources and expended funds for opposition research on a candidate that [was] provided to a political committee at no charge.” (internal quotation marks omitted)).

1 Ukrainian Embassy's research . . . is a thing of value" subject to the Act's foreign national
 2 prohibition.¹⁷⁶

3 In MUR 5409, similarly, the Commission found that a corporation made prohibited in-
 4 kind contributions by providing a campaign with its private lists of organizations and individuals
 5 with similar political views, which the corporation "utilized its resources to obtain and compile,"
 6 and which "contain[ed] information that may be of value in connection with" a federal
 7 election.¹⁷⁷ Moreover, in the foreign national context, the Commission has previously explained
 8 that a foreign national makes a prohibited contribution by providing anything to a campaign that
 9 thereby "relieve[s the] campaign of the expense that it would otherwise incur," even if the item's
 10 value "may be nominal or difficult to ascertain."¹⁷⁸

11 b. The Official Public Announcement of an Investigation Is a Thing
 12 "of Value" Under the Act

13 The information available in these matters indicates that the official public announcement
 14 of investigations that Trump and Giuliani sought from Zelensky was a thing "of value" because

¹⁷⁶ F&LA at 7, MUR 7271 (citing Factual & Legal Analysis at 13–20, MUR 6414 (Carnahan) ("F&LA") (explaining that a committee's receipt of opposition research services without paying the usual or normal charge may result in an in-kind contribution)). After conducting an investigation, this Office subsequently recommended taking no further action with respect to this allegation. *See* Second Gen. Counsel's Report at 1, MUR 7271 (DNC, *et al.*)

¹⁷⁷ First Gen. Counsel's Report at 10, MUR 5409 (adopted as dispositive); *cf.* F&LA at 4–5, MUR 6938 (finding that an author's hour-long discussion with a U.S. Senator and potential presidential candidate regarding the author's upcoming book — which purportedly contained negative information about another presidential candidate's foreign business activities — did not result in an in-kind contribution because the allegations in the book were already being publicly discussed, the book had been provided to news outlets in advance of its publication, and the author averred, in a sworn affidavit, that he met with the Senator not to influence the upcoming presidential election but to discuss government officials' conflicts of interest).

¹⁷⁸ Advisory Op. 2007-22 at 6 (noting that foreign nationals are prohibited from providing even "flyers, advertisements, door hangers, tri-folds, signs, and other printed material" to a campaign, "particularly in light of the broad scope of the prohibition on contributions from foreign nationals") (citing 120 Cong. Rec. 8782 and Prohibitions E&J, 67 Fed. Reg. at 69,940); *see* Factual & Legal Analysis at 7, MUR 7271

1 it was a unique, nonpublic “deliverable,”¹⁷⁹ the provision of which involved the use of the
2 Ukrainian government’s official resources to confer an electoral benefit on Trump’s 2020
3 presidential reelection campaign, and would have relieved the campaign of expenses required to
4 procure the same benefit.

5 The desired announcement had a potential benefit for the Trump Committee: It was an
6 amplification of negative allegations about Trump’s potential election opponent — akin to
7 negative campaign advertising, or hiring a prominent public figure to criticize an electoral
8 opponent — by Zelensky, an ostensibly disinterested authority.¹⁸⁰ The announcement would
9 have benefited Trump’s reelection campaign, not by researching damaging information about a
10 political opponent — *i.e.*, conducting “opposition research”¹⁸¹ — but instead by publicizing that
11 damaging information, *i.e.*, magnifying corruption allegations against one of Trump’s potential
12 2020 election opponents, Biden, and Biden’s political party, the DNC, much like a damaging
13 narrative about an opponent propagated through paid electioneering activity.¹⁸² However, unlike

¹⁷⁹ Sondland Dep. at 30 (“My recollection is that the statement was written primarily by the Ukrainians, with Ambassador Volker’s guidance, and I offered my assistance when asked. This was the, quote, “deliverable,” closed quote, referenced in some of my [text] messages. A deliverable public statement that President Trump wanted to see or hear before a White House meeting could occur.”); *id.* at 289-90 (“The deliverable, I believe, was the press statement.”); Volker Dep. at 184.

¹⁸⁰ *See* Advisory Op. 1990-12 at 2; First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

¹⁸¹ *See, e.g.*, F&LA at 8, MUR 7271

¹⁸² *See* 11 C.F.R. § 100.52(d)(1) (including “advertising services” among examples of “goods or services” which, if provided without charge or at a reduced charge, would result in a contribution). Third parties have spent considerable amounts to amplify damaging allegations or propagate a damaging narrative about a candidate. *See, e.g.*, Conciliation Agreement ¶ IV.15, MURs 5511 and 5525 (Swiftboat Veterans and POWs for Truth) (Dec. 11, 2006) (“During the 2004 cycle, [Swiftboat Veterans and POWs for Truth] spent \$19,304,642 for 12 television advertisements that were broadcast in the Presidential election battleground states . . . and on national cable television stations . . . [and a]ll of these advertisements attacked the character, qualifications, and fitness for office of Senator John Kerry, the Democratic Presidential nominee.”). Even if a third party is not a foreign national and is otherwise permitted to make such expenditures under the Act, if those expenditures are “coordinated” with a candidate, authorized campaign committee, or an agent thereof, the result is either a “coordinated expenditure” or a “coordinated communication,” either of which results in an in-kind contribution from the third party to the

1 using campaign advertisements and other paid efforts to disseminate the damaging narrative,
2 which would have involved spending campaign funds and reporting the expenditures in
3 disclosure reports,¹⁸³ Trump and Giuliani asked that Zelensky use the resources and authority of
4 his office to do so, thus seeking the same electoral benefit at no cost to the Trump Committee
5 and with no public disclosure of the thing that Zelensky was asked to provide as a “favor.”¹⁸⁴

6 As an official statement by the Ukrainian government, the announcement was a unique
7 deliverable that only Zelensky (or another Ukrainian government official with the requisite
8 authority) could provide; it was not readily or publicly available for Trump or his campaign to
9 obtain, absent its provision by Zelensky.¹⁸⁵ Although Trump, and perhaps to an even greater
10 extent Giuliani, publicly aired these allegations about Biden and the DNC, only Zelensky could
11 announce an official investigation of the allegations as president of Ukraine, lending them the
12 authority that would be at the root of the potential electoral benefit.¹⁸⁶ As such, the

candidate. *See* 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b) (coordinated expenditures for activity that does not include communications); 11 C.F.R. § 109.21 (coordinated communications).

¹⁸³ *See* 52 U.S.C. § 30101(9)(A) (defining “expenditure”); *id.* § 30104(b) (mandating periodic disclosure of all expenditures).

¹⁸⁴ July 25 Call Memo at 3 (“The President: I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it.”).

¹⁸⁵ *See* First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending Commission find reason to believe corporation and corporate officer made an impermissible contribution to a committee by utilizing resources to obtain nonpublic materials, which were provided to the committee).

¹⁸⁶ Because the facts in these matters do not suggest that the desired announcement involved Zelensky making a voluntary public statement in his personal capacity, or voluntarily offering a personal opinion or assessment of a federal candidate — akin to an endorsement or public critique — it appears unnecessary to evaluate whether a foreign national provides “anything of value” under the Act merely by making a voluntary public statement relating to a federal election. *See, e.g.*, 52 U.S.C. § 30101(8)(B)(i) (a “contribution” excludes “the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee”); Advisory Op. 2014-20 (Make Your Laws PAC) at 3–4 (foreign nationals may voluntarily provide a campaign with personal services to help design website code, logos, and trademarks, and may provide the intellectual property rights resulting “directly and exclusively” from those services, without making a prohibited contribution); Advisory Op. 2007-22 at 3 (foreign nationals may engage in uncompensated campaign activity, including canvassing and phone banking, without making a prohibited contribution); Advisory Op. 2004-26 (Weller) at 3 (the foreign national

1 announcement required the use of Zelensky's official authority, and the Ukrainian government's
 2 resources, to support the Trump Committee.¹⁸⁷ Because of Trump's demand, Zelensky and his
 3 aides were involved in multiple, weeks-long negotiations with Department of State officials
 4 regarding the requested announcement, including the specific language that it would need to
 5 include.¹⁸⁸ This activity required Ukraine to direct human and logistical resources to this end,¹⁸⁹
 6 akin to the type of resources necessary for the provision of a "service" at no charge, which
 7 Commission regulations include in the definition of a "contribution."¹⁹⁰ Thus, in requesting an
 8 announcement of an investigation from the Ukrainian President, to be delivered in a public
 9 setting and with the assistance of other Ukrainian government personnel, Trump requested a
 10 deliverable that necessarily would have involved expending Ukrainian resources, much like the
 11 thing of value described in the Commission's Factual & Legal Analysis in MUR 7271.¹⁹¹

spouse of a candidate may, as an uncompensated volunteer, attend campaign events, give speeches, and solicit campaign contributions); Advisory Op. 1987-25 (Otaola) at 2 (uncompensated services by foreign national student would not result in prohibited contributions); Factual & Legal Analysis at 6–9, MURs 5987, 5995, and 6015 (Sir Elton John) (finding no reason to believe a foreign national made a prohibited contribution by volunteering his services to perform at a campaign fundraiser and agreeing to let the campaign use his name and likeness in its emails promoting the concert and soliciting support); *but see* Advisory Op. 2007-08 at 4 n.2 (King) (clarifying that the volunteer services exception from the definition of contribution "is restricted to donations of the volunteer's own time and services and does not generally exempt actual costs incurred on behalf of a Federal candidate").

¹⁸⁷ See First Gen. Counsel's Report at 10, MUR 5409 (adopted as dispositive); F&LA at 8, MUR 7271

¹⁸⁸ See Sondland Dep. at 84; 169 ("What I understood was that breaking the logjam with getting the President to finally approve a White House visit was a public utterance by Zelensky, either through the press statement or through an interview or some other public means, that he was going to pursue transparency, corruption, and so on."); 240 ("[T]he first time I recall hearing about 2016 and Burisma was during the negotiations of the press statement."); 347; Volker Dep. at 71–72 (discussing negotiating the text of the statement).

¹⁸⁹ See Taylor Dep. at 135–36.

¹⁹⁰ 11 C.F.R. § 100.52(d)(1); *see id.* § 100.111(e)(1).

¹⁹¹ Factual & Legal Analysis at 7–8, MUR 7271 (DNC) ("The record indicates that . . . the Ukrainian Embassy reportedly utilized its resources and expended funds for opposition research on a candidate that was provided to a political committee at no charge Accordingly, the alleged conduct falls squarely within the prohibitions of section 30121 of the Act.") (internal quotation marks and punctuation omitted)

1 Although there appears to be no record of any political committee previously purchasing
2 this type of deliverable, *i.e.*, an official announcement regarding a law enforcement investigation,
3 and there does not appear to be an identifiable commercial market for it, this does not disqualify
4 the announcement from being a thing “of value” for purposes of the Act.¹⁹² A unique or unusual
5 deliverable, such as an official announcement of an investigation, may be a thing of value —
6 even if there is no apparent record of a political campaign previously purchasing such an item, or
7 any commercial market for doing so, and even if it is difficult to ascribe a monetary value to it —
8 since the Commission has made clear that even contributions whose value “may be nominal or
9 difficult to ascertain” are prohibited when provided by a foreign national.¹⁹³

10 Trump and Giuliani demanded that Zelensky make an official announcement raising the
11 public profile of politically damaging allegations about Biden and the DNC, using the authority
12 of Zelensky’s office and the Ukrainian government’s resources. In so doing, they pursued a
13 deliverable that Zelensky was uniquely situated to provide, and which supplied an electoral
14 benefit to the Trump Committee: Amplifying a narrative casting Trump’s potential election
15 opponent in a negative light, thereby sparing Trump’s reelection campaign the cost and public
16 disclosure involved in disseminating that narrative itself. As such, the announcement was a thing
17 “of value” under the Act.

¹⁹² See First Gen. Counsel’s Report at 8 n.12, MUR 5409 (adopted as dispositive) (“It is difficult to ascertain a market value for unique goods such as the materials [respondent] provided to the Committee. *The lack of a market, and thus the lack of a ‘usual and normal charge,’ however, does not necessarily equate to a lack of value.*” (emphasis added)).

¹⁹³ *E.g.* Advisory Op. 2007-22 at 6.

1 research service paid for by any campaign, the “value” of the requested Ukraine investigation in
2 this context, for the Act’s purposes, derives from the cost of the investigative *effort*, without
3 regard to the perceived value of the resulting *information*, just as the value of a campaign ad, for
4 the Act’s purposes, generally derives from the production and distribution costs without regard to
5 its effectiveness in persuading voters. The requested investigation would have required that
6 Ukraine deploy its official law enforcement infrastructure to pursue information regarding
7 Biden’s alleged conduct with respect to Burisma, and the DNC’s alleged conduct with respect to
8 alleged Ukrainian election interference, which would incur a cost even if the Ukrainian
9 investigation failed to produce any information supporting these allegations. Accordingly,
10 because Ukraine’s government would have had to use its resources to investigate the allegations,
11 thus sparing the Trump Committee the expense of doing so and potentially allowing the
12 campaign to otherwise direct its resources, the requested investigation was a thing “of value.”¹⁹⁶

13 d. The Announcement and Investigation Were Sought “for the
14 Purpose of Influencing” the 2020 U.S. Presidential Election

15 The available information indicates that the requested announcement and investigation
16 were sought “for the purpose of influencing” a federal election.¹⁹⁷ As discussed above, Trump
17 repeatedly requested that Zelensky confer with Giuliani and investigate allegations regarding
18 Biden and 2016 election interference during their July 25, 2019, phone call. Trump’s later
19 comments regarding the July 25 call, and his ongoing support for Giuliani’s investigation of the
20 same allegations, indicate that the request was motivated by an electoral purpose — *i.e.*, seeking

¹⁹⁶ See F&LA at 8, MUR 7271 F&LA at 3–4, 13–14, MUR 6414 (discussing the nature and value of investigative services provided by a research company, some of which were allegedly provided at a discount or at no charge).

¹⁹⁷ 52 U.S.C. § 30101(8)(A)(i).

1 and publicizing damaging information about Biden, Trump's potential opponent in the 2020 U.S.
 2 presidential election,¹⁹⁸ and the DNC's alleged involvement in foreign electoral interference.
 3 Trump further demonstrated that electoral purpose by repeatedly refusing — without first
 4 receiving the public announcement of the investigation — to schedule a White House meeting
 5 with Zelensky.

6 In analyzing whether the provision of funds or any other thing of value is a
 7 “contribution” under the Act and Commission regulations, the Commission has concluded that
 8 the question is whether a thing of value was “provided for the purpose of influencing a federal
 9 election [and] not whether [it] provided a benefit to [a federal candidate's] campaign.”¹⁹⁹ As
 10 such, the Commission has previously found that activity lacking the requisite purpose of
 11 influencing a federal election — including, *e.g.*, activity to advance a commercial interest,²⁰⁰

¹⁹⁸ See May 9 NY Times Article (reporting that Giuliani planned trip “potentially to damage Mr. Biden, the early front-runner for the 2020 Democratic presidential nomination”).

¹⁹⁹ Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate).

²⁰⁰ *E.g.*, Advisory Op. 2012-31 (AT&T) at 4 (wireless carrier charging a reduced fee to process text message-based donations to federal candidates did not thereby make “contributions” to the candidates because the reduced fee “reflects commercial considerations and does not reflect considerations outside of a business relationship”); Advisory Op. 2004-06 (Meetup) at 4 (commercial web service provider that can be used to arrange meetings and events based on shared interests did not make contributions by featuring federal candidates in its list of “event topics” or by offering its services to federal candidates and committees because “any similarly situated member of the general public” could use these services); see First Gen. Counsel's Report at 13–17, MURs 5474 and 5539 (Dog Eat Dog Films) (recommending finding no reason to believe with respect to allegation that producers and distributors of a film criticizing a federal candidate made “contributions” or “expenditures,” because the record established that the film was made and distributed “for genuinely commercial purposes rather than to influence a federal election”) and Certification ¶¶ A.1–2, B.1, MURs 5474 and 5539 (June 8, 2005) (approving recommendations); Advisory Op. 1994-30 (Conservative Concepts/Pence) (identifying factors used to determine whether “entrepreneurial activity” referencing a federal candidate will result in a “contribution,” including “whether the activity” is “for genuinely commercial purposes”); see also First Gen. Counsel's Report at 9–11, MURs 7443, 7447, & 7550 (Twitter, Inc.) (recommending dismissal of allegations that social media company made contributions by imposing account restrictions on users, including federal candidates, because company “credibly explained its commercial motivations . . . [and thus showed] a commercial, rather than electoral, purpose” for the restrictions).

1 fulfill the obligations of holding federal office,²⁰¹ or engage in legal or policy advocacy²⁰² —
 2 does not result in a “contribution” or “expenditure,” even if it confers a benefit on a candidate or
 3 otherwise affects a federal election. The electoral purpose may be clear on its face, as in a third
 4 party’s payments for a coordinated communication, or inferred from the surrounding
 5 circumstances.²⁰³

6 The overall record in these matters supports the conclusion that Trump sought the
 7 announcement and investigation from Zelensky and Ukraine for the purpose of influencing the
 8 2020 U.S. presidential election.²⁰⁴ During their July 25, 2019, call, Trump asked Zelensky to

²⁰¹ *E.g.*, Advisory Op. 1981-37 (Gephardt) at 2 (federal candidate did not receive a contribution by appearing at a series of “public affairs forums” paid for by a corporation because “the purpose of the activity is not to influence the nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder” and although “involvement in the public affairs programs may indirectly benefit future campaigns, . . . the major purpose of the activity contemplated . . . would not be the nomination or election of you or any other candidate to Federal office”).

²⁰² *E.g.*, F&LA at 8, MUR 7024 (free legal services provided to a federal candidate challenging FEC disclosure regulations were not contributions because the services were provided “for the purpose of challenging a rule of general application, not to influence a particular election”); Advisory Op. 2010-03 (National Democratic Redistricting Trust) at 4 (federal candidates can solicit funds outside of the Act’s limitations and prohibitions for redistricting litigation costs, because “[a]lthough the outcome of redistricting litigation often has political consequences, . . . such activity is sufficiently removed that it is not ‘in connection with’ the elections themselves”); Advisory Op. 1982-35 (Hopfman) at 2 (funds collected by federal candidate to challenge state party’s ballot access rule precluding him from the ballot were not “contributions” because “the candidate is not attempting to influence a Federal election by preventing the electorate from voting for a particular opponent [but instead] proposes to use the judicial system to test the constitutionality of the application of a party rule to his candidacy”); Advisory Op. 1996-39 (Heintz for Congress) (same); *cf.* Advisory Op. 1980-57 (Bexar County Democratic Party) at 3 (funds raised for federal candidate’s lawsuit seeking removal of a potential opponent from the ballot *were* contributions because litigation “to force an election opponent off the ballot . . . is as much an effort to influence an election as is a campaign advertisement derogating that opponent”).

²⁰³ *E.g.* Advisory Op. 1988-22 at 5 (San Joaquin Valley Republican Associates) (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions); *see* Factual & Legal Analysis at 17–20, MURs 4568, 4633, and 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with “uncompensated fundraising and campaign management assistance” and “advertising assistance[.]” including spending “several million dollars” on coordinated advertisements); Advisory Op. 2000-08 (Harvey) at 1, 3 (concluding private individual’s \$10,000 “gift” to a federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”).

²⁰⁴ Having undertaken these actions for the purpose of influencing an election, rather than some official governmental purpose, Trump was not acting in his capacity as president, or on behalf of the federal government. Thus, Trump was a “person” under the Act and subject to the foreign national prohibition in 52 U.S.C. § 30121. *See*

1 investigate the Biden/Burisma and 2016 election interference allegations, requesting that
2 Zelensky and his team discuss the matter with Giuliani and Attorney General Barr.²⁰⁵ Trump's
3 statements, viewed in light of his later comments regarding the call and ongoing support for
4 Giuliani's investigation of these allegations, reflect the electoral purpose behind these requests.

5 In particular, Trump's statements after his call with Zelensky indicate that his purpose for
6 seeking the investigation was to advance his own campaign for reelection by harming a potential
7 opponent. The day after the call, on July 26, 2019, Trump called and asked Sondland whether
8 Zelensky was "going to do the investigation," to which Sondland responded that Zelensky would
9 do it and, in fact, would "[d]o anything you ask him to."²⁰⁶ Sondland then told Holmes, a U.S.
10 Embassy official who overheard Sondland's exchange with Trump, that he believed Trump "did
11 not give a shit about Ukraine" and cared only about "'big stuff' that benefits the President, like
12 the, quote, unquote, 'Biden investigation' that Mr. Giuliani was pushing."²⁰⁷ In response to
13 reporters' questions about his reasons for asking Zelensky to investigate Biden, Trump
14 acknowledged that he believed Biden was "crooked" and should be investigated,²⁰⁸ and he later
15 said, in a televised interview, that he would make Biden's alleged corruption "a major issue in

52 U.S.C. § 30101(11) (defining "person" to exclude "the Federal Government or any authority of the Federal Government").

²⁰⁵ July 25 Call Memo at 3–4; *see* October 3 Trump Remarks.

²⁰⁶ Holmes Dep. at 24.

²⁰⁷ *Id.* at 25; *see also* Bolton Book at 462 ("'I don't want to have any [] thing to do with Ukraine,' said Trump, per Kupperman. . . . 'They [] attacked me. I can't understand why. . . .' All this, he said, pertained to the Clinton campaign's efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.').

²⁰⁸ Trump-Niinistö Press Conference ("Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: . . . Look, Biden and his son are stone-cold crooked."); October 3 Trump Remarks ("So, I would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren't crooked.').

1 the campaign.”²⁰⁹ These candid statements show that Trump had an electoral purpose in seeking
2 the investigation.

3 Trump’s funneling of Ukraine policy through his personal attorney, Giuliani, further
4 accords with that conclusion. When the U.S. delegation, including Perry, Sondland, and Volker,
5 returned from Zelensky’s inauguration urging Trump to show support for the new Ukrainian
6 President by scheduling a White House meeting with Zelensky, rather than engaging with
7 officials at the Department of State, Department of Defense, or National Security Council,
8 Trump directed that any discussion about meeting with Zelensky be channeled through Giuliani,
9 who held no government position and was acting as Trump’s personal attorney.²¹⁰ For example,
10 Trump directed Bolton, his National Security Advisor, to ask Zelensky to meet with Giuliani, not
11 to discuss corruption generally, but the Biden/Burisma and 2016 election interference allegations
12 specifically.²¹¹ Finally, in his July 25, 2019, call with Zelensky, Trump requested that Zelensky
13 consult with Giuliani and Attorney General Barr, rather than going through traditional diplomatic
14 channels, about investigating the Biden/Burisma and 2016 election interference allegations.²¹²
15 Trump’s use of his personal attorney, rather than the usual and official actors in U.S. foreign
16 policy, suggests that Trump himself viewed Giuliani’s effort to discredit Biden and the DNC as a
17 personal matter, namely, that it was for the purpose of influencing the 2020 presidential election.

18 Likewise, the record makes clear that Giuliani also pursued these allegations for the
19 purpose of benefitting Trump’s candidacy, *i.e.*, influencing the 2020 presidential election.

²⁰⁹ Hannity Interview.

²¹⁰ Volker Dep. at 305; Sondland Dep. at 25; *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

²¹¹ Bolton Book at 459.

²¹² July 25 Call Memo.

1 Giuliani acknowledged in May 2019 that he was planning a trip to Ukraine for the specific
2 purpose of what he described as “meddling in an investigation” — *i.e.*, to urge the newly-elected
3 Ukrainian president, Zelensky, to pursue the Biden/Burisma and 2016 election interference
4 allegations. Giuliani, as Trump’s personal counsel, expressed his belief that Ukraine’s
5 investigation of these allegations would uncover “information [that] will be very, very helpful to
6 my client.”²¹³ Viewed in the context of his broader effort to develop and disseminate these
7 allegations — including by pushing for the removal of Ambassador Yovanovitch, who Giuliani
8 viewed as an impediment to the desired investigation,²¹⁴ and meeting with Shokin, the former
9 Ukrainian prosecutor who had allegedly tried to investigate Burisma before being removed at
10 Biden’s behest, as well as Shokin’s successor Lutsenko — Giuliani’s comments indicate
11 recognition that the Ukrainian investigation would likely benefit Trump personally because of
12 the influence such actions would have on the election in his non-official capacity, *i.e.*, in his
13 campaign.

14 Giuliani later publicly claimed that his purpose in investigating “2016 Ukrainian
15 collusion and corruption” was “solely” to defend Trump “against false charges[,]”²¹⁵ a claim that
16 Giuliani also raises in his response filed with the Commission.²¹⁶ Even if one were to accept,
17 *arguendo*, that Giuliani’s reason for urging Ukraine to investigate the 2016 election interference
18 allegation was to defend his client, Trump, in connection with Special Counsel Robert Mueller’s

²¹³ May 9 NY Times Article.

²¹⁴ *See supra* notes 10–11 and accompanying text (discussing Giuliani’s effort to have Yovanovitch removed).

²¹⁵ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), https://twitter.com/RudyGiuliani/status/1192180680391843841?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1192193760681242624&ref_url=https%3A%2F%2Fthehill.com%2Fhomenews%2Fadministration%2F469324-george-conway-giuliani-tweet-by-itself-establishes-that-trump.

²¹⁶ Giuliani Resp. at 2.

1 investigation of Russian electoral interference in the 2016 presidential election, that reasoning
2 could plausibly provide a non-electoral purpose for Giuliani's actions only until the Special
3 Counsel's Report was confidentially submitted to the Attorney General, ending the investigation,
4 on March 22, 2019 — *i.e.*, weeks before Giuliani's planned trip to Ukraine for the purpose of
5 "meddling in investigations," and months before the July 25, 2019, Trump-Zelensky phone call
6 that is the focus of the complaints at issue in these matters.²¹⁷ Giuliani's claim that he was acting
7 solely to defend Trump is therefore inconsistent with his continued pursuit of a Ukrainian
8 investigation into the 2016 election interference allegation well after the Special Counsel's
9 investigation had ended.

10 Moreover, Giuliani's pursuit of the announcement of the Burisma/Biden allegation —
11 which his associate, Parnas, characterized in a television interview as "the most important" of the
12 demands of Zelensky²¹⁸ — has no cognizable connection with the Special Counsel's
13 investigation. As such, Giuliani's efforts to pressure Zelensky to announce and investigate the
14 Biden/Burisma allegation cannot reasonably be viewed as an attempt to defend Trump in specific
15 connection with that inquiry. Giuliani's efforts, and the timing of them, further undermine
16 Giuliani's argument as to his purpose and instead support the conclusion that Giuliani acted to
17 benefit Trump politically with regard to his 2020 presidential reelection campaign.²¹⁹

²¹⁷ Devlin Barrett, *et al.*, *Mueller Report Sent to Attorney General, Signaling His Russia Investigation Has Ended*, WASH. POST (Mar. 22, 2019), https://www.washingtonpost.com/world/national-security/mueller-report-sent-to-attorney-general-signaling-his-russia-investigation-has-ended/2019/03/22/b061d8fa-323e-11e9-813a-0ab2f17e305b_story.html; *see also* Compl. ¶¶ 27, 40, MUR 7645; Compl. ¶¶ 2–4, MUR 7663.

²¹⁸ Maddow Interview Pt. 1 at 13:43–16:12.

²¹⁹ *See* F&LA at 6, MUR 7024 (quoting 52 U.S.C. § 30101(8)(A)(i)).

1 Parnas's statements indicate that he shared Giuliani's purpose when he pursued the
2 announcement of the Biden investigation in a May 12, 2019, meeting with Zelensky's aide
3 Serhiy Shefir. At that meeting, Parnas told Shefir that the announcement was a prerequisite for
4 Vice President Pence to attend Zelensky's inauguration²²⁰ and, after Shefir demurred, Parnas
5 informed Giuliani, and Trump directed Pence not to attend Zelensky's inauguration.²²¹ Viewed
6 in light of Parnas's later acknowledgement that among the "several demands" that he conveyed
7 to Shefir, the "most important one was the announcement of the Biden investigation,"²²²
8 Giuliani's response when that demand was not satisfied — "OK, they'll see"²²³ — and Trump's
9 subsequent directive that Pence not attend Zelensky's inauguration, Parnas's statements evince
10 an electoral purpose since Parnas acknowledged which demand was "the most important" and
11 attempted to pressure Zelensky into providing it to benefit Trump's campaign.

12 Further, numerous U.S. officials expressed concern regarding the requests that Zelensky
13 announce and investigate these allegations, stemming from the fact that the announcement and
14 investigation were pursued through an improper, irregular channel — namely, through Giuliani,
15 a private citizen acting as Trump's personal attorney²²⁴ — rather than through an official
16 channel, such as a request for intergovernmental law enforcement cooperation, and were sought
17 for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or
18 policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted

²²⁰ Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

²²¹ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

²²² Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

²²³ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

²²⁴ *See supra* notes **Error! Bookmark not defined.**–19 and accompanying text.

1 negatively to Sondland's statement to the Ukrainians that the White House would agree to
2 schedule an official meeting for Zelensky after Ukraine initiated the investigations; Bolton
3 swiftly ended the meeting and afterward instructed his associate, Hill, to inform the National
4 Security Council's legal counsel about Sondland's statement and that he, Bolton, was not party
5 to the offer.²²⁵

6 Bolton later asserted that he did not agree with Sondland's persistent effort to get
7 approval for a face-to-face meeting between Zelensky and Trump, and did not think that such a
8 meeting should be used to discuss the allegations that Giuliani wanted Zelensky to investigate.²²⁶
9 At a follow-up meeting without Bolton, Sondland again told the Ukrainians that a White House
10 visit for Zelensky would happen only after the announcement of the Burisma/Biden and 2016
11 election interference investigations, after which Hill and Vindman confronted Sondland to
12 express their view that Sondland's statement was inappropriate.²²⁷ The fact that Bolton, Hill,
13 and Vindman all expressed immediate concern with the requests to the Ukrainian delegation
14 indicates that they perceived — and objected to — the linkage between an important diplomatic
15 goal and the announcement of an investigation into Trump's potential electoral opponent.

16 Zelensky's representatives, Andrey Yermak and Oleksandr Danyliuk, also understood the
17 purpose of the request to be political, expressing concern about Ukraine being improperly drawn

²²⁵ Vindman Dep. at 17; Hill Dep. at 65–67, 70–71; *see also* Bolton Book at 465 (“I told [Hill] to take this whole matter to the White House Counsel’s office; she quoted me accurately as saying, ‘I am not part of whatever drug deal Sondland and Mulvaney are cooking up.’ I thought the whole affair was bad policy, questionable legally, and unacceptable as presidential behavior.”).

²²⁶ Bolton Book at 465 (“I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

²²⁷ Vindman Dep. at 29–31; Hill Dep. at 69–70.

1 into a U.S. domestic political matter. On July 20, 2019, ten days after his meeting with Bolton,
2 Danyliuk told Bill Taylor that Zelensky “did not want to be used as a pawn” in U.S. election
3 matters.²²⁸ Yermak, Zelensky’s closest advisor, also expressed concern that Ukraine could get
4 drawn into a U.S. domestic political issue by satisfying Trump’s and Giuliani’s wishes. After the
5 Trump-Zelensky phone call, and after Yermak met with Giuliani on August 2, 2019, where they
6 discussed the White House visit and a public announcement of the investigations, Yermak sent
7 Volker a draft of a potential announcement on August 12, 2019, which generally discussed
8 Ukraine’s commitment to combating corruption but lacked specific mention of the
9 Biden/Burisma and 2016 election-interference allegations.²²⁹ Upon considering Yermak’s
10 proposed statement, however, Giuliani reportedly rejected it because it did not contain specific
11 references to the allegations, telling Volker that if the announcement “doesn’t say Burisma and
12 2016, it’s not credible.”²³⁰

13 Giuliani’s reported insistence on these specific references belies the argument that the
14 announcement’s purpose was non-electoral — *e.g.*, that it was sought to publicly ensure
15 Ukrainian commitment to investigating corruption — and instead supports the inference that the
16 announcement’s purpose was to amplify allegations that would harm the reputations of Biden

²²⁸ Taylor Dep. at 30; Bolton Book at 472.

²²⁹ First Volker Text Excerpts at 3; Volker Dep. at 113.

²³⁰ Volker Dep. at 71–72, 113; *see also* Maddow Interview Pt. 2 at 16:17–17:02 (“They [Zelensky’s administration] announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”). Giuliani contends, in his response, that “[n]either [Volker nor Sondland] shared with Mr. Giuliani a copy of the letter nor did they read a draft to him.” Giuliani Resp. at 3. This representation does not contradict the representations of Volker and Parnas, as Giuliani’s response does not dispute that he was made aware of the statement’s general content.

1 and the DNC, as well as publicly commit Ukraine to investigating those allegations.²³¹ Volker
2 testified that to implement Giuliani's instructions and advance the negotiations, he incorporated
3 the desired references and sent a revised draft statement to Yermak, although Volker also
4 advised Yermak that announcing an investigation with specific references to these two
5 allegations was "not a good idea" and that a "generic statement about fighting corruption" would
6 be better.²³² These sentiments appear to reflect contemporaneous recognition by the officials
7 involved that conditioning a White House visit — seen by officials on both sides as critical to the
8 diplomatic relationship²³³ — on the public announcement and investigation of these specific
9 allegations was improper, because it placed pressure on Zelensky to provide deliverables that
10 could draw him and Ukraine into the 2020 U.S. presidential election.

11 Trump's refusal to release the Congressionally-approved security aid to Ukraine, despite
12 many requests to do so, also underscores the personal, electoral motive driving the demand for
13 the announcement and investigation. Former National Security Advisor Bolton recounts that he
14 and the Secretaries of Defense and State repeatedly lobbied Trump to release the aid, to no
15 avail.²³⁴ Officials at their respective agencies uniformly agreed, and represented vocally, that the
16 aid to Ukraine was vital and effective, a perspective mirrored in bipartisan Congressional support
17 for the aid appropriation.²³⁵ The Department of Defense raised a further concern that the OMB

²³¹ See Taylor Dep. at 36 ("Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. . . . He said that President Trump wanted President Zelensky in a box, by making [a] public statement about ordering such investigations.").

²³² Volker Dep. at 44.

²³³ Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

²³⁴ Bolton Book at 468–69.

²³⁵ Taylor Dep. at 28 and 132; Cooper Dep. at 16.

1 hold on appropriated funds presented a potential violation of federal appropriations law, a
2 concern later validated by the U.S. Government Accountability Office.²³⁶ Taylor expressed his
3 concern about the apparent reason for the hold on security funds to Ukraine, writing in a text
4 message to Volker and Sondland, “I think it’s crazy to withhold security assistance for help with
5 a political campaign.”²³⁷

6 Nevertheless, Trump continued to refuse to release the aid, reportedly telling Bolton on
7 August 20, 2019, that “he wasn’t in favor” of releasing the aid until all of the materials related to
8 the Biden and 2016 election interference investigations had been turned over.²³⁸ Testimony
9 reflects that Trump also told Sondland that Zelensky would have to announce the investigation
10 for the aid to be released.²³⁹ Trump’s refusal to release the aid, viewed in context with his
11 explanatory statements to Bolton and Sondland, indicate an electoral motivation driving his
12 demands of Zelensky, namely, influencing the 2020 presidential election through the
13 announcement and investigation of his potential opponent and the opposing political party.

14 In public statements regarding his actions, Trump has claimed that he withheld the
15 Ukraine aid because of concern about corruption in Ukraine and his view that the U.S. provides a
16 disproportionately high amount of aid to Ukraine, relative to countries in the European Union.²⁴⁰
17 These subsequent explanations, however, do not sufficiently account for Trump’s actions and
18 above-described statements. Trump’s statements to Bolton and Sondland directly tied the aid to

²³⁶ Morrison Dep. at 163; GAO Decision at 1, 8.

²³⁷ First Volker Text Excerpts at 9.

²³⁸ Bolton Book at 471.

²³⁹ Morrison Dep. at 190–91; Taylor Dep. at 39.

²⁴⁰ Sep. 24 Trump Press Conference at 0:04–0:42; Trump- Niinistö Press Conference.

1 the investigation of the Biden/Burisma and 2016 election interference allegations, neither of
2 which had, according to Trump's advisors, a discernable connection to a concern with the U.S.
3 giving more aid to Ukraine than the countries of the European Union, but had a clear connection
4 with the 2020 presidential election.²⁴¹

5 Trump's other contention — that concern with Ukrainian corruption animated the
6 decision to withhold the aid — is inconsistent with Giuliani's rejection of a general public
7 statement committing Ukraine to combating corruption, which Yermak had proposed after
8 discussions with Volker and Sondland.²⁴² Moreover, Parnas stated publicly that the pursuit of
9 the Burisma allegation was never about combating corruption, but rather about Joe and Hunter
10 Biden.²⁴³ The insistence on a public announcement committing Ukraine to investigating these
11 *particular* allegations connected to a potential candidate in the next presidential election supports
12 a reasonable inference that the true purpose for withholding the aid was not to ensure Ukraine's
13 commitment to fighting corruption — a general commitment that Zelensky had campaigned on
14 and had, indeed, offered to announce publicly²⁴⁴ — but rather to influence the 2020 presidential
15 election.

16 3. Neither DOJ's Decision Not to Pursue Criminal Charges, Nor the Special
17 Counsel's Report, Forecloses Civil Enforcement of the Act in this Matter

18 The Trump Committee denies that any violation of the Act or Commission regulations
19 occurred in these matters, relying principally on the DOJ Criminal Division's decision not to

²⁴¹ See First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it's crazy to withhold security assistance for help with a political campaign.”).

²⁴² Volker Dep. at 113.

²⁴³ Maddow Interview Pt. 1 at 8:58–9:37.

²⁴⁴ Taylor Dep. at 198–99; Volker Dep. at 29–30.

1 investigate the matter, based on “established procedures set forth in the Justice Manual,” as well
2 as a statement in the Special Counsel’s Report that the Trump Committee asserts “directly called
3 into doubt” the “legal and constitutional viability” of the allegation that Trump solicited a thing
4 of value from Zelensky.²⁴⁵ However, neither the DOJ’s decision not to criminally investigate
5 nor the Special Counsel’s Report’s analysis bears on the Commission’s civil enforcement of the
6 Act in these matters.

7 Contrary to the Trump Committee’s position, the Special Counsel’s Report reasoned that
8 the terms “anything of value” or “thing of value” are broad in scope and could include valuable
9 information, such as opposition research.²⁴⁶ Consistent with the analysis presented in this report,
10 the Special Counsel’s Report stated that Commission regulations and precedent “would support
11 the view that candidate-related opposition research given to a campaign for the purpose of
12 influencing an election could constitute a contribution,” while observing that “no judicial
13 decision has treated the *voluntary* provision of uncompensated opposition research or similar
14 information as a thing of value that could amount to a contribution under campaign-finance
15 law[,]” and that “[s]uch an interpretation could have implications beyond the foreign-source
16 ban . . . and raise First Amendment questions.”²⁴⁷

²⁴⁵ Trump Comm. Resp. at 1.

²⁴⁶ Special Counsel’s Report at 186–187 (“[t]he phrases ‘thing of value’ and ‘anything of value’ are broad and inclusive enough to encompass at least some forms of valuable information.”); *see also id.* at 187 (“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”).

²⁴⁷ *Id.* at 187 (emphasis added); *cf.* F&LA at 8, MUR 7271 (Chalupa, *et al.*) (determining that, as a legal matter, there was reason to believe that a foreign embassy was the subject of a solicitation of a contribution in connection with using “its resources and expend[ing] ‘funds for opposition research’” that were contemplated as being provided at no charge).

1 The Special Counsel's Report's points, which the Trump Committee appears to reference
2 in questioning the constitutionality of the allegations in these matters, are legally and factually
3 inapposite, however. As noted above, the Act and Commission regulations specifically exempt
4 voluntary activity, including activity by foreign nationals, from the Act's definitions of
5 "contribution" and "expenditure,"²⁴⁸ while the facts in these matters concern soliciting a foreign
6 national, Zelensky, to use Ukrainian resources to provide the Trump Committee, at no cost, with
7 things of value — an announcement akin to paid campaign communications disseminating a
8 disparaging narrative about Biden, and an investigation of Biden akin to an opposition research
9 project — and not, as the Special Counsel's Report discusses, the voluntary provision of
10 information by a foreign national.²⁴⁹ Moreover, the Commission has explained that the
11 "exception for volunteer activities is restricted to donations of the volunteer's own time and
12 services and does not generally exempt actual costs incurred on behalf of a Federal candidate or
13 political party committee."²⁵⁰ Thus, any costs incurred by such individuals in the course of
14 performing their voluntary services "must be within the donor's limits and may not be
15 contributed by any corporation or labor union or other person who is prohibited by the Act from
16 making a contribution."²⁵¹ Where, as here, the purported volunteer who would contribute
17 resources, such as the costs of an investigation, in addition to time and services is a foreign
18 national, such costs are a prohibited contribution.

²⁴⁸ See *supra* note 186 (discussing the volunteer exemption as applied to foreign nationals).

²⁴⁹ See First Gen. Counsel's Rpt., MURs 7265 & 7266 (Donald J. Trump for President, *et al.*) (analyzing matters at issue in Special Counsel's Report)

²⁵⁰ Advisory Op. 2007-08 at 4 n.2 (King).

²⁵¹ Advisory Op. 1982-04 at 3 (Apodaca).

1 In addition, the Special Counsel's decision not to prosecute any campaign finance
2 violations, and DOJ's decision to not criminally prosecute anyone in connection with the
3 Zelensky call, are based on considerations that are materially distinct from the Commission's
4 consideration of these matters in an administrative and civil context. While a criminal
5 prosecution for a violation of the Act would need to prove beyond a reasonable doubt that the
6 violation was knowing and willful, the Commission in a civil proceeding would only have to
7 establish a violation of the Act based upon the preponderance of the evidence²⁵² — irrespective
8 of whether the violation was knowing and willful.²⁵³ Moreover, at this initial stage of the
9 administrative proceedings, the information before the Commission need only raise a reasonable
10 inference, *i.e.*, credibly allege, that a violation occurred to support a "reason to believe"
11 finding.²⁵⁴ With regard to valuation, the Special Counsel's Office noted that it would be difficult
12 to determine that the opposition research at issue had at least \$25,000 in value, the threshold
13 amount necessary to establish a felony criminal charge, partly because no actual valuable
14 information was provided.²⁵⁵ This difficulty, however, would not be a barrier to Commission
15 action in the civil context, since even contributions that are "nominal" or "difficult to ascertain"

²⁵² See *Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983) ("In a typical civil suit for money damages, plaintiffs must prove their case by a preponderance of the evidence.").

²⁵³ See *FEC v. Novacek*, 739 F. Supp. 2d 957, 966 (N.D. Tex. 2010) (finding that Commission need not establish intent where Commission seeks civil penalties on a non-knowing and willful basis); see also *FEC v. Malenick*, 301 F. Supp. 2d 230, 237 (D.D.C. 2004) (holding that a "knowing" violation of the Act "as opposed to a 'knowing and willful' one, does not require knowledge that one is violating the law, but merely requires an intent to act.") (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J.1986)).

²⁵⁴ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,545 (Mar. 16, 2007) (explaining also that "reason to believe" findings "indicate only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred").

²⁵⁵ Special Counsel's Report at 188.

1 are still prohibited under the Act, which provides statutory civil penalties that are well suited for
2 solicitation violations like the ones at issue.²⁵⁶

3 Finally, the Commission is entrusted with “exclusive jurisdiction with respect to the civil
4 enforcement” of the Act.²⁵⁷ As a civil administrative agency charged with preventing the foreign
5 influence over the U.S. political process,²⁵⁸ the Commission should pursue civil enforcement of
6 the foreign national prohibition to fully vindicate the Act’s interests. Indeed, in cases where DOJ
7 was unable to secure criminal convictions for a violation of the Act, the Commission
8 successfully conciliated with respondents on a non-knowing and willful basis to ensure that the
9 Act’s interests were served.²⁵⁹ Consequently, the Special Counsel’s decision to not file suit
10 against respondents is not a bar to civil enforcement of the Act in these matters.

11 * * *

12 The available information, viewed as a whole, supports the conclusion that the
13 announcement and investigation sought by Trump, Giuliani, and Parnas would have been in-kind
14 contributions if provided to the Trump Committee because they are things of value that were
15 sought for the purpose of influencing a federal election. Had Zelensky acceded to the demands
16 to provide these two deliverables, the announcement would have amplified negative allegations,

²⁵⁶ Advisory Op. 2007-22 at 6; *cf.* MUR 7048 (Cruz) (applying statutory penalty to conciliation of soft money solicitation violation).

²⁵⁷ 52 U.S.C. § 30106(b)(1).

²⁵⁸ *See Bluman*, 800 F. Supp. 2d at 288.

²⁵⁹ *See* Conciliation Agreement, MUR 7221 (James Laurita) (respondent admitted to non-knowing and willful violations of 52 U.S.C. §§ 30116 and 30122 after his criminal trial ended in a hung jury); Conciliation Agreement, MUR 5818 (Feiger, Feiger, Kenney, Johnson, & Giroux, P.C.) (corporate respondent entered into conciliation agreement on non-knowing and willful basis for violations of sections 30118 and 30122 after criminal trial of individual defendants resulted in acquittal).

1 akin to negative paid advertising, regarding Biden and the DNC in advance of the 2020
2 presidential election, and the investigation would have provided a service akin to opposition
3 research. Both deliverables would have incurred the use of Ukraine's official resources, at no
4 cost to the Trump Committee, providing a campaign benefit to Trump's campaign while
5 relieving it of the attendant costs. The overall record also supports the conclusion that Trump,
6 Giuliani, and Parnas pursued these deliverables to improve Trump's electoral prospects in the
7 2020 presidential election — *i.e.*, for the purpose of influencing a federal election.

8 Because Trump, Giuliani, and Parnas knowingly solicited these contributions from
9 Zelensky, a foreign national, we recommend that the Commission find reason to believe that
10 Trump and the Trump Committee,²⁶⁰ Giuliani, and Parnas violated 52 U.S.C. § 30121(a)(2) and
11 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign national contributions.²⁶¹

12 **C. The Commission Should Dismiss the Allegations Regarding Fruman and**
13 **Toensing**

14 The available information does not support a finding that Igor Fruman or Victoria
15 Toensing violated the Act and Commission regulations by knowingly soliciting or providing
16 substantial assistance in soliciting Zelensky to make a prohibited contribution, as alleged.²⁶² The
17 Commission has explained that “substantial assistance means active involvement in the

²⁶⁰ See 52 U.S.C. § 30102(e)(2); 11 C.F.R. § 101.2(a); Advisory Op. 1986-02 at 2 (Robbins).

²⁶¹ Because we conclude that Giuliani and Parnas solicited foreign national contributions, we recommend finding a violation under 52 U.S.C. § 30121(a)(2) and the Commission's regulation at 11 C.F.R. § 110.20(g). However, Giuliani and Parnas also appear to have violated 52 U.S.C. § 30121(a)(2) by “knowingly provid[ing] substantial assistance” in Trump's solicitation of a prohibited foreign national contribution, under 11 C.F.R. § 110.20(h): As explained above, Giuliani and Parnas played an active role, at Trump's behest, in the scheme to solicit prohibited contributions and made solicitations on his behalf. Because the same conduct supports both theories of the violation, to avoid duplicative findings, we recommend that the Commission make a reason to believe finding under 11 C.F.R. § 110.20(h) only if the Commission does not make a reason to believe finding under 11 C.F.R. § 110.20(g).

²⁶² See 11 C.F.R. § 110.20(h).

1 solicitation, making, receipt or acceptance of a foreign national contribution or donation with an
2 intent to facilitate successful completion of the transaction[,]" and "does not include strictly
3 ministerial activity undertaken pursuant to the instructions of an employer, manager or
4 supervisor."²⁶³

5 The record indicates that Fruman, along with Parnas, went to Israel at Giuliani's direction
6 and met with Igor Kolomoisky, a Ukrainian with ties to President Zelensky, to request that
7 Kolomoisky arrange a future meeting between Zelensky and Giuliani.²⁶⁴ Parnas also asserts that
8 he was later able to meet with Zelensky's aide Serhiy Shefir "through Fruman's contacts,"
9 suggesting that Fruman may have facilitated that meeting, where Parnas conveyed the demand
10 that Zelensky publicly announce an investigation.²⁶⁵ However, Fruman does not appear to have
11 solicited Zelensky or had "active involvement in the solicitation . . . with an intent to facilitate
12 successful completion of the transaction."²⁶⁶ Fruman appears to have been only tangentially
13 involved in soliciting Zelensky, by taking steps to procure a meeting with Zelensky for Giuliani,
14 and by possibly connecting Parnas to Shefir. The record provides no indication that, in either
15 event, Fruman acted with the requisite intent to solicit a prohibited contribution from Zelensky.
16 Accordingly, based on the available information, Fruman's conduct does not amount to
17 knowingly providing substantial assistance in soliciting a foreign national contribution.

18 The available information also does not indicate that Victoria Toensing knowingly
19 solicited or provided substantial assistance in soliciting a foreign national contribution. The

²⁶³ Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

²⁶⁴ BuzzFeedNews Article.

²⁶⁵ Cooper Interview Pt. 2 at 2:04–2:20.

²⁶⁶ Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

1 record indicates that Toensing provided legal representation to former Ukrainian Prosecutors
2 General Shokin and Lutsenko, in connection with the Biden/Burisma and 2016 election
3 interference allegations, respectively — *i.e.*, Toensing was hired to investigate Shokin's "March
4 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in
5 such firing," and to help Lutsenko "discuss with United States government officials the evidence
6 of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016
7 U.S. elections."²⁶⁷ Toensing may have also relayed information from her clients, Shokin and
8 Lutsenko, to Giuliani and Parnas, who were investigating the same allegations.²⁶⁸ However,
9 neither Toensing's conduct as legal counsel to Shokin and Lutsenko, nor her limited contact with
10 Giuliani and Parnas, indicates that she was actively involved with the requisite intent to facilitate
11 soliciting Zelensky to make a prohibited contribution. As such, the available information does
12 not support a finding that Toensing knowingly provided substantial assistance in soliciting a
13 contribution from Zelensky.

14 Accordingly, we recommend that the Commission dismiss the allegations that Fruman
15 and Toensing violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or 11 C.F.R.
16 § 110.20(h) by knowingly soliciting or providing substantial assistance in soliciting a prohibited
17 foreign national contribution.²⁶⁹

²⁶⁷ Shokin Retainer Agreement at 1; Lutsenko Retainer Agreement at 1. Toensing appears to deny that any such representation ever took place, *see supra* Toensing Resp. at 2, but even if, *arguendo*, Toensing did represent Shokin and Lutsenko in connection with these allegations, the overall record does not indicate that her conduct resulted in knowingly soliciting or providing substantial assistance in soliciting Zelensky.

²⁶⁸ Maddow Interview Pt. 1 at 21:15–22.

²⁶⁹ Similarly, while Sondland and Volker were involved, as Trump's intermediaries, in asking Zelensky to make a public announcement and investigate the Biden/Burisma and 2016 election interference allegations, neither was specifically mentioned in the complaints filed, and the overall record, including Sondland's and Volker's sworn Congressional testimony, indicates that they acted as U.S. government officials following directions that they viewed, at the time, as necessary to advance U.S. policy, rather than for the purpose of influencing a federal election.

1 **D. The Commission Should Dismiss the Allegation that Trump and the Trump**
2 **Committee Solicited a Contribution from China**

3 The available information does not support finding reason to believe that Trump and the
4 Trump Committee knowingly solicited a contribution from a foreign national in connection with
5 Trump “suggesting that China investigate Hunter Biden’s business dealings.”²⁷⁰ News reports
6 cited by that complaint indicate that in public remarks on September 26, 2019, Trump made
7 statements suggesting that Hunter Biden’s activities in China may have been illegal, and that the
8 Chinese government should investigate those activities.²⁷¹ However, given the full context of his
9 remarks, we recommend that the Commission dismiss the allegation that Trump solicited a
10 contribution in connection with these statements.

11 While Trump’s statement, which he reasonably could have expected to have been
12 publicized (and was), that “China should start an investigation into the Bidens because what
13 happened in China is just about as bad as what happened with Ukraine” could be viewed as a
14 solicitation, it is less clearly a solicitation than the conduct discussed in the rest of this report
15 regarding Ukraine. Even if “what happened in China” could from context be understood as a
16 reference to similar allegations of corruption regarding Hunter Biden, the larger context is less
17 developed in this example and, in light of the specific facts at issue, it is reasonable to view

Accordingly, because the complaints do not allege, and the available record does not indicate, that Sondland or Volker may have violated the Act or Commission regulations, neither has been notified as a respondent. *See* 52 U.S.C. § 30109(a)(1) (“[T]he Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation.”); *see also* 11 C.F.R. § 111.4 (indicating that a complaint submitted to the Commission “should clearly identify as a respondent each person or entity who is alleged to have committed a violation”). Parnas, by contrast, was notified as a respondent because the MUR 7645 complaint specifically alleged, and the available record indicates, that he may have violated the Act. *See* MUR 7645 Compl. ¶ 1.

²⁷⁰ Suppl. Compl. at 1, MUR 7705.

²⁷¹ *See* Yahoo News Article; CNBC Article.

1 Trump's comments as arguably directed to the reporter who was asking the question and less
 2 directly to authorities in China, if at all.²⁷² In addition, there is no information suggesting Trump
 3 had any direct or indirect communication with Chinese President Xi or any other Chinese official
 4 regarding an investigation into the Bidens. In fact, Trump specifically stated that he had not
 5 made this request of Xi, and although he noted that it was "something we can start thinking
 6 about," there is no indication that Trump subsequently made any such request.²⁷³ As such, this
 7 statement regarding China stands in contrast with Trump's solicitation of President Zelensky,
 8 where he directly requested that Zelensky investigate allegations regarding the Bidens and 2016
 9 election interference, and he further indirectly requested — through his agent Giuliani and other
 10 intermediaries meeting with Zelensky's closest advisors — that Zelensky make a public
 11 announcement committing to investigate those allegations.²⁷⁴

12 In such circumstances, Trump's statements regarding China, "construed as reasonably
 13 understood in the context in which [they were] made," do not as clearly "contain[] a clear
 14 message asking, requesting, or recommending that another person . . . provide anything of
 15 value."²⁷⁵ Accordingly, we recommend that the Commission dismiss the allegations raised in

²⁷² Compare, *e.g.*, First Gen. Counsel's Report at 64, MURs 7207, 7268, 7274, and 7623 (Russian Federation, *et al.*) (analyzing Trump's "Russia, if you're listening" statement as a solicitation by reasoning, in part, that "Trump made an express, direct oral communication addressed to the Russian Federation, asking, requesting, or recommending that the foreign country provide something of value within the meaning of 'contribution'"), with First Gen. Counsel's Report at 12–13, MUR 7535 (Leah for Senate) (recommending dismissal regarding alleged solicitation statements made in response to reporter questions and observing that, "unlike the example included in the regulations, [the candidate] was not speaking directly to [the mentioned potential donor] or another potential contributor, and the link to the concept of continuing a practice of past support is more attenuated because of [the donor's] previous support of [the candidate's] primary opponent").

²⁷³ Yahoo News Article, CNBC Article.

²⁷⁴ *Supra* notes 51–60, 68–73 and accompanying text. Trump's other statement, which is referenced in the supplement to the MUR 7705 complaint, does not mention an investigation and merely suggests impropriety on the part of Hunter Biden in China. *Supra* note 112.

²⁷⁵ 11 C.F.R. § 300.2(m) (defining "solicit"); *supra* note 141.

MURs 7645, 7663, and 7705 (Donald J. Trump, *et al.*)

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1 MUR 7705 that Trump and the Trump Committee knowingly solicited a contribution from a
2 foreign national in connection with Trump's statements regarding China.

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V. RECOMMENDATIONS

MURs 7645, 7663, and 7705

1. Find reason to believe that Donald J. Trump and Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a prohibited foreign national contribution from Ukrainian President Volodymyr Zelensky;

MUR 7645

2. Find reason to believe that Rudolph “Rudy” Giuliani violated 52 U.S.C. § 30121(a)(2) by knowingly soliciting a prohibited foreign national contribution under 11 C.F.R. § 110.20(g), OR knowingly providing substantial assistance in soliciting a prohibited foreign national contribution under 11 C.F.R. § 110.20(h), from Ukrainian President Volodymyr Zelensky;
3. Find reason to believe that Lev Parnas violated 52 U.S.C. § 30121(a)(2) by knowingly soliciting a prohibited a foreign national contribution under 11 C.F.R. § 110.20(g), OR knowingly providing substantial assistance in soliciting a prohibited foreign national contribution under 11 C.F.R. § 110.20(h), from Ukrainian President Volodymyr Zelensky;

MURs 7645, 7663, and 7705 (Donald J. Trump, *et al.*)

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- 1 4. Dismiss the allegation that Igor Fruman violated 52 U.S.C. § 30121(a)(2) by
2 knowingly soliciting a prohibited a foreign national contribution under 11 C.F.R.
3 § 110.20(g) OR knowingly providing substantial assistance in soliciting a
4 prohibited foreign national contribution under 11 C.F.R. § 110.20(h);
- 5 5. Dismiss the allegation that Victoria Toensing violated 52 U.S.C. § 30121(a)(2) by
6 knowingly soliciting a prohibited a foreign national contribution under 11 C.F.R.
7 § 110.20(g) OR knowingly providing substantial assistance in soliciting a
8 prohibited foreign national contribution under 11 C.F.R. § 110.20(h);
- 9 6. Close the file as to Igor Fruman and Victoria Toensing;

10 **MUR 7705**

- 11 7. Dismiss the allegation that Donald J. Trump and Donald J. Trump for President,
12 Inc., and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C.
13 § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a prohibited
14 foreign national contribution from China;

15 **MURs 7645, 7663, and 7705**

- 16 8. Approve the attached Factual and Legal Analyses and direct OGC to make
17 technical edits conforming the language to the Commission's findings;
- 18 9. Enter into conciliation with Donald J. Trump, Donald J. Trump for President, Inc.
19 and Bradley T. Crate in his official capacity as treasurer, Rudolph "Rudy" Giuliani,
20 and Lev Parnas prior to a finding of probable cause to believe;
- 21 10. Approve the attached proposed Conciliation Agreements and direct OGC to make
22 technical edits conforming the language to the Commission's findings; and

1 11. Approve the appropriate letters.

2 March 23, 2021
3 Date

Lisa J. Stevenson by SG

Lisa J. Stevenson
Acting General Counsel

5 Charles Kitcher
6 Charles Kitcher
7 Acting Associate General Counsel
8 for Enforcement

9 Mark Shonkwiler
10 Mark Shonkwiler
11 Assistant General Counsel for Enforcement

12 Saurav Ghosh
13 Saurav Ghosh
14 Attorney

15 Nicholas Mueller
16 Nicholas Mueller
17 Attorney

18 Aaron Rabinowitz
19 Aaron Rabinowitz
20 Attorney

21 Attachments:

- 22 1) Factual & Legal Analysis – Donald J. Trump, Donald J. Trump for President,
- 23 Inc. and Bradley T. Crate in his official capacity as treasurer
- 24 2) Factual & Legal Analysis – Rudolph “Rudy” Giuliani
- 25 3) Factual & Legal Analysis – Lev Parnas
- 26 4) Factual & Legal Analysis – Igor Fruman
- 27 5) Factual & Legal Analysis – Victoria Toensing

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Donald J. Trump MURs 7645, 7663, and 7705
Donald J. Trump for President, Inc.
and Bradley T. Crate in his official
capacity as treasurer

These matters were generated by complaints filed with the Federal Election Commission (the “Commission”), which allege violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), relating to President Donald J. Trump’s July 25, 2019, telephone call with the President of Ukraine, Volodymyr Zelensky. The complaints allege that during that phone call, and in a months-long series of communications, Trump requested, recommended, and pressured Zelensky to investigate two allegations: First, that 2020 presidential candidate and current President Joseph R. Biden, while previously serving as Vice President, improperly coerced the Ukrainian government to remove its chief prosecutor for allegedly investigating a Ukrainian company, Burisma, in order to protect Biden’s son, Hunter Biden, who served on the Burisma board of directors; and second, that Ukraine coordinated with the Democratic National Committee (“DNC”) to interfere in the 2016 U.S. presidential election and to support Trump’s general-election opponent, Hillary Clinton.

The complaints in these matters allege that Trump sought the investigation of these allegations to advance his personal political goals — *i.e.*, to support his presidential candidacy and his authorized campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”). The complaints allege, on that basis, that Trump and the Trump Committee knowingly solicited prohibited foreign national contributions. The complaint in MUR 7705 further alleges that Trump violated the Act by publicly suggesting that the government of China should also investigate Biden.

1 The Trump Committee filed a response denying these allegations, while Trump did not
2 file a response and did not join the Trump Committee’s response.

3 As set forth below, the record indicates that, through a series of communications,
4 including the July 25, 2019 phone call between Trump and Ukrainian President Zelensky, Trump
5 and others on his behalf, requested, recommended, and pressured Zelensky to publicly announce
6 and conduct an investigation into allegations regarding Burisma and purported Ukrainian
7 interference in the 2016 presidential election in order to make Biden’s alleged corruption a major
8 issue in Trump’s 2020 presidential reelection campaign. Because the requested announcement
9 and investigations fall within the meaning of “anything of value” and, as the record reflects, were
10 sought for the purpose of influencing the 2020 presidential election, the requests constituted a
11 legally prohibited solicitation of a contribution from a foreign national in violation of the Act.
12 However, the available information does not indicate that Trump directly or indirectly made
13 statements regarding China constituting a “solicitation” of a prohibited foreign national
14 contribution.

15 Accordingly, the Commission finds reason to believe that Trump and the Trump
16 Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting
17 prohibited foreign national contributions from Zelensky; and dismisses the allegation that Trump
18 and the Trump Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by
19 knowingly soliciting prohibited foreign national contributions from China.

20 **I. FACTUAL BACKGROUND**

21 **A. Overview**

22 The available information indicates that between April and September of 2019, President
23 Trump and his personal attorney, Rudolph “Rudy” Giuliani, engaged in a sustained, coordinated

1 effort to request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly
2 announce, and thereafter conduct, an investigation into whether, when he was Vice President,
3 Joe Biden¹ acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to
4 end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter
5 was a board member; and an investigation into whether, during the 2016 presidential election,
6 the DNC coordinated with Ukraine to support Hillary Clinton, Trump's opponent in that
7 election. The available information indicates that Trump and Giuliani requested Zelensky's
8 announcement and the investigation of these allegations in order to advance Trump's personal
9 political goal of depicting Biden and his political party in a negative light during the 2020
10 presidential campaign.

11 During a July 25, 2019, phone call, Trump urged Zelensky to investigate these allegations
12 and work with Giuliani to do so. Giuliani, in turn, pressed diplomatic intermediaries — such as
13 Gordon Sondland and Kurt Volker — and his associate Parnas to communicate that the provision
14 of two items of significant value to Zelensky and the Ukrainian government were conditioned on
15 Zelensky announcing that the Ukrainian government would conduct these investigations.
16 Specifically, Trump refused to schedule a White House visit for Zelensky and blocked the
17 release of \$391 million in Congressionally-approved security aid for Ukraine until Zelensky
18 made the desired public announcement of investigations. Zelensky, directly and through his
19 aides, expressed concern about becoming embroiled in a U.S. domestic political matter. After
20 news of Trump and Giuliani's efforts became public, the security aid was released, and Zelensky
21 ultimately did not announce the requested investigations.

¹ Biden officially declared his candidacy for the 2020 presidential election on April 25, 2019. Statement of Candidacy, Joseph R. Biden Jr. (Apr. 25, 2019).

B. Early Efforts to Develop Allegations Regarding Burisma

1 **B. Early Efforts to Develop Allegations Regarding Burisma**
2 According to news reports and testimony, in 2018 and early 2019, Giuliani, along with
3 his associates Parnas and Fruman, engaged in a concerted effort to develop evidence supporting
4 the allegation that in 2016, while serving as Vice President, Biden had acted improperly by
5 pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin, to prevent an
6 investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-time board
7 member of Burisma.² Giuliani made several attempts to meet with Shokin — including by
8 seeking to obtain a U.S. visa for Shokin in exchange for a meeting to discuss the Bidens³ — and
9 Shokin’s successor, Yuriy Lutsenko — who had also made allegations underlying Giuliani’s
10 claims — to further this effort.⁴ Giuliani and Parnas were also in contact with Victoria

² Compl. ¶ 20, MUR 7645 (Sept. 23, 2019) (citing Michael Sallah, *et al.*, *Two Unofficial US Operatives Reporting to Trump’s Lawyer Privately Lobbied a Foreign Government in a Bid to Help the President Win in 2020*, BUZZFEEDNEWS (July 22, 2019), <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman> (“BuzzfeedNews Article”)); Ben Protess, *et al.*, *Giuliani Pursued Business in Ukraine While Pushing for Inquiries for Trump*, N.Y. TIMES (Nov. 27, 2019), www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html; *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS (May 11, 2019), <https://video.foxnews.com/v/6035385372001#sp=show-clips>. Specifically, Biden stated that he, as part of a broader effort to remove Shokin due to corruption concerns, had threatened to withhold loan guarantees unless the Ukrainian government removed Shokin. Council on Foreign Relations, *Foreign Affairs Issue Launch with Joe Biden*, YOUTUBE, at 51:58–53:20, https://www.youtube.com/watch?v=Q0_AqpdwqK4. Giuliani alleged that Biden acted to protect his son, Hunter, who at the time sat on the board of a Ukrainian oil company, Burisma, whose owner had at one time been investigated for corruption in Ukraine. *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS at 4:18–5:02; *see also, e.g.*, Deposition of Deputy Assistant Secretary George Kent before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 79–86 (Oct. 15, 2019) (“Kent Dep.”) (describing 2014 investigation of Burisma’s beneficial owner, Mykola Zlochevsky, and subsequent hiring of Hunter Biden to Burisma board).

³ BuzzfeedNews Article; Kent Dep. at 44 (“The next time I heard Mr. Giuliani’s name mentioned was on the 9th of January this year, 2019, when I was copied on an email that Giuliani was calling the State Department regarding the inability of the previous prosecutor general Viktor Shokin to get a visa to come to the United States.”).

⁴ BuzzfeedNews Article; Kent Dep. at 43; Deposition of Special Representative for Ukraine Negotiations Kurt Volker before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 104–5 (Oct. 3, 2019) (“Volker Dep.”).

1 Toensing, who appears to have served as counsel to both Shokin and Lutsenko,⁵ and Toensing
2 may have relayed information regarding the allegations to them from her clients.⁶

3 In early 2019, Giuliani, Parnas, and Fruman reportedly endeavored to have the U.S.
4 Ambassador to Ukraine, Marie Yovanovitch, removed from her post, primarily because they
5 viewed Yovanovitch, a holdover from the administration of President Barack Obama, as an
6 impediment to their investigation of the Biden/Burisma allegation.⁷ In a March 22, 2019,
7 communication to Parnas, Lutsenko suggested that he would withdraw his allegations regarding
8 Joe Biden and Burisma if Yovanovitch was not removed.⁸ Giuliani later wrote in a Twitter post

⁵ Shokin appears to have retained Victoria Toensing, an attorney barred in the District of Columbia, “for the purpose of collecting evidence regarding his March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing, and presenting such evidence to U.S. and foreign authorities.” Letter from diGenova & Toensing, LLP to Viktor Shokin at 1 (Apr. 15, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD926.pdf> (“Shokin Retainer Agreement”). *But see* Resp. of Victoria Toensing at 2, MUR 7645 (Oct. 28, 2019) (denying that representation took place). Lutsenko also appears to have retained Toensing for, among other things, “assistance to meet and discuss with United States government officials the evidence of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016 U.S. elections[.]” Letter from diGenova & Toensing, LLP to Yurii Lutsenko at 1 (Apr. 12, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD927.pdf> (“Lutsenko Retainer Agreement”). Toensing had briefly served as counsel to President Trump in connection with Special Counsel Robert Mueller’s investigation on Russian interference in the 2016 presidential election before she stepped down because of a conflict of interest. *See* Kenneth P. Vogel, *Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump*, N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html> (“May 9 NY Times Article”) (cited by Compl., MUR 7645).

⁶ *See, e.g.*, MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 1*, YOUTUBE, at 21:15-22 (Jan. 15, 2020), <https://www.youtube.com/watch?v=DVnZVuhOyycs> (“Maddow Interview Pt. 1”) (statement by Parnas that Toensing was part of the “team”).

⁷ BuzzFeedNews Article; Kent Dep. at 58 (“Mr. Giuliani was almost unmissable starting in mid-March. As the news campaign, or campaign of slander against, not only Ambassador Yovanovitch unfolded, he had a very high — a media promise, so he was on TV, his Twitter feed ramped up and it was all focused on Ukraine, and it was focused on the four story lines that unfolded in those days between March 20 and 23rd.”); Maddow Interview Pt. 1 at 26:58–27:14 (“Maddow: Do you believe that part of a motivation to get rid of Ambassador Yovanovitch, to get her out of post, was because she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden? Parnas: That was the only motivation. There was no other motivation.”).

⁸ Text from Yuriy Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), https://intelligence.house.gov/uploaded_files/20200114_-_parnas_excerpts_translated_slide_deck.pdf (“It’s just that if you don’t make a decision about Madam—you are bringing into question all my allegations. Including about B.” (rough translation)); *see* MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 2*, YOUTUBE (Jan. 15, 2020), <https://www.youtube.com/watch?v=Xj-4V5ui8H4> (“Maddow Interview Pt. 2”) at 7:55–8:48 (“Maddow: Is Mr. Lutsenko saying in effect

1 that Yovanovitch “needed to be removed” because she had impeded his efforts to push for the
2 investigations, including by “denying visas to Ukrainians who wanted to come to US and explain
3 Dem corruption in Ukraine.”⁹ In May, 2019, President Trump recalled Yovanovitch, who was
4 eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S.
5 Ambassador to Ukraine.¹⁰

6 Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to
7 arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a
8 meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.¹¹ Parnas
9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,
10 but Kolomoisky declined to do so.¹² According to U.S. National Security Advisor John Bolton’s
11 published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a
12 “desire to meet with President-Elect Zelensky to discuss his country’s investigation” of the 2016

‘listen if you want me to make these Biden allegations you’re gonna have to get rid of this ambassador?’ Parnas: Oh absolutely.”).

⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 17, 2019, 7:07AM), <https://twitter.com/RudyGiuliani/status/1206908888320221186> (“Yovanovitch needed to be removed for many reasons most critical she was denying visas to Ukrainians who wanted to come to US and explain Dem corruption in Ukraine. She was OBSTRUCTING JUSTICE and that’s not the only thing she was doing. She at minimum enabled Ukrainian collusion.”) (emphasis in original). *See* John Bolton, *THE ROOM WHERE IT HAPPENED* at 454 (Simon & Schuster, 1st ed. 2020) (“Bolton Book”) (“Trump had complained about our Ambassador Yovanovitch, for some time, noting to me on March 21[, 2019] during a telephone call covering a number of subjects that she was ‘bad-mouthing us like crazy’ and . . . saying he wanted her fired ‘today.’ . . . A few days later, on March 25[, . . . I learned Giuliani was the source of the stories about Yovanovitch . . .”); *id.* at 456 (“[On] April 23[, 2019,] I was called to the Oval to find Trump and [then-Acting White House Chief of Staff] Mulvaney on the phone, discussing Yovanovitch again with Giuliani, who was still pressing for her removal. . . . In Giuliani’s mind, Yovanovitch was protecting Hillary Clinton, whose campaign was purportedly the subject of Ukrainian criminal investigations, and there was some connection with Joe Biden’s son Hunter in there as well.”).

¹⁰ BuzzFeedNews Article; Deposition of Ambassador William B. Taylor before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 22 (Oct. 22, 2019) (“Taylor Dep.”).

¹¹ BuzzFeedNews Article.

¹² *Id.*

1 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky
2 and “make sure Giuliani got his meeting in Kiev next week.”¹³

3 As reported in a New York Times interview published the following day, May 9, 2019,
4 Giuliani stated that he intended to travel to Ukraine for the purpose of “meddling” in Ukrainian
5 investigations, specifying that “this isn’t [about] foreign policy” and that the investigations
6 would uncover “information [that] will be very, very helpful to my client, and may turn out to be
7 helpful to my government.”¹⁴ Giuliani wrote to Zelensky on May 10, 2019, in an effort to set up
8 a meeting while on this trip, in which he stated: “I am private counsel to President Donald J.
9 Trump. Just to be precise, I represent him as a private citizen, not as President of the United
10 States.”¹⁵ Amid backlash following the publication of the New York Times article, however,

¹³ Bolton Book at 459 (“On May 8, [2019,] . . . Trump called me to the Oval, where he was meeting with Giuliani, Mulvaney, Cipollone, and perhaps others. The subject was Ukraine, and Giuliani’s desire to meet with President-Elect Zelensky to discuss his country’s investigation of either Hillary Clinton’s efforts to influence the 2016 campaign or something having to do with Hunter Biden and the 2020 election, or maybe both. . . . Trump was clear I was to call Zelensky and make sure Giuliani got his meeting in Kiev next week.”); *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“In my capacity as personal counsel to President Trump and with his knowledge and consent, I request a meeting with you on this upcoming Monday, May 13th or Tuesday, May 14th. I will need no more than a half-hour of your time and I will be accompanied by my colleague Victoria Toensing, a distinguished American attorney who is very familiar with this matter.”).

¹⁴ May 9 NY Times Article (“‘We’re not meddling in an election, we’re meddling in an investigation, which we have a right to do,’” Mr. Giuliani said in an interview on Thursday when asked about the parallel to the special counsel’s inquiry. ‘There’s nothing illegal about it,’ he said. ‘Somebody could say it’s improper. And this isn’t foreign policy — I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop. And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.’”); *see* Text from Rudy Giuliani to Lev Parnas [5/11/2019 8:07:39 AM(UTC-4)], https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“My purpose was to share information to assist their on-going investigation of Ukrainian officials being used by Americans to gather information to assist Clinton in last election. It was also to alert them to the very real dangers that their [sic] are people involved in the investigation as targets who are attempting to shut it down before it reaches a conclusion.”).

¹⁵ Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

1 Giuliani canceled the trip.¹⁶ He later sought to clarify his intentions in a November 6, 2019,
2 Twitter post: “The investigation I conducted concerning 2016 Ukrainian collusion and
3 corruption, was done solely as a defense attorney to defend my client against false charges.”¹⁷
4 On October 2, 2019, Trump stated during a press conference: “And just so you know, we’ve
5 been investigating, on a personal basis — through Rudy and others, lawyers — corruption in the
6 2016 election.”¹⁸

7 C. Zelensky’s Inauguration

8 On April 21, 2019, President Trump called Ukrainian President-Elect Zelensky to
9 congratulate him on his recent election victory and extended him an invitation to visit the White
10 House.¹⁹ According to official records and testimony, Zelensky’s aides and U.S. experts sought
11 to schedule a White House meeting, which they viewed as crucial to the public perception that
12 the U.S. supported Ukraine and the new Zelensky administration.²⁰

¹⁶ See Bolton Book at 461 (noting that after the publication of the New York Times piece, Bolton, John Eisenberg, and Pat Cipollone met and “agreed Giuliani couldn’t be allowed to go to Ukraine”).

¹⁷ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), <https://twitter.com/RudyGiuliani/status/1192180680391843841>.

¹⁸ Remarks by President Trump and President Niinistö of the Republic of Finland in Joint Press Conference, The White House (Oct. 2, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-joint-press-conference/> (“Trump-Niinistö Press Conference”); *but see* Maddow Interview Pt. 1 at 8:58–9:37 (“Maddow: When you say that the President knew about your movements and knew what you were doing. Are you saying specifically . . . that the President was aware that you and Mr. Giuliani were working on this effort in Ukraine to basically try to hurt Joe Biden’s political career, he knew about that? Parnas: Basically. It was all about Joe Biden, Hunter Biden. . . . It was never about corruption. It was never — it was strictly about the Burisma which included Hunter Biden and Joe Biden.”).

¹⁹ The White House, Memorandum of Telephone Conversation (“April 21 Call Memo”) at 2 (Apr. 21, 2019), <https://assets.documentcloud.org/documents/6550349/First-Trump-Ukraine-Call.pdf>; Deposition of Lieutenant Colonel Alexander S. Vindman before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 16–17 (Oct. 29, 2019) (“Vindman Dep.”).

²⁰ See, e.g., April 21 Call Memo at 2; Deposition of Christopher Anderson before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 50 (Oct. 30, 2019) (“But, you know, in sort of the scale of meetings, the best would be an Oval Office visit for President Zelensky. Q: And why is that? A: Because it is the best show of support and it has the greatest pomp and circumstance, and so that has the most impact, both in Ukraine but also in Moscow.”); Deposition of David A. Holmes before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 40–41 (Nov. 15, 2019) (“Holmes Dep.”) (“THE

1 Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to
 2 attend Zelensky’s inauguration.²¹ After Giuliani canceled his aforementioned trip to meet
 3 Zelensky in Ukraine, however, Lev Parnas met with Zelensky’s aide, Serhiy Shefir, in Kyiv on
 4 May 12, 2019; Parnas stated in subsequent interviews that he told Shefir that “Zelensky needed
 5 to immediately make an announcement, . . . that they were opening up an investigation on
 6 Biden,” otherwise Vice President Pence would not attend the inauguration and that the two
 7 countries’ “relationships would be sour — that we would stop giving them any kind of aid.”²²

CHAIRMAN: Why was this White House meeting so important to Zelensky? Mr. Holmes: . . . [T]he Zelensky team were adamant that it was important. So we heard that from them in every interaction that it absolutely was critical for them for Zelensky to get the imprimatur of the U.S. President to indicate that the United States would continue to support Ukraine and his administration”; Taylor Dep. at 76–77 (“So a meeting with President Trump or any President for that matter, but President Trump in the Oval Office doesn’t happen regularly doesn’t happen to very many heads of state. And if you get that, you can be sure or you can think or people might be able to believe that you’ve got a good relationship between the two countries and I think that’s what they were looking for.”); Volker Dep. at 38 (“It was important to show support for the new Ukrainian President. He was taking on an effort to reform Ukraine, fight corruption, a big sea change in everything that had happened in Ukraine before, and demonstrating strong U.S. support for him would have been very important.”).

²¹ Deposition of Jennifer Williams before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 36–37 (Nov. 7, 2019) (“Williams Dep.”). During the period at issue, Williams was detailed from the Department of State to the Office of the Vice President, where she served as Special Adviser on National Security Affairs; her role was to “keep the Vice President [Pence] aware and abreast of all foreign policy issues going on in that region [Europe and Russia], [and] prepare him for his foreign policy and foreign leader engagements.” *Id.* at 11–12.

²² Maddow Interview Pt. 1 at 13:43–16:12 (Parnas: “The message that I was supposed to — that I gave Sergey Shefir was a very harsh message that was told to me to give it to him in a very harsh way, not in a pleasant way. Maddow: Who told you to give it to him in a harsh way? Parnas: Mayor Giuliani. Rudy told me after, you know, meeting at the White House; he called me . . . the message was, it wasn’t just military aid, it was all aid basically their relationships would be sour, that we would stop giving them any kind of aid, that — Maddow: unless — Parnas: Unless there was an announcement — well several things, several demands at that point. *The most important one was the announcement of the Biden investigation* . . . In the conversation I told him that if he doesn’t — the announcement was the key at that time because of the inauguration — that Pence would not show up, nobody would show up to his inauguration. Maddow: Unless he announced an investigation into Joe Biden, no U.S. officials, particularly Vice President Mike Pence, would not come to the inauguration? Parnas: It was particularly Mike Pence.”) (emphasis added); CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 1)*, YOUTUBE, at 2:32–3:33 (Jan. 16, 2020), https://www.youtube.com/watch?v=9JKraI_Rh6g (“Cooper Interview Pt. 1”) (“Parnas: I basically told him very strict and very stern that . . . Zelensky needed to immediately make an announcement, literally that night or tomorrow, within the next 24 hours, that they were opening up an investigation on Biden. . . . If they didn’t make the announcement, basically, there would be no relationship. . . . there was gonna be no inauguration, Pence wouldn’t be at the inauguration, there would be no visit to the White House, there would be, basically, they would have no communication. Cooper: You told the top official in the Zelensky inner circle that if they did not announce an investigation of the Bidens immediately and get rid of some folks around Zelensky who they believed were opposed to President Trump that there wouldn’t be any aid and Vice President Pence would not

1 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and
2 Trump.²³ After their meeting, Parnas sent Shefir a follow-up message, and Shefir disconnected
3 from the messenger app without response and blocked further messages from Parnas.²⁴ Parnas
4 took this to mean that Zelensky would not make the requested announcement and passed that
5 information along to Giuliani, who responded, “OK, they’ll see.”²⁵ The following day, Trump
6 instructed Pence not to attend the inauguration.²⁶

7 In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended
8 Zelensky’s inauguration in Ukraine on May 20, 2019, which included Ambassador to the
9 European Union Gordon Sondland, Special Representative for Ukraine Negotiations Kurt
10 Volker, and National Security Council Staff Member Lt. Col. Alexander Vindman.²⁷

even come to the inauguration? Parnas: Correct.”); Parnas stated that it was through Fruman’s contacts that he was able to meet with Shefir. CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 2)*, YOUTUBE, at 2:04–2:20 (Jan 16, 2020), https://www.youtube.com/watch?v=QUXht__f3Rk (“Cooper Interview Pt. 2”).

²³ Maddow Interview Pt. 1 at 10:15–11:22 (“Maddow: And so did anybody in the U.S. Government or Mr. Giuliani actually convey to officials in Ukraine that you were there as a representative of President Trump? Parnas: Absolutely. To each one of those officials . . . I put Rudy on the phone The first thing I did is introduce myself and tell them: ‘I’m here on behalf of Rudy Giuliani and the President of the United States, and I’d like to put you on speaker phone,’ you know, to confirm him, which we did, we put Rudy on the phone. Rudy relayed to him basically that we were there on behalf of the President of the United States. Maddow: That you were there to speak on President Trump’s behalf? Parnas: Correct, exactly. Those exact words.”); *see also* Cooper Interview Pt. 1 at 4:21–4:35 (Cooper: How did you have the authority to say ‘the Vice President of the United States will not attend the inauguration’ if you don’t do what I say? Parnas: I mean that’s what I was told to do. Cooper: Who told you to do that? Parnas: Rudy Giuliani.”). Parnas stated that “President Trump knew exactly what was going on” with respect to his and Giuliani’s activities in Ukraine. Maddow Interview Pt. 1 at 6:30–6:44; *accord* Cooper Interview Pt. 2 at 3:20–3:34.

²⁴ Maddow Interview Pt. 1 at 16:40–16:55 (“Parnas: Then around eight o’clock or nine o’clock I text him back again saying: ‘Any word? What’s the situation?’ And at that point — because on WhatsApp you can see when a person, like, disconnects you, and he disconnected me. Maddow: He blocked, you? Parnas: He blocked me.”); Cooper Interview Pt. 1 at 3:37–3:43.

²⁵ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

²⁶ Williams Dep. at 37.

²⁷ Vindman Dep. at 17; Deposition of Ambassador Gordon Sondland before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 24 (Oct. 17, 2019) (“Sondland Dep.”).

D. Conditioning of White House Visit on Announcement of Investigation

1 **D. Conditioning of White House Visit on Announcement of Investigation**
2 Upon returning to the United States, Perry, Sondland, and Volker met with Trump on
3 May 23, 2019; according to their testimony, these officials offered a very positive report on the
4 situation in Ukraine and their impressions of its new president, Zelensky — particularly with
5 respect to his willingness and desire to combat corruption.²⁸ The three men encouraged Trump
6 to schedule a meeting with Zelensky in the Oval Office.²⁹ Participants in that meeting later
7 described Trump’s negative reaction³⁰ with accounts of Trump telling his advisors that they
8 would have to “talk to Rudy” before an Oval Office meeting would be scheduled.³¹ Volker and
9 Sondland testified that they understood from Trump’s directive to involve Giuliani in discussions

²⁸ Taylor Dep. at 24; Volker Dep. at 29–30 (“The four of us [Volker, Sondland, Perry, and Senator Ron Johnson], who had been part of the Presidential delegation, had requested the meeting in order to brief the President after our participation at the inauguration on of the new Ukrainian President, and meeting with the new President, an hour-long meeting that we had with him. And we had a very favorable impression of President Zelensky. We believed that he was sincerely committed to reform in Ukraine, to fighting corruption. And we believed that this was the best opportunity that Ukraine has had for 20-some years to really break the grip of corruption that has set the country back for so long. And we wanted to convey this to the President and urge that the U.S. and that he personally engage with the President of Ukraine in order to demonstrate full U.S. support for him.”).

²⁹ Taylor Dep. at 24; Volker Dep. at 29–30.

³⁰ See Holmes Dep. at 29 (“On September 5th, I took notes at Senator Johnson and Senator Chris Murphy’s meeting with President Zelensky in Kyiv. . . . Senator Johnson cautioned President Zelensky that President Trump has a negative view of Ukraine and that President Zelensky would have a difficult time overcoming it. Senator Johnson further explained that he was, quote, ‘shocked’ by President Trump’s negative reaction during an Oval Office meeting on May 23rd when he and [Volker, Sondland, and Perry] proposed that President Trump meet President Zelensky and show support for Ukraine.”); see also Bolton Book at 462 (“I spoke with [Deputy National Security Advisor Charles] Kupperman, who had attended Trump’s debriefing earlier that day (it was still May 23 in Washington when we spoke) from our delegation to Zelensky’s inaugural: Perry, Sondland, Volker and Senator Ron Johnson. . . . ‘I don’t want to have any [] thing to do with Ukraine,’ said Trump, per Kupperman. . . . ‘They [] attacked me. I can’t understand why. . . .’ All this, he said, pertained to the Clinton campaign’s efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.”).

³¹ Volker Dep. at 305 (“And I don’t know how he phrased it with Rudy, but it was I think he said, not as an instruction but just as a comment, talk to Rudy, you know. He knows all of these things, and they’ve got some bad people around him.”); Sondland Dep. at 25 (“On May 23rd, 2019, 3 days after the Zelensky inauguration, we were in the — we, in the U.S. delegation, briefed President Trump and key aides at the White House. We emphasized the strategic importance of Ukraine and the strengthening relationship with President Zelensky, a reformer who received a strong mandate from the Ukrainian people to fight corruption and pursue greater economic prosperity. We asked the White House to arrange a working phone call from President Trump and a working Oval Office visit. However, President Trump was skeptical that Ukraine was serious about reforms and anti-corruption, and he directed those of us present at the meeting to talk to Mr. Giuliani, his personal attorney about his concerns.”).

1 about Ukraine that Giuliani had essentially established an alternate channel of Ukraine-related
2 information and advice; as such, they concluded that they would have to work through the
3 Giuliani channel to advance U.S.-Ukraine policy goals, such as the White House meeting with
4 Zelensky.³²

5 Giuliani, in communications with Sondland and Volker, made it clear that a White House
6 meeting would not be scheduled until Ukraine announced the two investigations and, according
7 to Sondland, “Giuliani also expressed those requests directly to the Ukrainians.”³³ At the same
8 time, Giuliani continued publicly calling for such investigations, tweeting on June 21, 2019:
9 “New Pres of Ukraine still silent on investigation of the Ukrainian interference in 2016 election

³² Sondland Dep. at 26 (“[B]ased on the President’s direction we were faced with a choice. We could abandon the goal of a White House meeting for President Zelensky, which we all believed was crucial to strengthening U.S.-Ukrainian ties . . . or we could do as President Trump directed and talk to Mr. Giuliani to address the President’s concerns. We chose the latter path.”); Gordon D. Sondland before the United States House of Representatives Permanent Select Committee on Intelligence at 17 (Nov. 20, 2019), <https://docs.house.gov/meetings/IG/IG00/20191120/110233/HHRG-116-IG00-Transcript-20191120.pdf> (“Sondland Hearing”) (“First, Secretary Perry, Ambassador Volker, and I worked with Mr. Rudy Giuliani on Ukraine matters at the express direction of the President of the United States. We did not want to work with Mr. Giuliani. Simply put, we were playing the hand we were dealt. We all understood that if we refused to work with Mr. Giuliani, we would lose a very important opportunity to cement relations between the United States and Ukraine.”); Kurt Volker and Timothy Morrison before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 19, 2019), <https://docs.house.gov/meetings/IG/IG00/20191119/110232/HHRG-116-IG00-Transcript-20191119.pdf> (“Volker & Morrison Hearing”) (Volker: “It was clear to me that despite the positive news and recommendations being conveyed by this official delegation about the new President, President Trump had a deeply rooted negative view on Ukraine rooted in the past. He was receiving other information from other sources, including Mayor Giuliani, that was more negative, causing him to retain this negative view.”).

³³ Sondland Hearing at 26–27 (“Mr. Giuliani conveyed to Secretary Perry, Ambassador Volker, and others that President Trump wanted a public statement from President Zelensky committing to investigations of Burisma and the 2016 election. Mr. Giuliani expressed those requests directly to the Ukrainians, and Mr. Giuliani also expressed those requests directly to us. We all understood that these prerequisites for the White House call and the White House meeting reflected President Trump’s desires and requirements.”); *see also* Taylor Dep. at 26 (“By mid-July, it was becoming clear to me that the meeting President Zelensky wanted was conditioned on investigations of Burisma and alleged Ukrainian influence in the 2016 elections. It was also clear that this condition was driven by the irregular policy channel I had come to understand was guided by Mr. Giuliani.”); Fiona Hill and David Holmes before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 21, 2019), https://republicans-intelligence.house.gov/uploadedfiles/hill_and_holmes_hearing_transcript.pdf (“Hill & Holmes Hearing”) (Holmes: “[I]t was made clear that some action on Burisma/Biden investigation was a precondition for an Oval Office visit.”).

1 and alleged Biden bribery of President Poroshenko. Time for leadership and investigate both if
2 you want to purge how Ukraine was abused by Hillary and Obama people.”³⁴

3 On June 28, 2019, Volker told Sondland, Taylor, and Perry that he “planned to be explicit
4 with President Zelensky in a one-on-one meeting in Toronto on July 2nd about what President
5 Zelensky should do to get the meeting in the White House.”³⁵ Volker stated that “he would relay
6 that President Trump wanted to see rule of law, transparency, but also, specifically, cooperation
7 on investigations to get to the bottom of things.”³⁶ On July 3, 2019, Volker met with Zelensky in
8 Toronto, Canada, and conveyed that Giuliani had Trump’s attention on Ukraine and had been
9 amplifying a negative impression of Ukraine with Trump.³⁷

10 On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian
11 counterpart, Oleksandr Danyliuk, and a number of others, including Sondland and Volker, as
12 well as National Security Council staff members Dr. Fiona Hill and Vindman.³⁸ According to
13 those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the
14 promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement

³⁴ Rudy W. Giuliani (@RudyGiuliani), Twitter (June 21, 2019 11:04 AM), <https://twitter.com/RudyGiuliani/status/1142085975230898176>.

³⁵ Taylor Dep. at 25–26.

³⁶ *Id.* at 26.

³⁷ Volker Dep. at 137 (“I believed that Rudy Giuliani, as we saw in an earlier text message, he had been in touch with Prosecutor General Lutsenko. I believe he was getting bad information, and I believe that his negative messaging about Ukraine would be reinforcing the President’s already negative position about Ukraine. So I discussed this with President Zelensky when I saw him in Toronto on July 3rd, and I said I think this is a problem that we have Mayor Giuliani — so I didn’t discuss his meeting with Lutsenko then. That came later. I only learned about that later. But I discussed even on July 3rd with President Zelensky that you have a problem with your message of being, you know, clean, reform, that we need to support you, is not getting or is getting countermanded or contradicted by a negative narrative about Ukraine, that it is still corrupt, there’s still terrible people around you.”).

³⁸ Vindman Dep. at 17; Deposition of Dr. Fiona Hill before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 63 (Oct. 14, 2019) (“Hill Dep.”); Bolton Book at 464.

1 with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after
2 Ukraine initiated the investigations.³⁹ Testimony reflects that Bolton “stiffened” at this comment
3 and quickly ended the meeting;⁴⁰ Hill testified that Bolton asked her to inform the National
4 Security Council’s legal counsel what Sondland had said, and to say that Bolton “was not part of
5 whatever drug deal Sondland and Mulvaney are cooking up.”⁴¹

6 At a follow-up meeting that took place immediately after the Bolton meeting, Sondland
7 more explicitly told the Ukrainians that a White House visit would happen only after Ukraine
8 announced the requested investigations.⁴² After the Ukrainians left the meeting, Hill and

³⁹ Vindman Dep. at 17 (“The meeting proceeded well until the Ukrainians broached the subject of a meeting between the two Presidents. The Ukrainians saw this meeting as critically important in order to solidify the support for their most important international partner. Ambassador Sondland started — when Ambassador Sondland started to speak about Ukraine delivering specific investigations in order to secure the meeting with the President”); Hill Dep. at 65–67 (“Then Ambassador Sondland blurted out: Well, we have an agreement with the Chief of Staff for a meeting if these investigations in the energy sector start.”); *see also* Bolton Book at 464 (“Since I knew, and [Perry, Sondland, and Volker] should have realized after their May 23[, 2019] Oval Office meeting with Trump, that he didn’t want to have anything to do with Ukrainians of any stripe . . . I didn’t play along.”); Sondland stated that he had no “recollection of referencing Mulvaney in the July 10th meeting” but that he did not “have any reason to agree or dispute” Vindman or Hill’s accounts of the meeting. Sondland Hearing at 96–97.

⁴⁰ Hill Dep. at 67; *see* Bolton Book at 464–65 (“Danylyuk was surprised and uncomfortable that I didn’t readily agree to a Zelensky visit, which came from the incessant boosterism of the others in the meeting, but I wasn’t about to explain to foreigners that the three of them were driving outside their lanes. The more I resisted, the more Sondland pushed . . . I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

⁴¹ Hill Dep. at 70–71 (“I went back to talk to Ambassador Bolton. And Ambassador Bolton asked me to go over and report this to our NSC counsel, to John Eisenberg. And he told me, and this is, a direct quote from Ambassador Bolton: You go and tell Eisenberg that I am not part of whatever drug deal Sondland and Mulvaney are cooking up on this, and you go and tell him what you’ve heard and what I’ve said.”); *see* Bolton Book at 465 (confirming Hill’s testimony on this point).

⁴² Vindman Dep. at 29 (“Ambassador Sondland relatively quickly went into outlining how the — you know, these investigations need to — on the deliverable for these investigations in order to secure this meeting. Again, I think, you know, I may not have agreed with what he was doing, but his intent was to normalize relationships with — between the U.S. and Ukraine, and this was — as far as I understand, this is what he believed the deliverable to be.”); Hill Dep. at 69 (“And Ambassador Sondland, in front of the Ukrainians, as I came in, was talking about how he had an agreement with Chief of Staff Mulvaney for a meeting with the Ukrainians if they were going to go forward with investigations.”).

1 Vindman confronted Sondland about the conditioning of a White House meeting on announcing
2 investigations, which Hill and Vindman said they felt was inappropriate.⁴³

3 In mid-July 2019, U.S. officials, at the urging of Giuliani, further pressured Ukrainian
4 officials to conduct investigations into alleged Ukrainian interference in the 2016 election to
5 benefit Clinton, and purported corruption relating to the Biden family's activities in Ukraine. On
6 July 19, 2019, Volker had breakfast with Giuliani and Parnas, and agreed to arrange for Giuliani
7 to meet one of Zelensky's closest advisors, Andriy Yermak, in Madrid, Spain.⁴⁴ After the
8 breakfast, Volker texted Sondland and Taylor to relay that, per Giuliani, it was most important
9 for Zelensky to say that he "will help" with the investigation.⁴⁵ The following day, July 20,
10 2019, Ukrainian national security advisor Danyliuk spoke with Taylor and expressed that
11 Zelensky "did not want to be used as a pawn" in U.S. election matters.⁴⁶

⁴³ Vindman Dep. at 31 ("Q: What was the discord? A: The fact that it was clear that I, as the representative — I, as the representative of the NSC, thought it was inappropriate and that we were not going to get involved in investigations. Q: Did you say that to Ambassador Sondland? A: Yes, I did."); Hill Dep. at 70 ("And he asked the Ukrainians to basically leave the room. So they basically moved out into the corridor. And I said: Look, I don't know what's going on here, but Ambassador Bolton wants to make it very clear that we have to talk about, you know, how are we going to set up this meeting. It has to go through proper procedures. And he started to basically talk about discussions that he had had with the Chief of Staff. He mentioned Mr. Giuliani, but then I cut him off because I didn't want to get further into this discussion at all. And I said: Look, we're the National Security Council. We're basically here to talk about how we set this up, and we're going to set this up in the right way. And you know, Ambassador Bolton has asked me to make it completely clear that we're going to talk about this, and, you know, we will deal with this in the proper procedures. And Ambassador Sondland was clearly annoyed with this, but then, you know, he moved off. He said he had other meetings.").

⁴⁴ Volker Dep. at 229; Letter from Eliot L. Engel, House Committee on Foreign Affairs Chairman, Adam B. Schiff, House Permanent Select Committee on Intelligence Chairman, and Elijah E. Cummings, House Committee on Oversight and Reform Chairman to Members of the Intelligence, Oversight and Reform, and Foreign Affairs Committees, Attachment at 1 (Oct. 3, 2019), https://foreignaffairs.house.gov/_cache/files/a/4/a4a91fab-99cd-4eb9-9c6c-ec1c586494b9/621801458E982E9903839ABC7404A917.chairmen-letter-on-state-department-texts-10-03-19.pdf ("First Volker Text Excerpts").

⁴⁵ First Volker Text Excerpts at 1 ("[7/19/19, 7:01:22 PM] Kurt Volker: Good. Had breakfast with Rudy this morning-teeing up call w Yermak Monday. Must have helped. Most imp't is for Zelensky to say that he will help investigation-and address any specific personnel issues-if there are any").

⁴⁶ Taylor Dep. at 30.

1 Despite Zelensky’s apparent reservations, the messages from Trump’s representatives
2 leading up to the July 25, 2019, call between Zelensky and Trump communicated that Zelensky
3 would need to convince Trump that he would look into the investigation matters in order for their
4 relationship to advance. Taylor testified that on July 20, 2019, the same day that Danyliuk
5 informed Taylor of Zelensky’s reservations, Sondland told Taylor “that he had recommended to
6 President Zelensky that he use the phrase ‘I will leave no stone unturned’ with regard to
7 investigations when President Zelensky spoke with President Trump.”⁴⁷ Further, thirty minutes
8 before the July 25 call between Zelensky and Trump, Volker texted Yermak to reiterate that, per
9 Volker’s discussions with the White House, if Zelensky convinced Trump that he would
10 investigate foreign election interference in 2016, they could schedule a White House visit for
11 Zelensky.⁴⁸

12 **E. The July 25 Phone Call Between Trump and Zelensky**

13 During the July 25 phone call between Trump and Zelensky, Trump repeatedly asked
14 Zelensky to work with Giuliani and U.S. Attorney General William Barr to investigate the
15 allegations involving 2016 election interference and the Bidens. Specifically, according to the
16 White House’s telephone conversation memorandum, Trump told Zelensky “I would like you to
17 do us a favor” and continued: “I would like you to find out what happened with this whole
18 situation with Ukraine, they say CrowdStrike . . . [t]he server, they say Ukraine has it” —
19 comments alluding to the allegation that proof of Ukraine’s purported interference in the 2016

⁴⁷ *Id.*

⁴⁸ First Volker Text Excerpts at 2 (“[7/25/19, 8:36:45 AM] Kurt Volker: Good lunch - thanks. Heard from White House-assuming President Z convinces trump he will investigate / ‘get to the bottom of what happened’ in 2016, we will nail down date for visit to Washington. Good luck! See you tomorrow- kurt”); *see* Volker Dep. at 273 (“[W]hat I said concerning that message to Andriy Yermak is, ‘convince the President,’ so be convincing, ‘and get to the bottom of what happened in 2016.’ So this is looking backward at whether there was any election interference.”).

1 U.S. presidential election could be found on a DNC server in Ukraine.⁴⁹ Trump added, “I would
2 like to have the Attorney General call you or your people and I would like you to get to the
3 bottom of it.”⁵⁰ Trump concluded the point by saying: “Whatever you can do, it’s very
4 important that you do it if that’s possible.”⁵¹ Zelensky replied by noting the importance of
5 cooperation between the U.S. and Ukraine and stated: “[I]n addition to that investigation, I
6 guarantee as the President of Ukraine that all the investigations will be done openly and
7 candidly.”⁵²

8 Trump continued, bringing up former Prosecutor General Shokin, who had reportedly
9 been fired at Biden’s urging:

10 The other thing, [t]here’s a lot of talk about Biden’s son, that Biden
11 stopped the prosecution and a lot of people want to find out about
12 that so whatever you can do with the Attorney General would be
13 great. Biden went around bragging that he stopped the prosecution
14 so if you can look into it It sounds horrible to me.⁵³

⁴⁹ Compl. Attachment, MUR 7663 (Nov. 18, 2019) (The White House, Memorandum of Telephone Conversation at 3 (July 25, 2019) (“July 25 Call Memo”)) (“I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it. I would like you to find out what happened with this whole situation with Ukraine, they say CrowdStrike. . . . I guess you have one of your wealthy people. . . . The server, they say Ukraine has it. There are a lot of things that went on, the whole situation I think you’re surrounding yourself with some of the same people. I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it. As you saw yesterday, that whole nonsense ended with a very poor performance by a man named Robert Mueller, an incompetent performance, but they say a lot of it started with Ukraine. Whatever you can do, it’s very important that you do it if that’s possible.” (ellipses in original)). U.S. National Security Advisor John Bolton listened in on the July 25 call, and his recollection of the conversation is generally consistent with the White House memorandum. *See* Bolton Book at 466–68.

⁵⁰ July 25 Call Memo at 3.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 4 (ellipses in original); *see also* Trump-Niinistö Press Conference (“Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: Look, Biden and his son are stone-cold crooked. And you know it. His son walks out with millions of dollars. The kid knows nothing. You know it, and so do we.”); Remarks by President Trump before Marine One Departure (Oct. 3, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-marine-one-departure-67/> (“October 3 Trump Remarks”) (“Q: Mr. President, what exactly did you hope Zelensky would do about the Bidens after your phone call? Exactly. THE PRESIDENT: Well, I would think that, if they were honest about it, they’d start a major investigation into the Bidens. It’s a very simple answer. They should investigate the Bidens So, I

1 Zelensky responded to Trump, “I understand and I’m knowledgeable about the
2 situation[,]” and stated that he would be appointing a new Ukrainian Prosecutor General who
3 would be “100% my person, my candidate,” and that this person would “look into the situation,
4 specifically to the company that you mentioned in this issue.”⁵⁴ Zelensky reiterated that “we will
5 take care of that and will work on the investigation of the case.”⁵⁵ Trump again told Zelensky
6 that he would have Giuliani and Barr call, adding: “[W]e will get to the bottom of it. I’m sure
7 you will figure it out.”⁵⁶

8 Later in the conversation, Zelensky thanked Trump “for your invitation to visit the United
9 States, specifically Washington[,] DC. On the other hand, I also want to ensure [sic] you that we
10 will be very serious about the case and will work on the investigation.”⁵⁷ Trump replied: “I will
11 tell Rudy and Attorney General Barr to call. Thank you. Whenever you would like to come to
12 the White House, feel free to call.”⁵⁸

would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren’t crooked. That was a crooked deal — 100 percent. He had no knowledge of energy; didn’t know the first thing about it. All of a sudden, he is getting \$50,000 a month, plus a lot of other things. Nobody has any doubt. And they got rid of a prosecutor who was a very tough prosecutor. They got rid of him. Now they’re trying to make it the opposite way. But they got rid — So, if I were the President, I would certainly recommend that of Ukraine.”).

⁵⁴ July 25 Call Memo at 4. Vindman, who listened in to the July 25 call, recalled that Zelensky had said “Burisma,” rather than “the company.” Vindman Dep. at 54. Bolton recalls Zelensky saying “the next Prosecutor General will be one hundred percent my candidate. He will start in September. He will look at the company.” Bolton Book at 468.

⁵⁵ July 25 Call Memo at 4.

⁵⁶ *Id.*

⁵⁷ *Id.* at 5.

⁵⁸ *Id.*

F. Events After the July 25 Phone Call

After Trump and Zelensky spoke on July 25, 2019, Trump’s advisors began negotiating with Zelensky’s aides on specific language to satisfy Trump’s demand for a public announcement of the investigations.

The following day, July 26, 2019, Volker, Sondland, and Taylor met with Zelensky in Kyiv, where, according to the sworn testimony of David Holmes, an official at the U.S. Embassy in Ukraine, Zelensky mentioned that Trump had raised “very sensitive issues” on their call.⁵⁹ Sondland also separately met with Yermak.⁶⁰ Sondland stated that he did not “recall the specifics of our conversation, but I believe the issue of investigations was probably a part of that agenda or meeting.”⁶¹ That same day, Trump asked Sondland, by phone, if Zelensky was “going to do the investigation[,]”⁶² and Sondland replied that Zelensky would do “anything you ask him to.”⁶³ Per Holmes’s sworn testimony, after the call ended, Sondland told Holmes that Trump “did not give a shit about Ukraine” and only cared about “‘big stuff’ that benefits [Trump], like

⁵⁹ Holmes Dep. at 21–22 (describing meeting with Volker, Sondland, and Zelensky the day after the July 25 phone call, in which “President Zelensky stated that during the July 25th call, President Trump had, quote, unquote, three times raised, quote, unquote, some very sensitive issues, and that he would have to follow up on those issues when they met, quote, unquote, in person. Not having received a read-out of the July 25th call, I did not know what those sensitive issues were.”); Sondland Hearing at 25 (testifying that Sondland met separately with Yermak and that he did not “recall the specifics of our conversation, but I believe the issue of investigations was probably a part of that agenda or meeting”).

⁶⁰ Sondland Hearing at 25.

⁶¹ *Id.*

⁶² Holmes Dep. at 24 (“While Ambassador Sondland’s phone was not on speaker phone, I could hear the President’s voice through the ear piece of the phone. The President’s voice was very loud and recognizable, and Ambassador Sondland held the phone away from his ear for a period of time, presumably because of the loud volume. . . . I then heard President Trump ask, quote, ‘So he’s going to do the investigation?’ unquote.”); *see also* Sondland Hearing at 26 (“Other witnesses have recently shared their recollection of overhearing this call. For the most part, I have no reason to doubt their accounts.”).

⁶³ Holmes Dep. at 24.

1 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”⁶⁴ Sondland and
2 Volker later stated to Taylor, in separate instances, “that President Trump is a businessman.
3 When a businessman is about to sign a check to someone who owes him something . . . the
4 businessman asks that person to pay up before signing the check.”⁶⁵

5 Giuliani met with Yermak, Zelensky’s advisor, in Madrid, on August 2, 2019.⁶⁶ They
6 agreed that Ukraine would make a public statement announcing the investigation, and they
7 discussed the White House visit.⁶⁷ Following additional phone and text conversations,⁶⁸ on
8 August 12, 2019, Yermak sent a draft statement to Volker, which lacked specific references to
9 the two investigations Trump had asked Zelensky to conduct.⁶⁹ Sondland and Volker discussed

⁶⁴ Holmes Dep. at 25 (“I then took the opportunity to ask Ambassador Sondland for his candid impression of the President’s views on Ukraine. In particular, I asked Ambassador Sondland if it was true that the President did not give a shit about Ukraine. Ambassador Sondland agreed that the President did not give a shit about Ukraine. I asked why not, and Ambassador Sondland stated, the President only cares about, quote, unquote, ‘big stuff.’ I noted that there was, quote, unquote, big stuff going on in Ukraine, like a war with Russia. And Ambassador Sondland replied that he meant, quote, unquote, ‘big stuff’ that benefits the President, like the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”).

⁶⁵ Taylor Dep. at 40.

⁶⁶ *E.g.*, Volker Dep. at 112 (“THE CHAIRMAN: And some time after this call, Rudy Giuliani goes to Madrid to meet with Andriy Yermak. Do I have the chronology right? MR. VOLKER: Yes. That took place on August 2nd.”).

⁶⁷ Kurt Volker Document Production, Bates KV00000019 (Oct. 2, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD677.pdf>; First Volker Text Excerpts at 3 (“[8/9/19, 11:27 AM] Kurt Volker: Hi Mr Mayor! Had a good chat with Yermak last night. He was pleased with your phone call. Mentioned Z making a statement. Can we all get on the phone to make sure I advise Z correctly as to what he should be saying? Want to make sure we get this done right. Thanks!”)

⁶⁸ *See, e.g.*, First Volker Text Excerpts at 3 (“[8/9/19, 5:51:18 PM] Gordon Sondland: To avoid misunderstandings [sic], might be helpful to ask Andrey [Yermak] for a draft statement [sic] (embargoed) so that we can see exactly what they propose to cover. Even though Ze[lensky] does a live presser they can still summarize in a brief statement. Thoughts? [8/9/19, 5:51:42 PM] Kurt Volker: Agree!”).

⁶⁹ Volker Dep. at 113 (“[Q]: And so after [the August 2] meeting, Yermak proposes to include in this statement to get the meeting a mention of Burisma? MR. VOLKER: No. Andriy Yermak sent me a draft statement that did not include that. And I discussed that statement with Gordon Sondland and with Rudy Giuliani to see — in my — not knowing this, is this going to be helpful, will this help convey a sense of commitment of Ukraine to fighting corruption, et cetera. And in that conversation it was Mr. Giuliani who said: If it doesn’t say Burisma and 2016, it’s not credible, because what are they hiding? I then discussed that with Mr. Yermak after that conversation, and he did not want to include Burisma and 2016, and I agreed with him.”).

1 the proposed statement with Giuliani, who said that if the statement “doesn’t say Burisma and if
 2 it doesn’t say 2016, . . . it’s not credible.”⁷⁰ Parnas later stated in an interview that when Giuliani
 3 learned that the Ukrainians were preparing to make a generic statement about fighting
 4 corruption, “Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t
 5 supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and
 6 Burisma.”⁷¹ Volker added specific references to Burisma and 2016 election interference to the
 7 proposed statement and sent the revised draft to Yermak.⁷² Yermak expressed several concerns
 8 with adding these specific references to the statement, including that Ukraine would “be seen as
 9 a factor or a football in American domestic politics.”⁷³ Yermak therefore asked if the U.S.
 10 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the

⁷⁰ Volker Dep. at 71–72 (“Q: And the draft statement went through some iterations. Is that correct? A: Yeah. It was pretty quick, though. I don’t know the timeline exactly. We have it. But, basically, Andriy sends me a text. I share it with Gordon Sondland. We have a conversation with Rudy to say: The Ukrainians are looking at this text. Rudy says: Well, if it doesn’t say Burisma and if it doesn’t say 2016, what does it mean? You know, it’s not credible.”).

⁷¹ Maddow Interview Pt. 2 at 16:17–17:02 (“Parnas: I know that there was another conversation, that Perry called after the inauguration, telling him that he spoke to Zelensky and Zelensky’s going to do it. . . . And they did, they announced, but they didn’t announce that. . . . So they announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”).

⁷² Volker Dep. at 72–73; *see* First Volker Text Excerpts at 4 (“[8/13/19, 10:26:44 AM] Kurt Volker: Special attention should be paid to the problem of interference in the political processes of the United States especially with the alleged involvement of some Ukrainian politicians. I want to declare that this is unacceptable. We intend to initiate and complete a transparent and unbiased investigation of all available facts and episodes, including those involving Burisma and the 2016 U.S. elections, which in turn will prevent the recurrence of this problem in the future. [8/13/19, 10:27:20 AM] Gordon Sondland: Perfect. Lets [sic.] send to Andrey [Yermak] after our call”); *id.* (“[8/17/19, 3:06:19 PM] Gordon Sondland: Do we still want Ze[lensky] to give us an unequivocal draft with 2016 and Boresma [sic]? [8/17/19, 4:34:21 PM] Kurt Volker: That’s the clear message so far”).

⁷³ Volker Dep. at 120 (“[Question]: Wasn’t there also a concern, Ambassador [Volker], with not being used to investigate a political candidate in the 2020 election? MR. VOLKER: I think the way they put it was they don’t want to be seen as a factor or a football in American domestic politics”); *see also* Bolton Book at 472 (“Flying to Kiev on August 26[, 2019], I spoke with Volker[, who] . . . stressed that Zelensky had no wish to become involved in US domestic politics, although he was happy to have investigated whatever may have happened in 2016, before his time.”).

1 investigations.⁷⁴ No such official inquiry was ever made, and Taylor later testified: “A formal
2 U.S. request to the Ukrainians to conduct an investigation based on violations of their own law
3 struck [him] as improper, and [he] recommended to Ambassador Volker that we stay clear.”⁷⁵
4 Volker agreed with Yermak that Zelensky should not issue the public statement with specific
5 references to Burisma and 2016 election interference, because it was important to “avoid
6 anything that would look like it would play into [U.S.] domestic politics, and this could.”⁷⁶ As
7 such, efforts to prepare the statement did not proceed further.⁷⁷

8 **G. Withholding U.S. Security Aid to Ukraine**

9 Congress appropriated \$391 million in aid to Ukraine for fiscal year 2019, with \$250
10 million to be administered by the Department of Defense and the remaining \$141 million to be
11 administered by the Department of State.⁷⁸ On July 3, 2019, however, the Office of
12 Management and Budget (“OMB”) blocked the Congressional notification required to release the
13 funds to State and subsequently placed a hold on all military support funding.⁷⁹ According to
14 Bolton’s account, Secretary of Defense Mark Esper, Secretary of State Mike Pompeo, and

⁷⁴ Volker Dep. at 197–8.

⁷⁵ Taylor Dep. at 32 (“On August 16, I exchanged text messages with Ambassador Volker, in which I learned that Mr. Yermak had asked that the United States submit an official request for an investigation into Burisma’s alleged violations of Ukrainian law, if that’s what the United States desired. A formal U.S. request to the Ukrainians to conduct an investigation based on violations of their own law struck me as improper, and I recommended to Ambassador Volker that we stay clear. To find out the legal aspects of the question, however, I gave him the name of a Deputy Assistant Attorney General whom I thought would be the proper point of contact for seeking a U.S. referral for a foreign investigation.”).

⁷⁶ Volker Dep. at 44–45.

⁷⁷ *Id.*

⁷⁸ Department of Defense Appropriations Act, 2019, Pub. L. No. 115-245, div. A, title IX, § 9013 (2018); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, §7046(a)(2) (2019); Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Title VIII (2017).

⁷⁹ Vindman Dep. at 178–179; Taylor Dep. at 27; Deposition of Laura K. Cooper before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 47 (Oct. 23, 2019) (“Cooper Dep.”).

1 Bolton repeatedly pressed Trump, individually and in tandem, to release the aid to Ukraine.⁸⁰
2 According to sworn testimony by Bill Taylor and Deputy Assistant Secretary of Defense Laura
3 Cooper, numerous officials at the Department of Defense, the Department of State, and the
4 National Security Council considered this aid to be crucial support for Ukraine in its ongoing
5 war with Russia, which was viewed as serving the U.S. national security interest.⁸¹ No specific
6 official reason was given by the White House or OMB for putting a hold on the Congressionally-
7 appropriated funds other than a footnote in an apportionment schedule that “described the
8 withholding as necessary ‘to determine the best use of such funds.’”⁸² Sworn testimony
9 indicates that the Office of the Secretary of Defense raised a contemporaneous concern that the

⁸⁰ Bolton Book at 468–69 (“[T]he State and Defense Departments pressed to transfer nearly \$400 million of security assistance to Ukraine, calling for high-level meetings . . . Pompeo, Esper, and I had been discussing this subject quietly for some time, making efforts with Trump to free up the money, all of which had failed. (By the time I resigned [on September 10, 2019], we calculated that, individually and in various combinations, we had talked to Trump between eight and ten times to get the money released.)”).

⁸¹ Taylor Dep. at 28 (“At one point the Defense Department was asked to perform an analysis of the effectiveness of the assistance. Within a day, the Defense Department came back with the determination that the assistance was effective and should be resumed. My understanding was that the Secretaries of Defense and State, the CIA Director, and the National Security Advisor, sought a joint meeting with the President to convince him to release the hold, but such meeting was hard to schedule, and the hold lasted well into September.”); *id.* at 132 (stating that the opinion that aid should be resumed was the “[u]nanimous opinion of every level of interagency discussion.”); Cooper Dep. at 16 (“Q: In 2018 and 2019, has Ukrainian security assistance received bipartisan support? A: It has always received bipartisan support, in my experience. Q: And that’s both in the House and the Senate? A: Absolutely, in my experience. Q: And what about at the interagency level? A: I have witnessed, even in the recent past, overwhelming consensus in favor of providing Ukraine security assistance. Q: And when you say ‘within the recent past,’ you mean even over the course of this year? A: Even over the course of the summer.”).

⁸² U.S. Government Accountability Office, Decision, *Matter of Office of Management and Budget—Withholding of Ukraine Security Assistance*, B-331564 at 6 (Jan. 16, 2020) (“GAO Decision”) (“OMB did not identify — in either the apportionment schedules themselves or in its response to us — any contingencies as recognized by the ICA [Impoundment Control Act], savings or efficiencies that would result from a withholding, or any law specifically authorizing the withholding. Instead, the footnote in the apportionment schedules described the withholding as necessary “to determine the best use of such funds.”); *see also* Volker Dep. at 80 (“I don’t believe — in fact, I am quite sure that at least I, Secretary Pompeo, the official representatives of the U.S., never communicated to Ukrainians that it is being held for a reason. We never had a reason.”).

1 hold may even have violated federal law requiring the timely release of Congressionally-
 2 appropriated funds.⁸³

3 Ukrainian officials apparently noticed the withholding of security aid at some point in
 4 late July or early August 2019,⁸⁴ and the aid remained frozen throughout August 2019.⁸⁵
 5 According to Bolton’s published account, on August 20, 2019, Trump “said he wasn’t in favor”
 6 of sending Ukraine anything until all the materials related to Biden and 2016 election
 7 interference investigations had been turned over, and added “[t]hat could take years, so it didn’t
 8 sound like there was much of a prospect that the military aid would proceed.”⁸⁶ The fact that the
 9 aid had been frozen became public knowledge when it was publicly reported on August 28,
 10 2019, prompting concern by Ukrainian officials.⁸⁷ Because the White House and OMB had

⁸³ Deposition of Timothy Morrison before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 163 (Oct. 31, 2019) (“Morrison Dep.”) (“Q: Was there any discussion of the legality or illegality of the hold at the PCC meeting? A: Yes. Q: What was — can you explain what was discussed? A: Because of the nature of the appropriations, is it actually legally permissible for the President to not allow for the disbursement of the funding. . . . Q: Okay. Who was raising concerns that there may be a legal problem? A: OSD. Q: That’s Office — A: Office of the Secretary of Defense. Q: DOD, okay. And did they raise concerns about possible violations of the Impoundment Act? A: Yes.”). The U.S. Government Accountability Office issued a report on January 16, 2020, finding that OMB violated the Impoundment Control Act when it withheld from obligation \$214 million of the security assistance for a “policy reason.” GAO Decision at 7.

⁸⁴ Deposition of Catherine Croft before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 86–87 (Oct. 30, 2019) (“I think it was sort of known among the circles that do Ukraine security assistance, sort of gradually, as I said. From July 18 on it was sort of inevitable that it was eventually going to come out. . . . Two individuals from the Ukrainian Embassy approached me quietly and in confidence to ask me about an OMB hold on Ukraine security assistance. Q: And when was that? A: I don’t have those dates. Q: But it was before the August 28th time period, do you think? A: I believe it was, yes.”).

⁸⁵ Karoun Demirjian, *et al.*, *Trump Ordered Hold on Military Aid Days before Calling Ukrainian President, Officials Say*, WASH. POST (Sept. 23, 2019), https://www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html; Sondland Dep. at 107.

⁸⁶ Bolton Book at 471.

⁸⁷ Volker Dep. at 80–81 (“A: By the time it hit Politico publicly, I believe it was the end of August. And I got a text message from, it was either the Foreign Minister or — I think it was the future Foreign Minister. And, you know, basically, you’re just — you’re — I have to verbalize this. You’re just trying to explain that we are trying this. We have a complicated system. We have a lot of players in this. We are working this. Give us time to fix it. Q: So anybody on the Ukrainian side of things ever express like grave concern that this would not get worked out? A: Not that it wouldn’t get worked out, no, they did not. They expressed concern that, since this has

1 provided no particular explanation for the hold, U.S. officials, including Taylor, could not
 2 explain the hold to Ukrainian officials, though Taylor did express, in a text to Volker the next
 3 week, his understanding of the reason for the hold: “[I]t’s crazy to withhold security assistance
 4 for help with a political campaign.”⁸⁸ On September 1, 2019, Zelensky met with Vice President
 5 Pence in Warsaw, Poland, where the status of the security aid was “the very first question that
 6 President Zelensky had.”⁸⁹ Zelensky said that even the appearance of U.S. support for Ukraine
 7 faltering might embolden Russian aggression towards Ukraine.⁹⁰ During a briefing before the
 8 meeting, Sondland had raised concerns with Pence that the delay in security assistance had
 9 “become tied to the issue of investigations.”⁹¹

now come out publicly in this Politico article, it looks like that they’re being, you know, singled out and penalized for some reason. That’s the image that that would create in Ukraine.”); *see* Caitlin Emma and Connor O’Brien, Trump Holds Up Ukraine Military Aid Meant to Confront Russia, POLITICO (Aug. 28, 2019), www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531 (“Politico Article”); *see also* Compl. ¶ 14, MUR 7645 (citing Josh Dawsey, Paul Sonne, Michael Kranish and David L. Stern, “How Trump and Giuliani pressured Ukraine to investigate the president’s rivals,” WASH. POST (Sept. 20, 2019), https://www.washingtonpost.com/politics/how-trump-and-giuliani-pressured-ukraine-to-investigate-the-presidents-rivals/2019/09/20/0955801c-dbb6-11e9-a688-303693fb4b0b_story.html).

⁸⁸ Taylor Dep. at 138 (“And I couldn’t tell them. I didn’t know and I didn’t tell them, because we hadn’t — we hadn’t — there’d been no guidance that I could give them.”); First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

⁸⁹ Williams Dep. at 81 (“Once the cameras left the room, the very first question that President Zelensky had was about the status of security assistance.”).

⁹⁰ *Id.* at 82–83 (“He made the point, though, that as important as the funding itself was, that it was the strategic value of — the symbolic value of U.S. support in terms of security assistance that was just as valuable to the Ukrainians as the actual dollars. . . . He was making the point that, you know, any hold or appearance of reconsideration of such assistance might embolden Russia to think that the United States was no longer committed to Ukraine.”).

⁹¹ Sondland Hearing at 30; *see also id.* at 57 (“A: I don’t know exactly what I said to him. This was a briefing attended by many people, and I was invited at the very last minute. I wasn’t scheduled to be there. But I think I spoke up at some point late in the meeting and said, it looks like everything is being held up until these statements get made, and that’s my, you know, personal belief. Q: And Vice President Pence just nodded his head? A: Again, I don’t recall any exchange or where he asked me any questions. I think he — it was sort of a duly noted response.”).

1 Sondland spoke with Yermak later that day, explaining that the security assistance was
2 conditioned on the public announcement of the investigations.⁹² On learning of this discussion,
3 Taylor texted Sondland: “Are we now saying that security assistance and WH meeting are
4 conditioned on investigations?”⁹³ In an ensuing phone call, Sondland explained to Taylor that he
5 had made a mistake telling the Ukrainians that only the White House meeting was conditioned
6 on the investigations announcement; in fact, to his understanding, “everything” was conditioned
7 on the announcement and that Trump had said that he “wanted President Zelensky in a box, by
8 making [a] public statement about ordering such investigations.”⁹⁴

9 Sondland said, at the time, that Trump told him, on September 7, 2019, that “there was no
10 *quid pro quo*, but President Zelensky must announce the opening of the investigations” for the
11 hold on security aid to be lifted.⁹⁵ Sondland further relayed that Trump had also made clear that

⁹² Declaration of Ambassador Gordon D. Sondland (Nov. 4, 2019), <https://docs.house.gov/meetings/IG/IG00/CPRT-116-IG00-D006.pdf> (“Also, I now do recall a conversation on September 1, 2019, in Warsaw with Mr. Yermak. This brief pull-aside conversation followed the larger meeting involving Vice President Pence and President Zelensky, in which President Zelensky had raised the issue of the suspension of U.S. aid to Ukraine directly with Vice President Pence. After that large meeting, I now recall speaking individually with Mr. Yermak, where I said that resumption of U.S. aid would likely not occur until Ukraine provided the public anti-corruption statement that we had been discussing for many weeks. I also recall some question as to whether the public statement could come from the newly appointed Ukrainian Prosecutor General, rather than from President Zelensky directly.”).

⁹³ First Volker Text Excerpts at 5.

⁹⁴ Sondland Hearing at 31 (“I told Mr. Yermak that I believed that the resumption of U.S. aid would likely not occur until Ukraine took some kind of action on the public statement that we had been discussing for many weeks.”); First Volker Text Excerpts at 5; Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. Ambassador Sondland also told me that he now recognized that he had made a mistake by earlier telling Ukrainian officials to whom he spoke that a White House meeting with President Zelensky was dependent on a public announcement of investigations. In fact, Ambassador Sondland said everything was dependent on such an announcement, including security assistance. He said that President Trump wanted President Zelensky in a box by making [a] public statement about ordering such investigations.”).

⁹⁵ Morrison Dep. at 190–91 (“THE CHAIRMAN: And what did Ambassador Sondland tell you in the phone call? . . . MR. MORRISON: He told me, as is related here in Ambassador Taylor’s statement, that there was no *quid pro quo*, but President Zelensky must announce the opening of the investigations and he should want to do it.”).

1 Zelensky himself would have to announce the investigations and do so publicly.⁹⁶ The
2 Ukrainians notified Sondland and Volker that Zelensky was to appear on CNN for an interview,
3 and would use that forum to make the announcement; Zelensky ultimately did not do so.⁹⁷

4 After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine
5 on September 11, 2019.⁹⁸ No official reason for the hold was ever given, although in subsequent
6 public statements, Trump stated that he was concerned about Ukrainian corruption and felt that
7 European Union countries should be providing Ukraine with more security assistance.⁹⁹ At a
8 White House press briefing on October 17, 2019, Mulvaney said that the security aid had been
9 withheld to pressure Ukraine to cooperate with “an ongoing investigation” by DOJ into 2016

⁹⁶ Taylor Dep. at 39 (“The following day, on September 8th, Ambassador Sondland and I spoke on the phone. He said he had talked to President Trump, as I had suggested a week earlier, but that President Trump was adamant that President Zelensky himself had to clear things up and do it in public. President Trump said it was not a quid pro quo.”).

⁹⁷ Sondland Hearing at 110–11 (“The Ukrainians said to me or to Ambassador Volker or both of us that they had planned to do an interview anyway on CNN and they would use that occasion to mention these items.”); Taylor Dep. at 39 (“Ambassador Sondland said that he had talked to President Zelensky and Mr. Yermak and told them that, although this was not a quid pro quo, if President Zelensky did not clear things up in public, we would be at a stalemate. I understood a stalemate to mean that Ukraine would not receive the much-needed military assistance. Ambassador Sondland said that this conversation concluded with President Zelensky agreeing to make a public statement in an interview with CNN.”); *see also* Holmes Dep. at 30 (“On September 13th, an Embassy colleague received a phone call from a colleague at the U.S. Embassy to the European Union under Ambassador Sondland and texted me regarding the call, quote, Sondland said the Zelensky interview is supposed to be on Monday — that would be September 16th — sorry, today or Monday, September 16th, and they plan to announce that a certain investigation that was, quote, ‘on hold’ will progress. The text also explained that our European Union Embassy colleague did not know if this was decided or if Ambassador Sondland was advocating for it.”).

⁹⁸ *See, e.g.*, Taylor Dep. at 40; Trump- Niinistö Press Conference (“I gave the money because [Senator] Rob Portman and others called me and asked.”); Politico Article.

⁹⁹ Seung Min Kim and Colby Itkowitz, *Trump Says He Has Authorized Release of Transcript of Call with the Ukrainian President*, WASH. POST at 0:04–0:42 (Sept. 24, 2019), https://www.washingtonpost.com/politics/trump-confirms-he-withheld-military-aid-from-ukraine-says-he-wants-other-countries-to-help-pay/2019/09/24/42bdf66c-ded2-11e9-8dc8-498eabc129a0_story.html (“Sep. 24 Trump Press Conference”) (“My complaint has always been, and I’d withhold again and I’ll continue to withhold until such time as Europe and other nations contribute to Ukraine because they’re not doing it”); Trump- Niinistö Press Conference (“We give money to Ukraine, and it’s bothered me from day one. . . . But what I was having a problem with are two things. Number one, Ukraine is known — before him — for tremendous corruption. Tremendous. More than just about any country in the world. In fact, they’re rated one of the most corrupt countries in the world. And I don’t like giving money to a country that’s that corrupt. Number two . . . European countries are helped far more than we are, and those countries should pay more to help Ukraine.”).

1 election interference, and that “[t]here’s going to be political influence in foreign policy . . . that
 2 is going to happen.”¹⁰⁰

3 In a March 4, 2020, televised interview, Trump said that with respect to the Ukrainian
 4 investigation of Joe Biden’s alleged misconduct while serving as U.S. Vice President, he
 5 intended to make the allegation “a major issue in [his 2020 reelection] campaign,” saying that he
 6 “will bring that up all the time”¹⁰¹

7 Biden became the Democratic Party’s nominee for President on June 5, 2020.¹⁰²

8 **H. Trump’s Statements on China Investigating the Bidens**

9 On October 3, 2019, a reporter asked Trump, “What exactly did you hope Zelensky
 10 would do about the Bidens after the phone call?” — referring to Trump’s July 25, 2019, call with
 11 Zelensky.¹⁰³ While responding to that question, Trump included a mid-sentence comment that
 12 he believed China should also investigate the Bidens:

¹⁰⁰ The White House, *Press Briefing by Acting Chief of Staff Mick Mulvaney* (Oct. 17, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/press-briefing-acting-chief-staff-mick-mulvaney/> (“Q: So the demand for an investigation into the Democrats was part of the reason that he ordered to withhold funding to Ukraine? MULVANEY: The look back to what happened in 2016 certainly was part of the thing that he was worried about in corruption with that nation. And that is absolutely appropriate. . . . And I have news for everybody: Get over it. There’s going to be political influence in foreign policy. . . . [There were] [t]hree — three factors. Again, I was involved with the process by which the money was held up temporarily, okay? Three issues for that: the corruption of the country; whether or not other countries were participating in the support of the Ukraine; and whether or not they were cooperating in an ongoing investigation with our Department of Justice. That’s completely legitimate.”)

¹⁰¹ Fox News, *Trump blasts Biden’s record in ‘Hannity’ exclusive interview*, YOUTUBE (Mar. 4, 2020) at 5:54–7:47, <https://www.youtube.com/watch?v=fqjrlKfW93I&feature=youtu.be&t=354> (“Hannity Interview”) (“HANNITY: Let me ask you, because we now know that there is a corruption issue and there’s an investigation officially in the country of Ukraine as it relates to Joe Biden . . . after all you went through, and now that you see Ron Johnson in the Senate and you see Ukraine investigating this issue . . . it has to be a campaign issue; how do you plan to use it, or do you plan to use it? TRUMP: . . . That will be a major issue in the campaign, I will bring that up all the time because I don’t see any way out. . . . That was purely corrupt.”).

¹⁰² *E.g.*, Stephen Ohlemacher and Will Weissert, *Biden formally clinches Democratic presidential nomination*, ASSOCIATED PRESS (June 6, 2020), <https://apnews.com/bb261be1a4ca285b9422b2f6b93d8d75>.

¹⁰³ David Knowles, *Election Commission chair hints that Trump asking foreign countries for help against Biden violates law*, YAHOO NEWS (Oct. 3, 2019), <https://www.yahoo.com/news/after-trump-solicits-biden-investigations-from-china-and-ukraine-fec-chair-post-reminder-that-doing-so-is-illegal-193941937.html> (“Yahoo News Article”) (cited in Compl. at 4, MUR 7705 (Feb. 26, 2020)); *see* Kevin Breuninger, *Trump says China should*

1 Well, I would think if they [Ukraine] were honest about it, they'd
2 start a major investigation into the Bidens. It's a very simple
3 answer. They [Ukraine] should investigate the Bidens because how
4 does a company that's newly formed and all these companies, and
5 by the way, likewise, China should start an investigation into the
6 Bidens because what happened in China is just about as bad as
7 what happened with Ukraine. So I would say that President
8 Zelensky, if it were me, I would recommend that they start an
9 investigation into the Bidens, because nobody has any doubt that
10 they weren't crooked.¹⁰⁴

11
12 A reporter followed up on Trump's comment regarding China, asking "Have you asked President
13 Xi to investigate at all?" Trump responded: "I haven't but it's certainly something we can start
14 thinking about"¹⁰⁵

15 I. The Complaints and Response

16 The complaint in MUR 7645, which was filed on September 23, 2019, alleged that
17 Trump knowingly "solicited a contribution from foreign nationals," in connection with Trump's
18 request to Zelensky that Ukraine investigate Joe Biden and 2016 election interference.¹⁰⁶ It
19 further alleges that, in the "July 25, 2019, phone call, President Trump solicited a 'contribution'
20 as defined [in the Act] from Ukraine President Zelensky in connection with the 2020 U.S.
21 presidential election and for the purpose of influencing the 2020 presidential election candidacy
22 of Joe Biden."¹⁰⁷ The complaint in MUR 7663, which was filed on November 18, 2019,
23 summarily raised the same allegations as to Trump and the Trump Committee, and attached a

investigate the Bidens, doubles down on Ukraine probe, CNBC (Oct. 3, 2019), <https://www.cnbc.com/2019/10/03/trump-calls-for-ukraine-china-to-investigate-the-bidens.html> ("CNBC Article") (cited in Compl. at 4, MUR 7705).

¹⁰⁴ CNBC Article.

¹⁰⁵ *Id.*

¹⁰⁶ Compl. ¶¶ 1, 41, 45, MUR 7645.

¹⁰⁷ *Id.* ¶¶ 41, 44.

1 copy of the White House call memorandum for the July 25, 2019, call between Trump and
2 Zelensky.¹⁰⁸ The complaint in MUR 7705, which was filed on February 26, 2020, and
3 supplemented on March 12, 2020, likewise alleged that Trump and the Trump Committee
4 knowingly soliciting prohibited foreign national contributions from Zelensky.¹⁰⁹ That complaint
5 also alleged that Trump “solicited something of value” by making a statement “suggesting that
6 China investigate Hunter Biden’s business dealings.”¹¹⁰

7 The Trump Committee filed a response to the complaints in MURs 7645, 7663, and 7705
8 on June 17, 2020, arguing that the facts as alleged do not constitute a violation of federal
9 campaign finance law.¹¹¹ The response cites to a news article that quotes a DOJ spokesperson’s
10 statement representing that DOJ’s Criminal Division “reviewed the official record of the call and
11 determined, based on the facts and applicable law, that there was no campaign finance
12 violation.”¹¹² The Trump Committee’s response contends that Trump’s alleged conduct does not
13 qualify as a solicitation under the Act and that “the legal and constitutional viability of such
14 claims was directly called into doubt by Special Counsel Robert Mueller” in his *Report on the*

¹⁰⁸ Compl. at 1–2, MUR 7663.

¹⁰⁹ Compl. ¶ 2, MUR 7705; Supp. Compl. at 2, MUR 7705 (Mar. 12, 2020). The complaint in MUR 7705 also alleges that Trump solicited a contribution from China. *See infra*, Part II.B.

¹¹⁰ Compl. at 1, MUR 7705; *see id.* at 4 (citing Yahoo News Article). The supplement to the complaint in MUR 7705 alleges that the complainant “watch[ed Trump] on television referenced above and on September 26, 2019 suggesting that China investigate Hunter Biden’s business dealings.” MUR 7705 Supp. Compl. at 2. This allegation appears to refer to a statement by Trump: “When Biden’s son walks out of China with \$1.5 billion in a fund, and the biggest funds in the world can’t get money out of China, and he’s there for one quick meeting and he flies in on Air Force Two, I think that’s a horrible thing.” Glenn Kessler, *Trump’s False Claims about Hunter Biden’s China Dealings*, WASH. POST (Sep. 26, 2019), <https://www.washingtonpost.com/politics/2019/09/26/trumps-false-claims-about-hunter-bidens-china-dealings/>.

¹¹¹ Resp. of Donald J. Trump for President, Inc. at 1, MURs 7645 and 7663 (June 17, 2020) (“Trump Comm. Resp.”).

¹¹² *Id.* (emphasis and quotation marks omitted) (citing Mairead McArdle, *DOJ Declined to Investigate Trump Ukraine Call, Found No Campaign Finance Violation*, NAT’L REV., Sept. 25, 2019).

1 *Investigation into Russian Interference in the 2016 Presidential Election* (the “Special Counsel’s
2 Report”).¹¹³ The response appears to base this argument on a general cautionary point raised in
3 the Special Counsel’s Report: “[N]o judicial decision has treated the voluntary provision of
4 uncompensated opposition research or similar information as a thing of value that could amount
5 to a contribution under campaign-finance law. Such an interpretation could have implications
6 beyond the foreign-source ban . . . and raise First Amendment questions.”¹¹⁴ The Trump
7 Committee’s response did not address the allegation raised in the MUR 7705 complaint that
8 Trump solicited a contribution from China.

9 Trump did not join the Trump Committee’s response, and did not submit a separate
10 response to any of the complaints addressed in this report.

11 **II. FACTUAL AND LEGAL ANALYSIS**

12 The available information indicates that Donald J. Trump requested, recommended, and
13 pressured Ukrainian President Volodymyr Zelensky, both directly and indirectly through his
14 representatives — including Giuliani and his associate, Lev Parnas, and diplomatic officials
15 Gordon Sondland and Kurt Volker — to make an official public announcement and conduct an
16 investigation into Burisma, Joe and Hunter Biden, and purported Ukrainian electoral interference
17 intended to support Hillary Clinton during the 2016 U.S. presidential election, in order to
18 influence the 2020 presidential election. The record indicates that Trump asked that Zelensky
19 investigate these two allegations and announce the investigation with explicit references to the
20 allegations, for the purpose of benefiting Trump’s reelection campaign. As such, Trump and the

¹¹³ *Id.* at 1–2 (citing Robert S. Mueller III, *Report on the Investigation into Russian Interference in the 2016 Presidential Election* Vol. I at 187 (March 22, 2019)).

¹¹⁴ Special Counsel’s Report at 187.

1 Trump Committee knowingly solicited a foreign national to provide in-kind “contributions” —
2 *i.e.*, things “of value” sought “for the purpose of influencing” the 2020 U.S. presidential election
3 — from Ukrainian nationals.¹¹⁵ However, the available information does not support a finding
4 that Trump or the Trump Committee knowingly solicited China to make a prohibited
5 contribution, as alleged in MUR 7705.

6 **A. The Act and Commission Regulations Prohibit the Solicitation of Foreign**
7 **National Contributions or Donations in Connection with a Federal Election**

8 The Act and Commission regulations prohibit any “foreign national” from directly or
9 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
10 independent expenditure, or disbursement, in connection with a federal, state, or local
11 election.¹¹⁶ Moreover, the Act and Commission regulations prohibit any person from knowingly
12 soliciting, accepting, or receiving any such contribution or donation from a foreign national,¹¹⁷
13 and Commission regulations further prohibit any person from knowingly providing substantial
14 assistance in soliciting, making, accepting, or receiving any such contribution or donation.¹¹⁸
15 Under Commission regulations, “to solicit” means “to ask, request, or recommend, explicitly or

¹¹⁵ See 52 U.S.C. § 30101(8)(A)(i).

¹¹⁶ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have upheld the provisions of the Act prohibiting foreign national contributions and independent expenditures on the ground that the government “has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American 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), *aff’d* 565 U.S. 1104 (2012); see *United States v. Singh*, 924 F.3d 1030, 1041–44 (9th Cir. 2019).

¹¹⁷ 52 U.S.C. § 30121(a)(2); see also 11 C.F.R. § 110.20(g) (providing that “no person shall *knowingly* solicit” a foreign national contribution (emphasis added); 11 C.F.R. § 110.20(a)(4) (defining “knowingly” to include “actual knowledge” that the target of the solicitation is a foreign national).

¹¹⁸ 11 C.F.R. § 110.20(h). In this context, the Commission has explained that “substantial assistance means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction[.]” and “does not include strictly ministerial activity undertaken pursuant to the instructions of an employer, manager or supervisor.” Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,945–46 (Nov. 19, 2002) (“Prohibitions E&J”).

1 implicitly, that another person make a contribution, donation, transfer of funds, or otherwise
2 provide anything of value.”¹¹⁹

3 The Act’s definition of “foreign national” includes an individual who is not a citizen or
4 national of the United States and who is not lawfully admitted for permanent residence,¹²⁰ as
5 well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a
6 government of a foreign country.”¹²¹ A “contribution” includes “any gift, subscription, loan,
7 advance, or deposit of money or anything of value made by any person for the purpose of
8 influencing any election for Federal office.”¹²² Under Commission regulations, “anything of
9 value” includes all in-kind contributions, which include “the provision of any goods or services
10 without charge or at a charge that is less than the usual and normal charge for such goods or
11 services.”¹²³

12 Under the Act, soliciting, accepting, or receiving information in connection with an
13 election from a foreign national, as opposed to purchasing the information at the usual and
14 normal charge or hiring a foreign national in a bona fide commercial transaction to perform
15 services for the political committee, could potentially result in the receipt of a prohibited in-kind
16 contribution. Indeed, the Commission has recognized the “broad scope” of the foreign national

¹¹⁹ 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

¹²⁰ 52 U.S.C. § 30121(b)(2).

¹²¹ 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

¹²² 52 U.S.C. § 30101(8)(A).

¹²³ 11 C.F.R. § 100.52(d).

1 contribution prohibition and found that even where the value of a good “may be nominal or
2 difficult to ascertain,” such contributions are nevertheless prohibited.¹²⁴

3 **B. The Commission Finds Reason to Believe the Trump and the Trump**
4 **Committee Knowingly Solicited Contributions from a Foreign National**

5 1. Trump Knowingly Solicited Zelensky to Publicly Announce and
6 Investigate Allegations Regarding Joe Biden and Burisma, and Foreign
7 Interference in the 2016 U.S. Presidential Election

8 The available record indicates that Trump knowingly solicited a prohibited contribution
9 when he directly and indirectly asked, requested, or recommended that Zelensky issue a public
10 announcement and investigate allegations that Joe Biden pressured Ukraine to fire its Prosecutor
11 General in order to terminate an investigation of Burisma and thus protect his son, Hunter Biden,
12 and that foreign interference in the 2016 U.S. presidential election originated in Ukraine in
13 coordination with the DNC.¹²⁵

14 Commission regulations specify:

15 A solicitation is an oral or written communication that, construed
16 as reasonably understood in the context in which it is made,
17 contains a clear message asking, requesting, or recommending that
18 another person make a contribution, donation, transfer of funds, or
19 otherwise provide anything of value. A solicitation may be made
20 directly or indirectly. The context includes the conduct of persons
21 involved in the communication. A solicitation does not include

¹²⁴ Advisory Op. 2007-22 at 6 (Hurysz) (“Advisory Op. 2007-22”) (quoting 120 Cong. Rec. 8,782 (Mar. 28, 1974) (statement of Sen. Bentsen, author of the amendment prohibiting foreign national contributions) (“I am saying that contributions by foreigners are wrong, and they have no place in the American political system”)); Prohibitions E&J, 67 Fed. Reg. at 69,940 (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and *expand* the ban on contributions, donations, and other things of value by foreign nationals.” (emphasis added)); *see also* Gen. Counsel’s Rpt. at 24, MUR 4250 (Republican Nat’l Comm., *et al.*) (describing the legislative history of the foreign national prohibition, which, “unlike other provisions of the Act, has its origins in, and essentially remains, a national security provision with broad application”).

¹²⁵ *See* 11 C.F.R. § 300.2(m) (defining “solicit”).

1 mere statements of political support or mere guidance as to the
2 applicability of a particular law or regulation.¹²⁶

3 Commission regulations also provide examples of statements that would constitute
4 solicitations, including but not limited to: “The candidate will be very pleased if we can count
5 on you for \$10,000;”¹²⁷ “I will not forget those who contribute at this crucial stage;”¹²⁸ and
6 “Your contribution to this campaign would mean a great deal to the entire party and to me
7 personally.”¹²⁹ However, the Commission has “emphasize[d] that the definition . . . is not tied in
8 any way to a candidate’s use of particular ‘magic words’ or specific phrases.”¹³⁰ The
9 Commission has also explained that communications must be reasonably construed in context,
10 such that “the Commission’s objective standard hinges on whether the recipient should have
11 reasonably understood that a solicitation was made.”¹³¹

12 Applying these provisions, the Commission has previously found that asking a foreign
13 national to make a political contribution, while offering a potential benefit in return, results in a

¹²⁶ *Id.*

¹²⁷ *Id.* § 300.2(m)(2)(xii).

¹²⁸ *Id.* § 300.2(m)(2)(xi).

¹²⁹ *Id.* § 300.2(m)(2)(xiii).

¹³⁰ Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13,926, 13,928 (Mar. 20, 2006) (“Solicitation E&J”). The Commission revised the definition of “to solicit” in 2006, specifically in response to *Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005), in which the U.S. Court of Appeals for the D.C. Circuit invalidated the Commission’s original definition because it covered only “explicit direct requests” and left open the possibility that candidates could evade the statutory restriction on soft money solicitations with “winks, nods, and circumlocutions to channel money in favored directions — anything that makes their intention clear without overtly ‘asking’ for money.” *Id.* at 106.

¹³¹ Solicitation E&J, 71 Fed. Reg. at 13,929 (“[I]t is necessary to reasonably construe the communication in context, rather than hinging the application of the law on subjective interpretations of the Federal candidate’s or officeholder’s communications or on the varied understandings of the listener. The revised definition reflects the need to account for the context of the communication and the necessity of doing so through an objective test.”); see Factual & Legal Analysis (“F&LA”) at 6, MUR 6939 (Mike Huckabee, *et al.*) (dismissing an allegation that a candidate solicited an excessive contribution by saying, in a speech announcing his candidacy, “[i]f you want to give a million dollars, please do it” because, in context, “an objective listener would not reasonably have understood” the statement to be a solicitation for “million-dollar contributions” as opposed to “a humorous aside in the course of his speech”).

1 prohibited solicitation. In MUR 6528, the Commission found reason to believe that a federal
2 candidate knowingly and willfully “solicited or played an active role in the solicitation” of
3 foreign national contributions, including by offering to help obtain immigration status for a
4 foreign national if he contributed to the candidate’s campaign, and telling the foreign national
5 that although he could not legally contribute to the candidate’s campaign, he could provide funds
6 to third parties to make such contributions.¹³²

7 Here, Trump knowingly solicited Zelensky by asking, requesting, or recommending,
8 directly and through intermediaries,¹³³ that Zelensky provide two deliverables: The Ukrainian
9 investigation of allegations regarding Burisma/Biden and 2016 election interference, and a public
10 announcement of that investigation. Trump interacted with Zelensky (directly or through his
11 aides) after his election as President of Ukraine and therefore had “actual knowledge” that
12 Zelensky was a foreign national and the head of a foreign government.¹³⁴ In the July 25, 2019,
13 phone call between Trump and Zelensky, and in discussions between intermediaries leading up
14 to and after that call, Trump and Giuliani asked Zelensky to provide these deliverables, linking
15 them to a White House visit for Zelensky and U.S. security aid to Ukraine, both of which the

¹³² Factual & Legal Analysis at 2–3, 6 MUR 6528 (Michael Grimm for Congress, *et al.*); *see also* 52 U.S.C. § 30122 (prohibiting making a contribution in the name of another).

¹³³ That a solicitation is made through intermediaries does not change the analysis. Commission regulations specify that a “solicitation may be made directly or indirectly” and thus capture solicitations made through persons acting on behalf of the principal or principals. 11 C.F.R. § 300.2(m) (incorporated in foreign national prohibition at 11 C.F.R. § 110.20(a)(6)); *see* Factual & Legal Analysis at 5–6, MUR 7122 (Right to Rise USA, *et al.*) (Oct. 11, 2018) (finding that the agent of an independent-expenditure-only political committee (“IEOPC”) solicited foreign national contributions by having a conversation with a foreign national, the majority owner of a foreign company, about the foreign company’s U.S. subsidiary contributing to the IEOPC, and then emailing both the Chief Executive and a foreign national board member of the subsidiary to indicate that the foreign parent company’s majority owner “expressed interest” in making a contribution to the IEOPC); Conciliation Agreement, MUR 7122 (Right to Rise USA) (settling IEOPC’s violations of 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) arising from agent’s solicitation).

¹³⁴ *See* 11 C.F.R. § 110.20(a)(3) (defining “foreign national”); *id.* § 110.20(a)(4) (defining “knowingly”).

1 record reflects that Zelensky and the Ukrainians desired and which U.S. officials testified was
2 considered crucial to U.S. interests, but which Trump and Giuliani sought to use as leverage to
3 obtain the deliverables.¹³⁵

4 As discussed above, efforts to solicit Zelensky began with a May 12, 2019, meeting
5 between Parnas and Serhiy Shefir, Zelensky’s aide, in which Parnas expressed that he
6 represented Trump and Giuliani and told Shefir that Zelensky needed to announce an
7 investigation into the Bidens before Vice President Pence would attend Zelensky’s inauguration
8 as planned.¹³⁶ Parnas also told Shefir that if Zelensky did not comply, the two countries’
9 “relationships would be sour” and that the U.S. “would stop giving them any kind of aid.”¹³⁷
10 Interviews and testimony reflect that when Shefir did not respond to these overtures, Parnas
11 informed Giuliani of the apparent rejection and, the following day, Trump instructed Pence not
12 to attend Zelensky’s inauguration.¹³⁸

13 Parnas’s statements conveyed, on behalf of Trump, a clear request and recommendation
14 that Zelensky provide the desired announcement of the investigation — particularly when those
15 statements are reasonably construed in the context of Parnas’s comment that refusal would

¹³⁵ For the Act’s purposes, a solicitation need not involve any coercion, pressure, or reciprocal inducement; to “solicit” requires only that someone “ask, request, or recommend” another person provide a contribution, donation, transfer of funds, or other thing of value. 11 C.F.R. § 300.2(m). Nevertheless, any such coercion, pressure, or inducement offered may provide relevant “context” in which the communications must be viewed to determine whether they would have been “reasonably understood” to convey “a clear message” asking, requesting, or recommending that the listener provide a contribution, donation, transfer of funds, or other thing of value. *Id.* As such, even if the White House meeting and the release of U.S. security aid to Ukraine were not conditioned on or linked to the public announcement and investigation — *i.e.*, even if there was no *quid pro quo* — the record would still support the conclusion that the request for Zelensky to publicly announce and conduct the investigation was a solicitation. The fact that Trump, Giuliani, and Parnas pressured and induced Zelensky, by using the White House visit and U.S. security aid to Ukraine as leverage, only adds further contextual support for that conclusion.

¹³⁶ *Supra* note 22 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

¹³⁷ *Id.*

¹³⁸ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

1 “sour” the U.S.-Ukraine relationship and lead to the loss of future U.S. aid, as well as the
2 planned attendance of Vice President Pence at Zelensky’s inauguration. Giuliani also directly
3 told Zelensky’s aides, as well as Sondland and Volker, that Trump wanted Zelensky to make a
4 public announcement committing Ukraine to conducting the desired investigation.¹³⁹ Through
5 his associates, Parnas and Giuliani, Trump conveyed a clear request that Zelensky publicly
6 announce and conduct the investigation.

7 Sondland, acting on Trump’s behalf, also raised the request during a July 10, 2019,
8 meeting between U.S. National Security Advisor John Bolton and his Ukrainian counterpart,
9 Oleksandr Danyliuk, a close aide to Zelensky.¹⁴⁰ At this meeting, upon being asked by
10 Ukrainian officials about scheduling a White House meeting for Zelensky, Sondland conveyed
11 that the White House meeting could be scheduled after Ukraine initiated the desired
12 investigations.¹⁴¹ Sondland was even more explicit in a smaller follow-up meeting, convened
13 immediately after Bolton’s departure, in which testimony reflects that Sondland told the
14 Ukrainians that they would need to provide the “deliverable” — publicly announcing the
15 investigations — to secure the White House meeting for Zelensky.¹⁴² Viewed together,
16 Sondland’s statements conveyed a request, on Trump’s behalf, and thus a solicitation, that
17 Zelensky announce and conduct the investigation of the Biden/Burisma and 2016 election
18 interference allegations.¹⁴³

¹³⁹ Sondland Hearing at 26–27; Taylor Dep. at 26.

¹⁴⁰ *Supra* notes 38–39 and accompanying text.

¹⁴¹ Vindman Dep. at 17; Hill Dep. at 65–67.

¹⁴² Vindman Dep. at 29; Hill Dep. at 69.

¹⁴³ Information indicates that while Trump and Giuliani encouraged Sondland to convey these requests for electoral purposes, Sondland made these requests in order to further U.S. policy goals.

1 Trump directly delivered that same request to Zelensky during their July 25, 2019, phone
2 call, when Trump specifically asked Zelensky to work with his personal attorney, Giuliani, and
3 U.S. Attorney General William Barr to investigate the two allegations. Trump told Zelensky, “I
4 would like you to do us a favor though because our country has been through a lot and Ukraine
5 knows a lot about it” and referred to the allegation that interference in the 2016 U.S. presidential
6 election originated in Ukraine, adding “I would like to have the Attorney General call you or
7 your people and I would like you to get to the bottom of it. . . . Whatever you can do, it’s very
8 important that you do it if that’s possible.”¹⁴⁴ Trump also asked that Zelensky work with Barr to
9 investigate the allegation that Joe Biden had urged the removal of Ukrainian Prosecutor General
10 Shokin to protect his son, Hunter Biden — Trump said, “[t]here’s a lot of talk about Biden’s son,
11 that Biden stopped the prosecution,” adding “a lot of people want to find out about that so
12 whatever you can do with the Attorney General would be great. Biden went around bragging
13 that he stopped the prosecution so if you can look into it.”¹⁴⁵ Trump’s use of “I would like you
14 to do us a favor” and “[w]hatever you can do, it’s very important” is similar to the example
15 solicitation phrase in the Commission’s regulations that “the candidate will be very pleased, if
16 we can count on you.”¹⁴⁶

17 Trump’s statements, read together and “construed as reasonably understood in the context
18 in which [they were] made,” conveyed “a clear message asking, requesting, or recommending”
19 that Zelensky provide the announcement and investigation of the Biden/Burisma and 2016

¹⁴⁴ July 25 Call Memo at 3.

¹⁴⁵ *Id.* at 4.

¹⁴⁶ 11 C.F.R. § 300.2(m)(2)(xii).

1 election interference allegations.¹⁴⁷ That Trump made a solicitation is further underscored by the
2 context of the prior communications from Sondland and Volker, conveying to Zelensky and his
3 aides the importance of convincing Trump that Ukraine would thoroughly investigate the
4 allegations regarding Biden/Burisma and 2016 election interference. Prior to the call, Sondland
5 had specifically “recommended to President Zelensky that he use the phrase ‘I will leave no
6 stone unturned’ with regard to investigations” when speaking with Trump, and Volker texted
7 Zelensky’s advisor, Andrey Yermak, thirty minutes before the two presidents’ phone call, to
8 reiterate that based on Volker’s discussions with the White House, Zelensky’s visit to the White
9 House could be scheduled if Zelensky convinced Trump that he would conduct the desired
10 investigation.¹⁴⁸

11 In the context of the phone call and the earlier communications, Trump’s statements to
12 Zelensky that “I would like you to get to the bottom of it” contained a “clear message asking,
13 requesting, or recommending” that Zelensky investigate the Biden/Burisma and 2016 election
14 interference allegations.¹⁴⁹ Indeed, Zelensky’s responses during the call further reflect that
15 conclusion: Zelensky assured Trump that he would investigate both allegations and, later in the
16 conversation, he appeared to acknowledge the apparent linkage of the White House visit and the
17 request to investigate the allegations, telling Trump, “I also wanted to thank you for your
18 invitation to visit the United States, specifically Washington[,] DC. On the other hand, I also

¹⁴⁷ See 11 C.F.R. § 300.2(m).

¹⁴⁸ Taylor Dep. at 30; First Volker Text Excerpts at 4.

¹⁴⁹ 11 C.F.R. § 300.2(m).

1 want to ensure [sic] you that we will be very serious about the case and will work on the
2 investigation.”¹⁵⁰

3 Trump’s discussion with Sondland on July 26, 2019, the day after the Zelensky phone
4 call, further demonstrates that Trump intended his statements to Zelensky to be understood as a
5 request that Ukraine investigate the allegations. Knowing that Sondland had met with Zelensky
6 the morning after the call, Trump called Sondland and asked if Zelensky was “going to do the
7 investigation.”¹⁵¹

8 Accordingly, the overall record establishes that Trump knowingly solicited Zelensky to
9 provide the announcement and investigation of these allegations.¹⁵²

10 2. The Announcement and Investigation Were “Contributions” Under the Act

11 As set forth above, the record indicates that Trump solicited Zelensky to provide an
12 official public announcement and investigation of allegations regarding Joe Biden and foreign
13 interference in the 2016 U.S. presidential election. In so doing, he solicited “contributions” from
14 a foreign national, in that the announcement and investigation were each a thing “of value”
15 sought “for the purpose of influencing” a federal election.¹⁵³

¹⁵⁰ July 25 Call Memo at 5.

¹⁵¹ Holmes Dep. at 24.

¹⁵² Trump’s solicitation of a prohibited contribution is also imputed to the Trump Committee because a federal candidate acts as an agent of his or her authorized campaign committee. *See* 52 U.S.C. § 30102(e)(2); 11 C.F.R. § 101.2(a); Advisory Op. 1986-02 (Robbins) (concluding that candidate’s authorized committee is responsible for all costs incurred by candidate to solicit contributions).

¹⁵³ 52 U.S.C. § 30101(8)(A).

1 a. The Act Defines a “Contribution” to Include “Anything of Value”

2 In defining a “contribution,” the Act uses a broadly-encompassing phrase, “anything of
3 value,”¹⁵⁴ which, under the Commission’s regulation, includes “*all* in-kind contributions” and
4 “the provision of *any* goods or services” at no charge or at a reduced charge.¹⁵⁵ The regulation
5 also provides a non-exhaustive list of examples that satisfy various campaign needs and
6 represent a wide variety of electoral “value,” such as: places to operate (“facilities”), methods of
7 conveying a message (“advertising services”), and raw voter data (“mailing lists”), as well as
8 physical and human resources (“supplies” and “personnel,” respectively).¹⁵⁶ The list of
9 examples conveys that a wide variety of things that may confer a benefit to a campaign, and thus
10 potentially spare the campaign’s own resources, conceivably constitute things of value.

11 The phrase “anything of value” facially contemplates a broad, case-by-case application,
12 and in prior matters, the Commission has found that many tangible and intangible things fall
13 within the scope of the regulatory text.¹⁵⁷ In prior matters, when evaluating whether something

¹⁵⁴ 52 U.S.C. § 30101(8)(A); *see also United States v. Girard*, 601 F.2d 69, 71 (2d Cir. 1979) (holding that law enforcement report disclosing the names of confidential informants is a “thing of value” under federal theft statute, 18 U.S.C. § 641) (“These words [‘thing of value’] are found in so many criminal statutes throughout the United States that they have in a sense become words of art. The word ‘thing’ notwithstanding, *the phrase is generally construed to cover intangibles as well as tangibles.* For example, amusement is held to be a thing of value under gambling statutes. Sexual intercourse, or the promise of sexual intercourse, is a thing of value under a bribery statute. So also are a promise to reinstate an employee, and an agreement not to run in a primary election. The testimony of a witness is a thing of value under 18 U.S.C. § 876, which prohibits threats made through the mails with the intent to extort money or any other ‘thing of value.’ Although the content of a writing is an intangible, it is nonetheless a thing of value. The existence of a property in the contents of unpublished writings was judicially recognized long before the advent of copyright laws.” (emphasis added, citations omitted)).

¹⁵⁵ 11 C.F.R. § 100.52(d)(1) (emphases added).

¹⁵⁶ *Id.* (“Examples of such goods or services *include, but are not limited to:* Securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.” (emphasis added)).

¹⁵⁷ *See* Advisory Op. 2000-30 (pac.com) (stock); Advisory Op. 1980-125 (Cogswell for Senate Comm. 1980) (silver coins); Advisory Op. 1982-8 (Barter PAC) (barter credit units); Factual and Legal Analysis at 3,7-8, MUR 6725 (Ron Paul 2012) (finding reason to believe committee failed to disclose value of gold coin as in-kind contribution of commodity to be liquidated); Factual and Legal Analysis at 10-11, MUR 6040 (Rangel for Congress, *et al.*) (finding reason to believe that rent-controlled apartment occupied by political committees under terms and conditions that differed from other tenants was excessive in-kind contribution); First Gen. Counsel’s Report at 10,

1 is a thing “of value” under the Act, the Commission has considered questions such as the
 2 following: whether the thing may confer a benefit on the recipient campaign;¹⁵⁸ whether
 3 political campaigns have previously used their own resources to procure the thing in question;¹⁵⁹
 4 whether the provision of the thing would “relieve” the campaign of an “expense it would
 5 otherwise incur”;¹⁶⁰ whether the provider of the thing or any third party “utilized its resources”
 6 to produce, organize, or collect the thing provided;¹⁶¹ and whether the thing “may not have been
 7 publicly available” for the campaign’s use absent the provider’s actions.¹⁶²

MUR 5409 (Grover Norquist, *et al.*) (adopted as dispositive by Comm’n on Oct. 1, 2004) (finding reason to believe that master contact list of activists was something of value under Act even though it lacked commercial or market value and despite difficulty in quantifying its precise worth); Factual and Legal Analysis at 29-30, MUR 6718 (John Ensign, *et al.*) (finding reason to believe severance payment made by candidate’s parents to committee’s former treasurer for the loss of her job following extramarital affair was in-kind contribution); Gen. Counsel’s Brief at 7-8, MUR 5225 (New York Senate 2000) (probable cause finding by Comm’n on Oct. 20, 2005) (detailing approximately \$395,000 worth of in-kind contributions related to benefit concert production costs); *see also* Certification, MUR 5409 (Oct. 19, 2004) (approving recommendations in First General Counsel’s Report).

¹⁵⁸ *See, e.g.*, Advisory Op. 1990-12 (Strub for Congress) at 2 (finding that the provision of poll results by a campaign volunteer who paid for the poll would result in an in-kind contribution); Advisory Op. 2007-22 at 6 (finding that the provision of printed foreign election materials, including “flyers, advertisements, door hangers, tri-folds, signs, and other printed material,” would result in an in-kind contribution); First Gen. Counsel’s Report at 10, MUR 5409 (Norquist) (adopted as dispositive) (finding that contact lists provided to a campaign without charge were “of value” because they “may at least point [the campaign] in the direction of persons who might help [its] election efforts”).

¹⁵⁹ *See, e.g.*, Advisory Op. 1990-12 at 2 (discussing Commission regulations addressing the making and acceptance of contributions in the form of poll results) (citing 11 C.F.R. § 106.4); *see also* First Gen. Counsel’s Report at 14, MUR 6651 (noting that campaigns often pay advance staff to generate crowds for campaign events).

¹⁶⁰ *See* Advisory Op. 2007-22 at 6 (noting that the provision of election materials to a campaign results in a contribution because it “would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials”); Advisory Op. 1990-12 at 2.

¹⁶¹ *See, e.g.*, First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation “utilized its resources to obtain and compile”).

¹⁶² *Compare* First Gen. Counsel’s Report at 9, MUR 5409 (adopted as dispositive) (observing that attendee lists provided to a campaign “may not have been publicly available”); *with* Factual & Legal Analysis at 4–5, MUR 6938 (Rand Paul for President) (“F&LA”) (finding it unclear that author’s private discussion of a forthcoming book has value for a candidate, particularly when the book information had also been publicly discussed).

1 The Commission has concluded that the provision of free opposition research may
2 constitute a contribution under the Act. In MUR 5409, the Commission found that a corporation
3 made prohibited in-kind contributions by providing a campaign with its private lists of
4 organizations and individuals with similar political views, which the corporation “utilized its
5 resources to obtain and compile,” and which “contain[ed] information that may be of value in
6 connection with” a federal election.¹⁶³ Moreover, in the foreign national context, the
7 Commission has previously explained that a foreign national makes a prohibited contribution by
8 providing anything to a campaign that thereby “relieve[s the] campaign of the expense that it
9 would otherwise incur,” even if the item’s value “may be nominal or difficult to ascertain.”¹⁶⁴

10 b. The Official Public Announcement of an Investigation Is a Thing
11 “of Value” Under the Act

12 The information available in these matters indicates that the official public announcement
13 of investigations that Trump sought from Zelensky was a thing “of value” because it was a
14 unique, nonpublic “deliverable,”¹⁶⁵ the provision of which involved the use of the Ukrainian
15 government’s official resources to confer an electoral benefit on Trump’s 2020 presidential

¹⁶³ First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive); *cf.* F&LA at 4–5, MUR 6938 (finding that an author’s hour-long discussion with a U.S. Senator and potential presidential candidate regarding the author’s upcoming book — which purportedly contained negative information about another presidential candidate’s foreign business activities — did not result in an in-kind contribution because the allegations in the book were already being publicly discussed, the book had been provided to news outlets in advance of its publication, and the author averred, in a sworn affidavit, that he met with the Senator not to influence the upcoming presidential election but to discuss government officials’ conflicts of interest).

¹⁶⁴ Advisory Op. 2007-22 at 6 (noting that foreign nationals are prohibited from providing even “flyers, advertisements, door hangers, tri-folds, signs, and other printed material” to a campaign, “particularly in light of the broad scope of the prohibition on contributions from foreign nationals”) (citing 120 Cong. Rec. 8782 and Prohibitions E&J, 67 Fed. Reg. at 69,940).

¹⁶⁵ Sondland Dep. at 30 (“My recollection is that the statement was written primarily by the Ukrainians, with Ambassador Volker’s guidance, and I offered my assistance when asked. This was the, quote, “deliverable,” closed quote, referenced in some of my [text] messages. A deliverable public statement that President Trump wanted to see or hear before a White House meeting could occur.”); *id.* at 289-90 (“The deliverable, I believe, was the press statement.”); Volker Dep. at 184.

1 reelection campaign, and would have relieved the campaign of expenses required to procure the
2 same benefit.

3 The desired announcement had a potential benefit for the Trump Committee: It was an
4 amplification of negative allegations about Trump’s potential election opponent — akin to
5 negative campaign advertising, or hiring a prominent public figure to criticize an electoral
6 opponent — by Zelensky, an ostensibly disinterested authority.¹⁶⁶ The announcement would
7 have benefited Trump’s reelection campaign, not by researching damaging information about a
8 political opponent — *i.e.*, conducting “opposition research” — but instead by publicizing that
9 damaging information, *i.e.*, magnifying corruption allegations against one of Trump’s potential
10 2020 election opponents, Biden, and Biden’s political party, the DNC, much like a damaging
11 narrative about an opponent propagated through paid electioneering activity.¹⁶⁷ However, unlike
12 using campaign advertisements and other paid efforts to disseminate the damaging narrative,
13 which would have involved spending campaign funds and reporting the expenditures in
14 disclosure reports,¹⁶⁸ Trump asked that Zelensky use the resources and authority of his office to

¹⁶⁶ See Advisory Op. 1990-12 at 2; First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

¹⁶⁷ See 11 C.F.R. § 100.52(d)(1) (including “advertising services” among examples of “goods or services” which, if provided without charge or at a reduced charge, would result in a contribution). Third parties have spent considerable amounts to amplify damaging allegations or propagate a damaging narrative about a candidate. See, *e.g.*, Conciliation Agreement ¶ IV.15, MURs 5511 and 5525 (Swiftboat Veterans and POWs for Truth) (Dec. 11, 2006) (“During the 2004 cycle, [Swiftboat Veterans and POWs for Truth] spent \$19,304,642 for 12 television advertisements that were broadcast in the Presidential election battleground states . . . and on national cable television stations . . . [and a]ll of these advertisements attacked the character, qualifications, and fitness for office of Senator John Kerry, the Democratic Presidential nominee.”). Even if a third party is not a foreign national and is otherwise permitted to make such expenditures under the Act, if those expenditures are “coordinated” with a candidate, authorized campaign committee, or an agent thereof, the result is either a “coordinated expenditure” or a “coordinated communication,” either of which results in an in-kind contribution from the third party to the candidate. See 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b) (coordinated expenditures for activity that does not include communications); 11 C.F.R. § 109.21 (coordinated communications).

¹⁶⁸ See 52 U.S.C. § 30101(9)(A) (defining “expenditure”); *id.* § 30104(b) (mandating periodic disclosure of all expenditures).

1 do so, thus seeking the same electoral benefit at no cost to the Trump Committee and with no
2 public disclosure of the thing that Zelensky was asked to provide as a “favor.”¹⁶⁹

3 As an official statement by the Ukrainian government, the announcement was a unique
4 deliverable that only Zelensky (or another Ukrainian government official with the requisite
5 authority) could provide; it was not readily or publicly available for Trump or his campaign to
6 obtain, absent its provision by Zelensky.¹⁷⁰ Although Trump, and perhaps to an even greater
7 extent Giuliani, publicly aired these allegations about Biden and the DNC, only Zelensky could
8 announce an official investigation of the allegations as president of Ukraine, lending them the
9 authority that would be at the root of the potential electoral benefit.¹⁷¹ As such, the
10 announcement required the use of Zelensky’s official authority, and the Ukrainian government’s

¹⁶⁹ July 25 Call Memo at 3 (“The President: I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it.”).

¹⁷⁰ See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending Commission find reason to believe corporation and corporate officer made an impermissible contribution to a committee by utilizing resources to obtain nonpublic materials, which were provided to the committee).

¹⁷¹ Because the facts in these matters do not suggest that the desired announcement involved Zelensky making a voluntary public statement in his personal capacity, or voluntarily offering a personal opinion or assessment of a federal candidate — akin to an endorsement or public critique — it appears unnecessary to evaluate whether a foreign national provides “anything of value” under the Act merely by making a voluntary public statement relating to a federal election. See, e.g., 52 U.S.C. § 30101(8)(B)(i) (a “contribution” excludes “the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee”); Advisory Op. 2014-20 (Make Your Laws PAC) at 3–4 (foreign nationals may voluntarily provide a campaign with personal services to help design website code, logos, and trademarks, and may provide the intellectual property rights resulting “directly and exclusively” from those services, without making a prohibited contribution); Advisory Op. 2007-22 at 3 (foreign nationals may engage in uncompensated campaign activity, including canvassing and phone banking, without making a prohibited contribution); Advisory Op. 2004-26 (Weller) at 3 (the foreign national spouse of a candidate may, as an uncompensated volunteer, attend campaign events, give speeches, and solicit campaign contributions); Advisory Op. 1987-25 (Otaola) at 2 (uncompensated services by foreign national student would not result in prohibited contributions); Factual & Legal Analysis at 6–9, MURs 5987, 5995, and 6015 (Sir Elton John) (finding no reason to believe a foreign national made a prohibited contribution by volunteering his services to perform at a campaign fundraiser and agreeing to let the campaign use his name and likeness in its emails promoting the concert and soliciting support); *but see* Advisory Op. 2007-08 at 4 n.2 (King) (clarifying that the volunteer services exception from the definition of contribution “is restricted to donations of the volunteer’s own time and services and does not generally exempt actual costs incurred on behalf of a Federal candidate”).

1 resources, to support the Trump Committee.¹⁷² Because of Trump’s demand, Zelensky and his
2 aides were involved in multiple, weeks-long negotiations with Department of State officials
3 regarding the requested announcement, including the specific language that it would need to
4 include.¹⁷³ This activity required Ukraine to direct human and logistical resources to this end,¹⁷⁴
5 akin to the type of resources necessary for the provision of a “service” at no charge, which
6 Commission regulations include in the definition of a “contribution.”¹⁷⁵ Thus, in requesting an
7 announcement of an investigation from the Ukrainian President, to be delivered in a public
8 setting and with the assistance of other Ukrainian government personnel, Trump requested a
9 deliverable that necessarily would have involved expending Ukrainian resources.

10 Although there appears to be no record of any political committee previously purchasing
11 this type of deliverable, *i.e.*, an official announcement regarding a law enforcement investigation,
12 and there does not appear to be an identifiable commercial market for it, this does not disqualify
13 the announcement from being a thing “of value” for purposes of the Act.¹⁷⁶ A unique or unusual
14 deliverable, such as an official announcement of an investigation, may be a thing of value —
15 even if there is no apparent record of a political campaign previously purchasing such an item, or

¹⁷² See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

¹⁷³ See Sondland Dep. at 84; 169 (“What I understood was that breaking the logjam with getting the President to finally approve a White House visit was a public utterance by Zelensky, either through the press statement or through an interview or some other public means, that he was going to pursue transparency, corruption, and so on.”); 240 (“[T]he first time I recall hearing about 2016 and Burisma was during the negotiations of the press statement.”); 347; Volker Dep. at 71–72 (discussing negotiating the text of the statement).

¹⁷⁴ See Taylor Dep. at 135–36.

¹⁷⁵ 11 C.F.R. § 100.52(d)(1); *see id.* § 100.111(e)(1).

¹⁷⁶ See First Gen. Counsel’s Report at 8 n.12, MUR 5409 (adopted as dispositive) (“It is difficult to ascertain a market value for unique goods such as the materials [respondent] provided to the Committee. *The lack of a market, and thus the lack of a ‘usual and normal charge,’ however, does not necessarily equate to a lack of value.*” (emphasis added)).

1 any commercial market for doing so, and even if it is difficult to ascribe a monetary value to it —
2 since the Commission has made clear that even contributions whose value “may be nominal or
3 difficult to ascertain” are prohibited when provided by a foreign national.¹⁷⁷

4 Trump demanded that Zelensky make an official announcement raising the public profile
5 of politically damaging allegations about Biden and the DNC, using the authority of Zelensky’s
6 office and the Ukrainian government’s resources. In so doing, they pursued a deliverable that
7 Zelensky was uniquely situated to provide, and which supplied an electoral benefit to the Trump
8 Committee: Amplifying a narrative casting Trump’s potential election opponent in a negative
9 light, thereby sparing Trump’s reelection campaign the cost and public disclosure involved in
10 disseminating that narrative itself. As such, the announcement was a thing “of value” under the
11 Act.

12 c. The Official Investigation of a Potential Election Opponent and that
13 Opponent’s Political Party Is a Thing “of Value” Under the Act

14 In addition to seeking a public announcement that Ukraine was investigating the
15 allegations that Joe Biden improperly coerced Ukraine to shut down an anticorruption
16 investigation of Burisma to protect his son, Hunter Biden, and that the DNC coordinated with
17 Ukraine’s efforts to interfere in the 2016 presidential election, Trump also sought the actual
18 investigation of these allegations. The requested investigation of these allegations is likewise a
19 thing “of value” under the Act, because it would have involved Ukraine using its resources to
20 confer a potential benefit on Trump’s 2020 reelection campaign.

21 The Ukrainian investigation sought by Trump was akin to a service that campaigns
22 commonly expend resources on — opposition research, or research into potentially damaging

¹⁷⁷ *E.g.* Advisory Op. 2007-22 at 6.

1 information about political opponents.¹⁷⁸ The requested investigation would have required a
2 third party, the Ukrainian government, to use its resources to provide a benefit to the Trump
3 Committee — *i.e.*, researching negative information about Trump’s potential election opponent,
4 Biden, and Biden’s party, the DNC — thereby relieving the Trump Committee of the attendant
5 expense of that investigative effort. As such, the requested investigation closely aligns with prior
6 Commission matters finding that third party research conducted on a campaign’s behalf for no
7 charge or at a reduced charge results in an in-kind contribution.¹⁷⁹

8 Further, the requested investigation was a thing “of value” irrespective of whether it
9 ultimately produced any useful information for the Trump Committee. Like an opposition
10 research service paid for by any campaign, the “value” of the requested Ukraine investigation in
11 this context, for the Act’s purposes, derives from the cost of the investigative *effort*, without
12 regard to the perceived value of the resulting *information*, just as the value of a campaign ad, for
13 the Act’s purposes, generally derives from the production and distribution costs without regard to
14 its effectiveness in persuading voters. The requested investigation would have required that
15 Ukraine deploy its official law enforcement infrastructure to pursue information regarding
16 Biden’s alleged conduct with respect to Burisma, and the DNC’s alleged conduct with respect to
17 alleged Ukrainian election interference, which would incur a cost even if the Ukrainian
18 investigation failed to produce any information supporting these allegations. Accordingly,
19 because Ukraine’s government would have had to use its resources to investigate the allegations,

¹⁷⁸ See FEC, *2017-2018 Disbursement Data*, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&disbursement_description=research (including 7,599 disbursement entries including the description “research”).

¹⁷⁹ See also 11 C.F.R. § 100.52(d)(2).

1 thus sparing the Trump Committee the expense of doing so and potentially allowing the
2 campaign to otherwise direct its resources, the requested investigation was a thing “of value.”¹⁸⁰

3 d. The Announcement and Investigation Were Sought “for the
4 Purpose of Influencing” the 2020 U.S. Presidential Election

5 The available information indicates that the requested announcement and investigation
6 were sought “for the purpose of influencing” a federal election.¹⁸¹ As discussed above, Trump
7 repeatedly requested that Zelensky confer with Giuliani and investigate allegations regarding
8 Biden and 2016 election interference during their July 25, 2019, phone call. Trump’s later
9 comments regarding the July 25 call, and his ongoing support for Giuliani’s investigation of the
10 same allegations, indicate that the request was motivated by an electoral purpose — *i.e.*, seeking
11 and publicizing damaging information about Biden, Trump’s potential opponent in the 2020 U.S.
12 presidential election,¹⁸² and the DNC’s alleged involvement in foreign electoral interference.
13 Trump further demonstrated that electoral purpose by repeatedly refusing — without first
14 receiving the public announcement of the investigation — to schedule a White House meeting
15 with Zelensky.

16 In analyzing whether the provision of funds or any other thing of value is a
17 “contribution” under the Act and Commission regulations, the Commission has concluded that
18 the question is whether a thing of value was “provided for the purpose of influencing a federal
19 election [and] not whether [it] provided a benefit to [a federal candidate’s] campaign.”¹⁸³ As

¹⁸⁰ See F&LA at 3–4, 13–14, MUR 6414 (discussing the nature and value of investigative services provided by a research company, some of which were allegedly provided at a discount or at no charge).

¹⁸¹ 52 U.S.C. § 30101(8)(A)(i).

¹⁸² See May 9 NY Times Article (reporting that Giuliani planned trip “potentially to damage Mr. Biden, the early front-runner for the 2020 Democratic presidential nomination”).

¹⁸³ Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate).

1 such, the Commission has previously found that activity lacking the requisite purpose of
 2 influencing a federal election — including, *e.g.*, activity to advance a commercial interest,¹⁸⁴
 3 fulfill the obligations of holding federal office,¹⁸⁵ or engage in legal or policy advocacy¹⁸⁶ —
 4 does not result in a “contribution” or “expenditure,” even if it confers a benefit on a candidate or
 5 otherwise affects a federal election. The electoral purpose may be clear on its face, as in a third

¹⁸⁴ *E.g.*, Advisory Op. 2012-31 (AT&T) at 4 (wireless carrier charging a reduced fee to process text message-based donations to federal candidates did not thereby make “contributions” to the candidates because the reduced fee “reflects commercial considerations and does not reflect considerations outside of a business relationship”); Advisory Op. 2004-06 (Meetup) at 4 (commercial web service provider that can be used to arrange meetings and events based on shared interests did not make contributions by featuring federal candidates in its list of “event topics” or by offering its services to federal candidates and committees because “any similarly situated member of the general public” could use these services); *see* First Gen. Counsel’s Report at 13–17, MURs 5474 and 5539 (Dog Eat Dog Films) (recommending finding no reason to believe with respect to allegation that producers and distributors of a film criticizing a federal candidate made “contributions” or “expenditures,” because the record established that the film was made and distributed “for genuinely commercial purposes rather than to influence a federal election”) and Certification ¶¶ A.1–2, B.1, MURs 5474 and 5539 (June 8, 2005) (approving recommendations); Advisory Op. 1994-30 (Conservative Concepts/Pence) (identifying factors used to determine whether “entrepreneurial activity” referencing a federal candidate will result in a “contribution,” including “whether the activity” is “for genuinely commercial purposes”).

¹⁸⁵ *E.g.*, Advisory Op. 1981-37 (Gephardt) at 2 (federal candidate did not receive a contribution by appearing at a series of “public affairs forums” paid for by a corporation because “the purpose of the activity is not to influence the nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder” and although “involvement in the public affairs programs may indirectly benefit future campaigns, . . . the major purpose of the activity contemplated . . . would not be the nomination or election of you or any other candidate to Federal office”).

¹⁸⁶ *E.g.*, F&LA at 8, MUR 7024 (free legal services provided to a federal candidate challenging FEC disclosure regulations were not contributions because the services were provided “for the purpose of challenging a rule of general application, not to influence a particular election”); Advisory Op. 2010-03 (National Democratic Redistricting Trust) at 4 (federal candidates can solicit funds outside of the Act’s limitations and prohibitions for redistricting litigation costs, because “[a]lthough the outcome of redistricting litigation often has political consequences, . . . such activity is sufficiently removed that it is not ‘in connection with’ the elections themselves”); Advisory Op. 1982-35 (Hopfman) at 2 (funds collected by federal candidate to challenge state party’s ballot access rule precluding him from the ballot were not “contributions” because “the candidate is not attempting to influence a Federal election by preventing the electorate from voting for a particular opponent [but instead] proposes to use the judicial system to test the constitutionality of the application of a party rule to his candidacy”); Advisory Op. 1996-39 (Heintz for Congress) (same); *cf.* Advisory Op. 1980-57 (Bexar County Democratic Party) at 3 (funds raised for federal candidate’s lawsuit seeking removal of a potential opponent from the ballot *were* contributions because litigation “to force an election opponent off the ballot . . . is as much an effort to influence an election as is a campaign advertisement derogating that opponent”).

1 party's payments for a coordinated communication, or inferred from the surrounding
2 circumstances.¹⁸⁷

3 The overall record in these matters supports the conclusion that Trump sought the
4 announcement and investigation from Zelensky and Ukraine for the purpose of influencing the
5 2020 U.S. presidential election.¹⁸⁸ During their July 25, 2019, call, Trump asked Zelensky to
6 investigate the Biden/Burisma and 2016 election interference allegations, requesting that
7 Zelensky and his team discuss the matter with Giuliani and Attorney General Barr.¹⁸⁹ Trump's
8 statements, viewed in light of his later comments regarding the call and ongoing support for
9 Giuliani's investigation of these allegations, reflect the electoral purpose behind these requests.

10 In particular, Trump's statements after his call with Zelensky indicate that his purpose for
11 seeking the investigation was to advance his own campaign for reelection by harming a potential
12 opponent. The day after the call, on July 26, 2019, Trump called and asked Sondland whether
13 Zelensky was "going to do the investigation," to which Sondland responded that Zelensky would
14 do it and, in fact, would "[d]o anything you ask him to."¹⁹⁰ Sondland then told Holmes, a U.S.

¹⁸⁷ *E.g.* Advisory Op. 1988-22 at 5 (San Joaquin Valley Republican Associates) (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions); *see* Factual & Legal Analysis at 17–20, MURs 4568, 4633, and 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with "uncompensated fundraising and campaign management assistance" and "advertising assistance[.]" including spending "several million dollars" on coordinated advertisements); Advisory Op. 2000-08 (Harvey) at 1, 3 (concluding private individual's \$10,000 "gift" to a federal candidate would be a contribution because "the proposed gift would not be made but for the recipient's status as a Federal candidate").

¹⁸⁸ Having undertaken these actions for the purpose of influencing an election, rather than some official governmental purpose, Trump was not acting in his capacity as president, or on behalf of the federal government. Thus, Trump was a "person" under the Act and subject to the foreign national prohibition in 52 U.S.C. § 30121. *See* 52 U.S.C. § 30101(11) (defining "person" to exclude "the Federal Government or any authority of the Federal Government").

¹⁸⁹ July 25 Call Memo at 3–4; *see* October 3 Trump Remarks.

¹⁹⁰ Holmes Dep. at 24.

1 Embassy official who overheard Sondland’s exchange with Trump, that he believed Trump “did
2 not give a shit about Ukraine” and cared only about “‘big stuff’ that benefits the President, like
3 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”¹⁹¹ In response to
4 reporters’ questions about his reasons for asking Zelensky to investigate Biden, Trump
5 acknowledged that he believed Biden was “crooked” and should be investigated,¹⁹² and he later
6 said, in a televised interview, that he would make Biden’s alleged corruption “a major issue in
7 the campaign.”¹⁹³ These candid statements show that Trump had an electoral purpose in seeking
8 the investigation.

9 Trump’s funneling of Ukraine policy through his personal attorney, Giuliani, further
10 accords with that conclusion. When the U.S. delegation, including Perry, Sondland, and Volker,
11 returned from Zelensky’s inauguration urging Trump to show support for the new Ukrainian
12 President by scheduling a White House meeting with Zelensky, rather than engaging with
13 officials at the Department of State, Department of Defense, or National Security Council,
14 Trump directed that any discussion about meeting with Zelensky be channeled through Giuliani,
15 who held no government position and was acting as Trump’s personal attorney.¹⁹⁴ For example,
16 Trump directed Bolton, his National Security Advisor, to ask Zelensky to meet with Giuliani, not
17 to discuss corruption generally, but the Biden/Burisma and 2016 election interference allegations

¹⁹¹ *Id.* at 25; *see also* Bolton Book at 462 (“‘I don’t want to have any [] thing to do with Ukraine,’ said Trump, per Kupperman. . . . ‘They [] attacked me. I can’t understand why. . . .’ All this, he said, pertained to the Clinton campaign’s efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.”).

¹⁹² Trump-Niinistö Press Conference (“Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: . . . Look, Biden and his son are stone-cold crooked.”); October 3 Trump Remarks (“So, I would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren’t crooked.”).

¹⁹³ Hannity Interview.

¹⁹⁴ Volker Dep. at 305; Sondland Dep. at 25; *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

1 specifically.¹⁹⁵ Finally, in his July 25, 2019, call with Zelensky, Trump requested that Zelensky
2 consult with Giuliani and Attorney General Barr, rather than going through traditional diplomatic
3 channels, about investigating the Biden/Burisma and 2016 election interference allegations.¹⁹⁶
4 Trump's use of his personal attorney, rather than the usual and official actors in U.S. foreign
5 policy, suggests that Trump himself viewed Giuliani's effort to discredit Biden and the DNC as a
6 personal matter, namely, that it was for the purpose of influencing the 2020 presidential election.

7 Further, numerous U.S. officials expressed concern regarding the requests that Zelensky
8 announce and investigate these allegations, stemming from the fact that the announcement and
9 investigation were pursued through an improper, irregular channel — namely, through Giuliani,
10 a private citizen acting as Trump's personal attorney¹⁹⁷ — rather than through an official
11 channel, such as a request for intergovernmental law enforcement cooperation, and were sought
12 for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or
13 policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted
14 negatively to Sondland's statement to the Ukrainians that the White House would agree to
15 schedule an official meeting for Zelensky after Ukraine initiated the investigations; Bolton
16 swiftly ended the meeting and afterward instructed his associate, Hill, to inform the National
17 Security Council's legal counsel about Sondland's statement and that he, Bolton, was not party
18 to the offer.¹⁹⁸

¹⁹⁵ Bolton Book at 459.

¹⁹⁶ July 25 Call Memo.

¹⁹⁷ *See supra* notes 17–17 and accompanying text.

¹⁹⁸ Vindman Dep. at 17; Hill Dep. at 65–67, 70–71; *see also* Bolton Book at 465 (“I told [Hill] to take this whole matter to the White House Counsel's office; she quoted me accurately as saying, ‘I am not part of whatever drug deal Sondland and Mulvaney are cooking up.’ I thought the whole affair was bad policy, questionable legally, and unacceptable as presidential behavior.”).

1 Bolton later asserted that he did not agree with Sondland’s persistent effort to get
2 approval for a face-to-face meeting between Zelensky and Trump, and did not think that such a
3 meeting should be used to discuss the allegations that Giuliani wanted Zelensky to investigate.¹⁹⁹
4 At a follow-up meeting without Bolton, Sondland again told the Ukrainians that a White House
5 visit for Zelensky would happen only after the announcement of the Burisma/Biden and 2016
6 election interference investigations, after which Hill and Vindman confronted Sondland to
7 express their view that Sondland’s statement was inappropriate.²⁰⁰ The fact that Bolton, Hill,
8 and Vindman all expressed immediate concern with the requests to the Ukrainian delegation
9 indicates that they perceived — and objected to — the linkage between an important diplomatic
10 goal and the announcement of an investigation into Trump’s potential electoral opponent.

11 Zelensky’s representatives, Andrey Yermak and Oleksandr Danyliuk, also understood the
12 purpose of the request to be political, expressing concern about Ukraine being improperly drawn
13 into a U.S. domestic political matter. On July 20, 2019, ten days after his meeting with Bolton,
14 Danyliuk told Bill Taylor that Zelensky “did not want to be used as a pawn” in U.S. election
15 matters.²⁰¹ Yermak, Zelensky’s closest advisor, also expressed concern that Ukraine could get
16 drawn into a U.S. domestic political issue by satisfying Trump’s and Giuliani’s wishes. After the
17 Trump-Zelensky phone call, and after Yermak met with Giuliani on August 2, 2019, where they
18 discussed the White House visit and a public announcement of the investigations, Yermak sent
19 Volker a draft of a potential announcement on August 12, 2019, which generally discussed

¹⁹⁹ Bolton Book at 465 (“I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

²⁰⁰ Vindman Dep. at 29–31; Hill Dep. at 69–70.

²⁰¹ Taylor Dep. at 30; Bolton Book at 472.

1 Ukraine’s commitment to combating corruption but lacked specific mention of the
2 Biden/Burisma and 2016 election-interference allegations.²⁰² Upon considering Yermak’s
3 proposed statement, however, Giuliani reportedly rejected it because it did not contain specific
4 references to the allegations, telling Volker that if the announcement “doesn’t say Burisma and
5 2016, it’s not credible.”²⁰³

6 Giuliani’s reported insistence on these specific references belies the argument that the
7 announcement’s purpose was non-electoral — *e.g.*, that it was sought to publicly ensure
8 Ukrainian commitment to investigating corruption — and instead supports the inference that the
9 announcement’s purpose was to amplify allegations that would harm the reputations of Biden
10 and the DNC, as well as publicly commit Ukraine to investigating those allegations.²⁰⁴ Volker
11 testified that to implement Giuliani’s instructions and advance the negotiations, he incorporated
12 the desired references and sent a revised draft statement to Yermak, although Volker also
13 advised Yermak that announcing an investigation with specific references to these two
14 allegations was “not a good idea” and that a “generic statement about fighting corruption” would
15 be better.²⁰⁵ These sentiments appear to reflect contemporaneous recognition by the officials
16 involved that conditioning a White House visit — seen by officials on both sides as critical to the

²⁰² First Volker Text Excerpts at 3; Volker Dep. at 113.

²⁰³ Volker Dep. at 71–72, 113; *see also* Maddow Interview Pt. 2 at 16:17–17:02 (“They [Zelensky’s administration] announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”).

²⁰⁴ *See* Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. . . . He said that President Trump wanted President Zelensky in a box, by making [a] public statement about ordering such investigations.”).

²⁰⁵ Volker Dep. at 44.

1 diplomatic relationship²⁰⁶ — on the public announcement and investigation of these specific
2 allegations was improper, because it placed pressure on Zelensky to provide deliverables that
3 could draw him and Ukraine into the 2020 U.S. presidential election.

4 Trump’s refusal to release the Congressionally-approved security aid to Ukraine, despite
5 many requests to do so, also underscores the personal, electoral motive driving the demand for
6 the announcement and investigation. Former National Security Advisor Bolton recounts that he
7 and the Secretaries of Defense and State repeatedly lobbied Trump to release the aid, to no
8 avail.²⁰⁷ Officials at their respective agencies uniformly agreed, and represented vocally, that the
9 aid to Ukraine was vital and effective, a perspective mirrored in bipartisan Congressional support
10 for the aid appropriation.²⁰⁸ The Department of Defense raised a further concern that the OMB
11 hold on appropriated funds presented a potential violation of federal appropriations law, a
12 concern later validated by the U.S. Government Accountability Office.²⁰⁹ Taylor expressed his
13 concern about the apparent reason for the hold on security funds to Ukraine, writing in a text
14 message to Volker and Sondland, “I think it’s crazy to withhold security assistance for help with
15 a political campaign.”²¹⁰

16 Nevertheless, Trump continued to refuse to release the aid, reportedly telling Bolton on
17 August 20, 2019, that “he wasn’t in favor” of releasing the aid until all of the materials related to

²⁰⁶ Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

²⁰⁷ Bolton Book at 468–69.

²⁰⁸ Taylor Dep. at 28 and 132; Cooper Dep. at 16.

²⁰⁹ Morrison Dep. at 163; GAO Decision at 1, 8.

²¹⁰ First Volker Text Excerpts at 9.

1 the Biden and 2016 election interference investigations had been turned over.²¹¹ Testimony
2 reflects that Trump also told Sondland that Zelensky would have to announce the investigation
3 for the aid to be released.²¹² Trump’s refusal to release the aid, viewed in context with his
4 explanatory statements to Bolton and Sondland, indicate an electoral motivation driving his
5 demands of Zelensky, namely, influencing the 2020 presidential election through the
6 announcement and investigation of his potential opponent and the opposing political party.

7 In public statements regarding his actions, Trump has claimed that he withheld the
8 Ukraine aid because of concern about corruption in Ukraine and his view that the U.S. provides a
9 disproportionately high amount of aid to Ukraine, relative to countries in the European Union.²¹³
10 These subsequent explanations, however, do not sufficiently account for Trump’s actions and
11 above-described statements. Trump’s statements to Bolton and Sondland directly tied the aid to
12 the investigation of the Biden/Burisma and 2016 election interference allegations, neither of
13 which had, according to Trump’s advisors, a discernable connection to a concern with the U.S.
14 giving more aid to Ukraine than the countries of the European Union, but had a clear connection
15 with the 2020 presidential election.²¹⁴

16 Trump’s other contention — that concern with Ukrainian corruption animated the
17 decision to withhold the aid — is inconsistent with Giuliani’s rejection of a general public
18 statement committing Ukraine to combating corruption, which Yermak had proposed after

²¹¹ Bolton Book at 471.

²¹² Morrison Dep. at 190–91; Taylor Dep. at 39.

²¹³ Sep. 24 Trump Press Conference at 0:04–0:42; Trump-Niinistö Press Conference.

²¹⁴ See First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

1 discussions with Volker and Sondland.²¹⁵ Moreover, Parnas stated publicly that the pursuit of
2 the Burisma allegation was never about combating corruption, but rather about Joe and Hunter
3 Biden.²¹⁶ The insistence on a public announcement committing Ukraine to investigating these
4 *particular* allegations connected to a potential candidate in the next presidential election supports
5 a reasonable inference that the true purpose for withholding the aid was not to ensure Ukraine’s
6 commitment to fighting corruption — a general commitment that Zelensky had campaigned on
7 and had, indeed, offered to announce publicly²¹⁷ — but rather to influence the 2020 presidential
8 election.

9 3. Neither DOJ’s Decision Not to Pursue Criminal Charges, Nor the Special
10 Counsel’s Report, Forecloses Civil Enforcement of the Act in this Matter

11 The Trump Committee denies that any violation of the Act or Commission regulations
12 occurred in these matters, relying principally on the DOJ Criminal Division’s decision not to
13 investigate the matter, based on “established procedures set forth in the Justice Manual,” as well
14 as a statement in the Special Counsel’s Report that the Trump Committee asserts “directly called
15 into doubt” the “legal and constitutional viability” of the allegation that Trump solicited a thing
16 of value from Zelensky.²¹⁸ However, neither the DOJ’s decision not to criminally investigate
17 nor the Special Counsel’s Report’s analysis bears on the Commission’s civil enforcement of the
18 Act in these matters.

19 Contrary to the Trump Committee’s position, the Special Counsel’s Report reasoned that
20 the terms “anything of value” or “thing of value” are broad in scope and could include valuable

²¹⁵ Volker Dep. at 113.

²¹⁶ Maddow Interview Pt. 1 at 8:58–9:37.

²¹⁷ Taylor Dep. at 198-99; Volker Dep. at 29–30.

²¹⁸ Trump Comm. Resp. at 1.

1 information, such as opposition research.²¹⁹ Consistent with the analysis presented in this report,
2 the Special Counsel’s Report stated that Commission regulations and precedent “would support
3 the view that candidate-related opposition research given to a campaign for the purpose of
4 influencing an election could constitute a contribution,” while observing that “no judicial
5 decision has treated the *voluntary* provision of uncompensated opposition research or similar
6 information as a thing of value that could amount to a contribution under campaign-finance
7 law[,]” and that “[s]uch an interpretation could have implications beyond the foreign-source
8 ban . . . and raise First Amendment questions.”²²⁰

9 The Special Counsel’s Report’s points, which the Trump Committee appears to reference
10 in questioning the constitutionality of the allegations in these matters, are legally and factually
11 inapposite, however. As noted above, the Act and Commission regulations specifically exempt
12 voluntary activity, including activity by foreign nationals, from the Act’s definitions of
13 “contribution” and “expenditure,”²²¹ while the facts in these matters concern soliciting a foreign
14 national, Zelensky, to use Ukrainian resources to provide the Trump Committee, at no cost, with
15 things of value — an announcement akin to paid campaign communications disseminating a
16 disparaging narrative about Biden, and an investigation of Biden akin to an opposition research
17 project — and not, as the Special Counsel’s Report discusses, the voluntary provision of
18 information by a foreign national. Moreover, the Commission has explained that the “exception
19 for volunteer activities is restricted to donations of the volunteer’s own time and services and

²¹⁹ Special Counsel’s Report at 186–187 (“[t]he phrases ‘thing of value’ and ‘anything of value’ are broad and inclusive enough to encompass at least some forms of valuable information.”); *see also id.* at 187 (“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”).

²²⁰ *Id.* at 187 (emphasis added).

²²¹ *See supra* note 186 (discussing the volunteer exemption as applied to foreign nationals).

1 does not generally exempt actual costs incurred on behalf of a Federal candidate or political
2 party committee.”²²² Thus, any costs incurred by such individuals in the course of performing
3 their voluntary services “must be within the donor’s limits and may not be contributed by any
4 corporation or labor union or other person who is prohibited by the Act from making a
5 contribution.”²²³ Where, as here, the purported volunteer who would contribute resources, such
6 as the costs of an investigation, in addition to time and services is a foreign national, such costs
7 are a prohibited contribution.

8 In addition, the Special Counsel’s decision not to prosecute any campaign finance
9 violations, and DOJ’s decision to not criminally prosecute anyone in connection with the
10 Zelensky call, are based on considerations that are materially distinct from the Commission’s
11 consideration of these matters in an administrative and civil context. While a criminal
12 prosecution for a violation of the Act would need to prove beyond a reasonable doubt that the
13 violation was knowing and willful, the Commission in a civil proceeding would only have to
14 establish a violation of the Act based upon the preponderance of the evidence²²⁴ — irrespective
15 of whether the violation was knowing and willful.²²⁵ Moreover, at this initial stage of the
16 administrative proceedings, the information before the Commission need only raise a reasonable
17 inference, *i.e.*, credibly allege, that a violation occurred to support a “reason to believe”

²²² Advisory Op. 2007-08 at 4 n.2 (King).

²²³ Advisory Op. 1982-04 at 3 (Apodaca).

²²⁴ *See Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983) (“In a typical civil suit for money damages, plaintiffs must prove their case by a preponderance of the evidence.”).

²²⁵ *See FEC v. Novacek*, 739 F. Supp. 2d 957, 966 (N.D. Tex. 2010) (finding that Commission need not establish intent where Commission seeks civil penalties on a non-knowing and willful basis); *see also FEC v. Malenick*, 301 F. Supp. 2d 230, 237 (D.D.C. 2004) (holding that a “knowing” violation of the Act “as opposed to a ‘knowing and willful’ one, does not require knowledge that one is violating the law, but merely requires an intent to act.”) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J.1986)).

1 finding.²²⁶ With regard to valuation, the Special Counsel’s Office noted that it would be difficult
2 to determine that the opposition research at issue had at least \$25,000 in value, the threshold
3 amount necessary to establish a felony criminal charge, partly because no actual valuable
4 information was provided.²²⁷ This difficulty, however, is not a barrier to Commission action in
5 the civil context, since even contributions that are “nominal” or “difficult to ascertain” are still
6 prohibited under the Act, which provides statutory civil penalties that are well suited for
7 solicitation violations like the ones at issue.²²⁸

8 Finally, the Commission is entrusted with “exclusive jurisdiction with respect to the civil
9 enforcement” of the Act.²²⁹ As a civil administrative agency charged with preventing the foreign
10 influence over the U.S. political process,²³⁰ the Commission should pursue civil enforcement of
11 the foreign national prohibition to fully vindicate the Act’s interests. Indeed, in cases where DOJ
12 was unable to secure criminal convictions for a violation of the Act, the Commission
13 successfully conciliated with respondents on a non-knowing and willful basis to ensure that the
14 Act’s interests were served.²³¹ Consequently, the Special Counsel’s decision to not file suit
15 against respondents is not a bar to civil enforcement of the Act in these matters.

²²⁶ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,545 (Mar. 16, 2007) (explaining also that “reason to believe” findings “indicate only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred”).

²²⁷ Special Counsel’s Report at 188.

²²⁸ Advisory Op. 2007-22 at 6; *cf.* MUR 7048 (Cruz) (applying statutory penalty to conciliation of soft money solicitation violation).

²²⁹ 52 U.S.C. § 30106(b)(1).

²³⁰ See *Bluman*, 800 F. Supp. 2d at 288.

²³¹ See Conciliation Agreement, MUR 7221 (James Laurita) (respondent admitted to non-knowing and willful violations of 52 U.S.C. §§ 30116 and 30122 after his criminal trial ended in a hung jury); Conciliation Agreement, MUR 5818 (Feiger, Feiger, Kenney, Johnson, & Giroux, P.C.) (corporate respondent entered into conciliation

1 * * *

2 The available information, viewed as a whole, supports the conclusion that the
 3 announcement and investigation sought by Trump would have been in-kind contributions if
 4 provided to the Trump Committee because they are things of value that were sought for the
 5 purpose of influencing a federal election. Had Zelensky acceded to the demands to provide these
 6 two deliverables, the announcement would have amplified negative allegations, akin to negative
 7 paid advertising, regarding Biden and the DNC in advance of the 2020 presidential election, and
 8 the investigation would have provided a service akin to opposition research. Both deliverables
 9 would have incurred the use of Ukraine's official resources, at no cost to the Trump Committee,
 10 providing a campaign benefit to Trump's campaign while relieving it of the attendant costs. The
 11 overall record also supports the conclusion that Trump pursued these deliverables to improve his
 12 electoral prospects in the 2020 presidential election — *i.e.*, for the purpose of influencing a
 13 federal election.

14 Because Trump knowingly solicited these contributions from Zelensky, a foreign
 15 national, the Commission finds reason to believe that Trump and the Trump Committee violated
 16 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign
 17 national contributions.²³²

18 **C. The Commission Dismisses the Allegation that Trump and the Trump**
 19 **Committee Solicited a Contribution from China**

20 The available information does not support finding reason to believe that Trump and the
 21 Trump Committee knowingly solicited a contribution from a foreign national in connection with

agreement on non-knowing and willful basis for violations of sections 30118 and 30122 after criminal trial of individual defendants resulted in acquittal).

²³² See 52 U.S.C. § 30102(e)(2); 11 C.F.R. § 101.2(a); Advisory Op. 1986-02 at 2 (Robbins).

1 Trump “suggesting that China investigate Hunter Biden’s business dealings.”²³³ News reports
2 cited by that complaint indicate that in public remarks on September 26, 2019, Trump made
3 statements suggesting that Hunter Biden’s activities in China may have been illegal, and that the
4 Chinese government should investigate those activities.²³⁴ However, given the full context of his
5 remarks, the Commission dismisses the allegation that Trump solicited a contribution in
6 connection with these statements.

7 While Trump’s statement, which he reasonably could have expected to have been
8 publicized (and was), that “China should start an investigation into the Bidens because what
9 happened in China is just about as bad as what happened with Ukraine” could be viewed as a
10 solicitation, it is less clearly a solicitation than the conduct discussed in the rest of this report
11 regarding Ukraine. Even if “what happened in China” could from context be understood as a
12 reference to similar allegations of corruption regarding Hunter Biden, the larger context is less
13 developed in this example and, in light of the specific facts at issue, it is reasonable to view
14 Trump’s comments as arguably directed to the reporter who was asking the question and less
15 directly to authorities in China, if at all. In addition, there is no information suggesting Trump
16 had any direct or indirect communication with Chinese President Xi or any other Chinese official
17 regarding an investigation into the Bidens. In fact, Trump specifically stated that he had not
18 made this request of Xi, and although he noted that it was “something we can start thinking
19 about,” there is no indication that Trump subsequently made any such request.²³⁵ As such, this
20 statement regarding China stands in contrast with Trump’s solicitation of President Zelensky,

²³³ Suppl. Compl. at 1, MUR 7705.

²³⁴ See Yahoo News Article; CNBC Article.

²³⁵ Yahoo News Article, CNBC Article.

1 where he directly requested that Zelensky investigate allegations regarding the Bidens and 2016
2 election interference, and he further indirectly requested — through his agent Giuliani and other
3 intermediaries meeting with Zelensky’s closest advisors — that Zelensky make a public
4 announcement committing to investigate those allegations.²³⁶

5 In such circumstances, Trump’s statements regarding China, “construed as reasonably
6 understood in the context in which [they were] made,” do not as clearly “contain[] a clear
7 message asking, requesting, or recommending that another person . . . provide anything of
8 value.”²³⁷ Accordingly, the Commission dismisses the allegations raised in MUR 7705 that
9 Trump and the Trump Committee knowingly solicited a contribution from a foreign national in
10 connection with Trump’s statements regarding China.

²³⁶ *Supra* notes 51–60, 68–73 and accompanying text. Trump’s other statement, which is referenced in the supplement to the MUR 7705 complaint, does not mention an investigation and merely suggests impropriety on the part of Hunter Biden in China. *Supra* note 112.

²³⁷ 11 C.F.R. § 300.2(m) (defining “solicit”); *supra* note 141.

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Rudolph “Rudy” Giuliani

MUR 7645

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), relating to President Donald J. Trump’s July 25, 2019, telephone call with the President of Ukraine, Volodymyr Zelensky. The complaint alleges that during that phone call, and in a months-long series of communications, Trump and his personal attorney, Rudolph “Rudy” Giuliani, requested, recommended, and pressured Zelensky to investigate two allegations: First, that 2020 presidential candidate and current President Joseph R. Biden, while previously serving as Vice President, improperly coerced the Ukrainian government to remove its chief prosecutor for allegedly investigating a Ukrainian company, Burisma, in order to protect Biden’s son, Hunter Biden, who served on the Burisma board of directors; and second, that Ukraine coordinated with the Democratic National Committee (“DNC”) to interfere in the 2016 U.S. presidential election and to support Trump’s general-election opponent, Hillary Clinton.

The complaint in this matter alleges that Trump sought the investigation of these allegations to advance his personal political goals — *i.e.*, to support his presidential candidacy and his authorized campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”). The complaint alleges, on that basis, that Trump and the Trump Committee knowingly solicited prohibited foreign national contributions. In addition, the complaint alleges that Giuliani and various associates acting under his direction, including Lev Parnas, Igor Fruman, and Victoria Toensing solicited, or

1 provided substantial assistance in the solicitation of, contributions from Ukraine. Giuliani filed a
2 response denying these allegations.

3 As set forth below, the record indicates that, through a series of communications,
4 including the July 25, 2019 phone call between Trump and Ukrainian President Zelensky, Trump
5 and others on his behalf, including Giuliani, requested, recommended, and pressured Zelensky to
6 publicly announce and conduct an investigation into allegations regarding Burisma and
7 purported Ukrainian interference in the 2016 presidential election in order to make Biden’s
8 alleged corruption a major issue in Trump’s 2020 presidential reelection campaign. Because the
9 requested announcement and investigations fall within the meaning of “anything of value” and,
10 as the record reflects, were sought for the purpose of influencing the 2020 presidential election,
11 the requests constituted a legally prohibited solicitation of a contribution from a foreign national
12 in violation of the Act.

13 Accordingly, the Commission finds reason to believe that Giuliani violated 52 U.S.C.
14 § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign national
15 contributions [OR knowingly providing substantial assistance in soliciting a prohibited foreign
16 national contribution under 11 C.F.R. § 110.20(h)].

17 I. FACTUAL BACKGROUND

18 A. Overview

19 The available information indicates that between April and September of 2019, President
20 Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to
21 request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly
22 announce, and thereafter conduct, an investigation into whether, when he was Vice President,

1 Joe Biden¹ acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to
2 end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter
3 was a board member; and an investigation into whether, during the 2016 presidential election,
4 the DNC coordinated with Ukraine to support Hillary Clinton, Trump’s opponent in that
5 election. The available information indicates that Trump and Giuliani requested Zelensky’s
6 announcement and the investigation of these allegations in order to advance Trump’s personal
7 political goal of depicting Biden and his political party in a negative light during the 2020
8 presidential campaign.

9 During a July 25, 2019, phone call, Trump urged Zelensky to investigate these allegations
10 and work with Giuliani to do so. Giuliani, in turn, pressed diplomatic intermediaries — such as
11 Gordon Sondland and Kurt Volker — and his associate Parnas to communicate that the provision
12 of two items of significant value to Zelensky and the Ukrainian government were conditioned on
13 Zelensky announcing that the Ukrainian government would conduct these investigations.
14 Specifically, Trump refused to schedule a White House visit for Zelensky and blocked the
15 release of \$391 million in Congressionally-approved security aid for Ukraine until Zelensky
16 made the desired public announcement of investigations. Zelensky, directly and through his
17 aides, expressed concern about becoming embroiled in a U.S. domestic political matter. After
18 news of Trump and Giuliani’s efforts became public, the security aid was released, and Zelensky
19 ultimately did not announce the requested investigations.

¹ Biden officially declared his candidacy for the 2020 presidential election on April 25, 2019. Statement of Candidacy, Joseph R. Biden Jr. (Apr. 25, 2019).

B. Early Efforts to Develop Allegations Regarding Burisma

1 **B. Early Efforts to Develop Allegations Regarding Burisma**
2 According to news reports and testimony, in 2018 and early 2019, Giuliani, along with
3 his associates Parnas and Fruman, engaged in a concerted effort to develop evidence supporting
4 the allegation that in 2016, while serving as Vice President, Biden had acted improperly by
5 pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin, to prevent an
6 investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-time board
7 member of Burisma.² Giuliani made several attempts to meet with Shokin — including by
8 seeking to obtain a U.S. visa for Shokin in exchange for a meeting to discuss the Bidens³ — and
9 Shokin’s successor, Yuriy Lutsenko — who had also made allegations underlying Giuliani’s
10 claims — to further this effort.⁴ Giuliani and Parnas were also in contact with Victoria

² Compl. ¶ 20 (Sept. 23, 2019) (citing Michael Sallah, *et al.*, *Two Unofficial US Operatives Reporting to Trump’s Lawyer Privately Lobbied a Foreign Government in a Bid to Help the President Win in 2020*, BUZZFEEDNEWS (July 22, 2019), <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman> (“BuzzfeedNews Article”)); Ben Protess, *et al.*, *Giuliani Pursued Business in Ukraine While Pushing for Inquiries for Trump*, N.Y. TIMES (Nov. 27, 2019), www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html; *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS (May 11, 2019), <https://video.foxnews.com/v/6035385372001#sp=show-clips>. Specifically, Biden stated that he, as part of a broader effort to remove Shokin due to corruption concerns, had threatened to withhold loan guarantees unless the Ukrainian government removed Shokin. Council on Foreign Relations, *Foreign Affairs Issue Launch with Joe Biden*, YOUTUBE, at 51:58–53:20, https://www.youtube.com/watch?v=Q0_AqpdwqK4. Giuliani alleged that Biden acted to protect his son, Hunter, who at the time sat on the board of a Ukrainian oil company, Burisma, whose owner had at one time been investigated for corruption in Ukraine. *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS at 4:18–5:02; *see also, e.g.*, Deposition of Deputy Assistant Secretary George Kent before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 79–86 (Oct. 15, 2019) (“Kent Dep.”) (describing 2014 investigation of Burisma’s beneficial owner, Mykola Zlochevsky, and subsequent hiring of Hunter Biden to Burisma board).

³ BuzzfeedNews Article; Kent Dep. at 44 (“The next time I heard Mr. Giuliani’s name mentioned was on the 9th of January this year, 2019, when I was copied on an email that Giuliani was calling the State Department regarding the inability of the previous prosecutor general Viktor Shokin to get a visa to come to the United States.”).

⁴ BuzzfeedNews Article; Kent Dep. at 43; Deposition of Special Representative for Ukraine Negotiations Kurt Volker before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 104–5 (Oct. 3, 2019) (“Volker Dep.”).

1 Toensing, who appears to have served as counsel to both Shokin and Lutsenko,⁵ and Toensing
2 may have relayed information regarding the allegations to them from her clients.⁶

3 In early 2019, Giuliani, Parnas, and Fruman reportedly endeavored to have the U.S.
4 Ambassador to Ukraine, Marie Yovanovitch, removed from her post, primarily because they
5 viewed Yovanovitch, a holdover from the administration of President Barack Obama, as an
6 impediment to their investigation of the Biden/Burisma allegation.⁷ In a March 22, 2019,
7 communication to Parnas, Lutsenko suggested that he would withdraw his allegations regarding
8 Joe Biden and Burisma if Yovanovitch was not removed.⁸ Giuliani later wrote in a Twitter post

⁵ Shokin appears to have retained Victoria Toensing, an attorney barred in the District of Columbia, “for the purpose of collecting evidence regarding his March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing, and presenting such evidence to U.S. and foreign authorities.” Letter from diGenova & Toensing, LLP to Viktor Shokin at 1 (Apr. 15, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD926.pdf> (“Shokin Retainer Agreement”). Lutsenko also appears to have retained Toensing for, among other things, “assistance to meet and discuss with United States government officials the evidence of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016 U.S. elections[.]” Letter from diGenova & Toensing, LLP to Yurii Lutsenko at 1 (Apr. 12, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD927.pdf> (“Lutsenko Retainer Agreement”). Toensing had briefly served as counsel to President Trump in connection with Special Counsel Robert Mueller’s investigation on Russian interference in the 2016 presidential election before she stepped down because of a conflict of interest. See Kenneth P. Vogel, *Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump*, N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html> (“May 9 NY Times Article”) (cited by Compl.).

⁶ See, e.g., MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 1*, YOUTUBE, at 21:15-22 (Jan. 15, 2020), <https://www.youtube.com/watch?v=DVnZVuhOyys> (“Maddow Interview Pt. 1”) (statement by Parnas that Toensing was part of the “team”).

⁷ BuzzFeedNews Article; Kent Dep. at 58 (“Mr. Giuliani was almost unmissable starting in mid-March. As the news campaign, or campaign of slander against, not only Ambassador Yovanovitch unfolded, he had a very high — a media promise, so he was on TV, his Twitter feed ramped up and it was all focused on Ukraine, and it was focused on the four story lines that unfolded in those days between March 20 and 23rd.”); Maddow Interview Pt. 1 at 26:58–27:14 (“Maddow: Do you believe that part of a motivation to get rid of Ambassador Yovanovitch, to get her out of post, was because she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden? Parnas: That was the only motivation. There was no other motivation.”).

⁸ Text from Yuriy Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), https://intelligence.house.gov/uploaded-files/20200114_-_parnas_excerpts_translated_slide_deck.pdf (“It’s just that if you don’t make a decision about Madam—you are bringing into question all my allegations. Including about B.” (rough translation)); see MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 2*, YOUTUBE (Jan. 15, 2020), <https://www.youtube.com/watch?v=Xj-4V5ui8H4> (“Maddow Interview Pt. 2”) at 7:55–8:48 (“Maddow: Is Mr. Lutsenko saying in effect

1 that Yovanovitch “needed to be removed” because she had impeded his efforts to push for the
 2 investigations, including by “denying visas to Ukrainians who wanted to come to US and explain
 3 Dem corruption in Ukraine.”⁹ In May, 2019, President Trump recalled Yovanovitch, who was
 4 eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S.
 5 Ambassador to Ukraine.¹⁰

6 Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to
 7 arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a
 8 meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.¹¹ Parnas
 9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,
 10 but Kolomoisky declined to do so.¹² According to U.S. National Security Advisor John Bolton’s
 11 published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a
 12 “desire to meet with President-Elect Zelensky to discuss his country’s investigation” of the 2016

‘listen if you want me to make these Biden allegations you’re gonna have to get rid of this ambassador?’ Parnas: Oh absolutely.”).

⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 17, 2019, 7:07AM), <https://twitter.com/RudyGiuliani/status/1206908888320221186> (“Yovanovitch needed to be removed for many reasons most critical she was denying visas to Ukrainians who wanted to come to US and explain Dem corruption in Ukraine. She was OBSTRUCTING JUSTICE and that’s not the only thing she was doing. She at minimum enabled Ukrainian collusion.”) (emphasis in original). See John Bolton, *THE ROOM WHERE IT HAPPENED* at 454 (Simon & Schuster, 1st ed. 2020) (“Bolton Book”) (“Trump had complained about our Ambassador Yovanovitch, for some time, noting to me on March 21[, 2019] during a telephone call covering a number of subjects that she was ‘bad-mouthing us like crazy’ and . . . saying he wanted her fired ‘today.’ . . . A few days later, on March 25[, . . . I learned Giuliani was the source of the stories about Yovanovitch . . .”); *id.* at 456 (“[On] April 23[, 2019,] I was called to the Oval to find Trump and [then-Acting White House Chief of Staff] Mulvaney on the phone, discussing Yovanovitch again with Giuliani, who was still pressing for her removal. . . . In Giuliani’s mind, Yovanovitch was protecting Hillary Clinton, whose campaign was purportedly the subject of Ukrainian criminal investigations, and there was some connection with Joe Biden’s son Hunter in there as well.”).

¹⁰ BuzzFeedNews Article; Deposition of Ambassador William B. Taylor before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 22 (Oct. 22, 2019) (“Taylor Dep.”).

¹¹ BuzzFeedNews Article.

¹² *Id.*

1 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky
2 and “make sure Giuliani got his meeting in Kiev next week.”¹³

3 As reported in a New York Times interview published the following day, May 9, 2019,
4 Giuliani stated that he intended to travel to Ukraine for the purpose of “meddling” in Ukrainian
5 investigations, specifying that “this isn’t [about] foreign policy” and that the investigations
6 would uncover “information [that] will be very, very helpful to my client, and may turn out to be
7 helpful to my government.”¹⁴ Giuliani wrote to Zelensky on May 10, 2019, in an effort to set up
8 a meeting while on this trip, in which he stated: “I am private counsel to President Donald J.
9 Trump. Just to be precise, I represent him as a private citizen, not as President of the United
10 States.”¹⁵ Amid backlash following the publication of the New York Times article, however,

¹³ Bolton Book at 459 (“On May 8, [2019,] . . . Trump called me to the Oval, where he was meeting with Giuliani, Mulvaney, Cipollone, and perhaps others. The subject was Ukraine, and Giuliani’s desire to meet with President-Elect Zelensky to discuss his country’s investigation of either Hillary Clinton’s efforts to influence the 2016 campaign or something having to do with Hunter Biden and the 2020 election, or maybe both. . . . Trump was clear I was to call Zelensky and make sure Giuliani got his meeting in Kiev next week.”); *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“In my capacity as personal counsel to President Trump and with his knowledge and consent, I request a meeting with you on this upcoming Monday, May 13th or Tuesday, May 14th. I will need no more than a half-hour of your time and I will be accompanied by my colleague Victoria Toensing, a distinguished American attorney who is very familiar with this matter.”).

¹⁴ May 9 NY Times Article (“We’re not meddling in an election, we’re meddling in an investigation, which we have a right to do,” Mr. Giuliani said in an interview on Thursday when asked about the parallel to the special counsel’s inquiry. ‘There’s nothing illegal about it,’ he said. ‘Somebody could say it’s improper. And this isn’t foreign policy — I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop. And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.”); *see* Text from Rudy Giuliani to Lev Parnas [5/11/2019 8:07:39 AM(UTC-4)], https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“My purpose was to share information to assist their on-going investigation of Ukrainian officials being used by Americans to gather information to assist Clinton in last election. It was also to alert them to the very real dangers that their [sic] are people involved in the investigation as targets who are attempting to shut it down before it reaches a conclusion.”).

¹⁵ Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

1 Giuliani canceled the trip.¹⁶ He later sought to clarify his intentions in a November 6, 2019,
2 Twitter post: “The investigation I conducted concerning 2016 Ukrainian collusion and
3 corruption, was done solely as a defense attorney to defend my client against false charges.”¹⁷
4 On October 2, 2019, Trump stated during a press conference: “And just so you know, we’ve
5 been investigating, on a personal basis — through Rudy and others, lawyers — corruption in the
6 2016 election.”¹⁸

7 C. Zelensky’s Inauguration

8 On April 21, 2019, President Trump called Ukrainian President-Elect Zelensky to
9 congratulate him on his recent election victory and extended him an invitation to visit the White
10 House.¹⁹ According to official records and testimony, Zelensky’s aides and U.S. experts sought
11 to schedule a White House meeting, which they viewed as crucial to the public perception that
12 the U.S. supported Ukraine and the new Zelensky administration.²⁰

¹⁶ See Bolton Book at 461 (noting that after the publication of the New York Times piece, Bolton, John Eisenberg, and Pat Cipollone met and “agreed Giuliani couldn’t be allowed to go to Ukraine”).

¹⁷ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), <https://twitter.com/RudyGiuliani/status/1192180680391843841>.

¹⁸ Remarks by President Trump and President Niinistö of the Republic of Finland in Joint Press Conference, The White House (Oct. 2, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-joint-press-conference/> (“Trump-Niinistö Press Conference”); *but see* Maddow Interview Pt. 1 at 8:58–9:37 (“Maddow: When you say that the President knew about your movements and knew what you were doing. Are you saying specifically . . . that the President was aware that you and Mr. Giuliani were working on this effort in Ukraine to basically try to hurt Joe Biden’s political career, he knew about that? Parnas: Basically. It was all about Joe Biden, Hunter Biden. . . . It was never about corruption. It was never — it was strictly about the Burisma which included Hunter Biden and Joe Biden.”).

¹⁹ The White House, Memorandum of Telephone Conversation (“April 21 Call Memo”) at 2 (Apr. 21, 2019), <https://assets.documentcloud.org/documents/6550349/First-Trump-Ukraine-Call.pdf>; Deposition of Lieutenant Colonel Alexander S. Vindman before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 16–17 (Oct. 29, 2019) (“Vindman Dep.”).

²⁰ See, e.g., April 21 Call Memo at 2; Deposition of Christopher Anderson before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 50 (Oct. 30, 2019) (“But, you know, in sort of the scale of meetings, the best would be an Oval Office visit for President Zelensky. Q: And why is that? A: Because it is the best show of support and it has the greatest pomp and circumstance, and so that has the most

1 Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to
2 attend Zelensky’s inauguration.²¹ After Giuliani canceled his aforementioned trip to meet
3 Zelensky in Ukraine, however, Lev Parnas met with Zelensky’s aide, Serhiy Shefir, in Kyiv on
4 May 12, 2019; Parnas stated in subsequent interviews that he told Shefir that “Zelensky needed
5 to immediately make an announcement, . . . that they were opening up an investigation on
6 Biden,” otherwise Vice President Pence would not attend the inauguration and that the two
7 countries’ “relationships would be sour — that we would stop giving them any kind of aid.”²²

impact, both in Ukraine but also in Moscow.”); Deposition of David A. Holmes before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 40–41 (Nov. 15, 2019) (“Holmes Dep.”) (“THE CHAIRMAN: Why was this White House meeting so important to Zelensky? Mr. Holmes: . . . [T]he Zelensky team were adamant that it was important. So we heard that from them in every interaction that it absolutely was critical for them for Zelensky to get the imprimatur of the U.S. President to indicate that the United States would continue to support Ukraine and his administration”); Taylor Dep. at 76–77 (“So a meeting with President Trump or any President for that matter, but President Trump in the Oval Office doesn’t happen regularly doesn’t happen to very many heads of state. And if you get that, you can be sure or you can think or people might be able to believe that you’ve got a good relationship between the two countries and I think that’s what they were looking for.”); Volker Dep. at 38 (“It was important to show support for the new Ukrainian President. He was taking on an effort to reform Ukraine, fight corruption, a big sea change in everything that had happened in Ukraine before, and demonstrating strong U.S. support for him would have been very important.”).

²¹ Deposition of Jennifer Williams before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 36–37 (Nov. 7, 2019) (“Williams Dep.”). During the period at issue, Williams was detailed from the Department of State to the Office of the Vice President, where she served as Special Adviser on National Security Affairs; her role was to “keep the Vice President [Pence] aware and abreast of all foreign policy issues going on in that region [Europe and Russia], [and] prepare him for his foreign policy and foreign leader engagements.” *Id.* at 11–12.

²² Maddow Interview Pt. 1 at 13:43–16:12 (Parnas: “The message that I was supposed to — that I gave Sergey Shefir was a very harsh message that was told to me to give it to him in a very harsh way, not in a pleasant way. Maddow: Who told you to give it to him in a harsh way? Parnas: Mayor Giuliani. Rudy told me after, you know, meeting at the White House; he called me . . . the message was, it wasn’t just military aid, it was all aid basically their relationships would be sour, that we would stop giving them any kind of aid, that — Maddow: unless — Parnas: Unless there was an announcement — well several things, several demands at that point. *The most important one was the announcement of the Biden investigation* . . . In the conversation I told him that if he doesn’t — the announcement was the key at that time because of the inauguration — that Pence would not show up, nobody would show up to his inauguration. Maddow: Unless he announced an investigation into Joe Biden, no U.S. officials, particularly Vice President Mike Pence, would not come to the inauguration? Parnas: It was particularly Mike Pence.”) (emphasis added); CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 1)*, YOUTUBE, at 2:32–3:33 (Jan. 16, 2020), https://www.youtube.com/watch?v=9JKraI_Rh6g (“Cooper Interview Pt. 1”) (“Parnas: I basically told him very strict and very stern that . . . Zelensky needed to immediately make an announcement, literally that night or tomorrow, within the next 24 hours, that they were opening up an investigation on Biden. . . . If they didn’t make the announcement, basically, there would be no relationship. . . . there was gonna be no inauguration, Pence wouldn’t be at the inauguration, there would be no visit to the White House, there would be,

1 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and
2 Trump.²³ After their meeting, Parnas sent Shefir a follow-up message, and Shefir disconnected
3 from the messenger app without response and blocked further messages from Parnas.²⁴ Parnas
4 took this to mean that Zelensky would not make the requested announcement and passed that
5 information along to Giuliani, who responded, “OK, they’ll see.”²⁵ The following day, Trump
6 instructed Pence not to attend the inauguration.²⁶

7 In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended
8 Zelensky’s inauguration in Ukraine on May 20, 2019, which included Ambassador to the

basically, they would have no communication. Cooper: You told the top official in the Zelensky inner circle that if they did not announce an investigation of the Bidens immediately and get rid of some folks around Zelensky who they believed were opposed to President Trump that there wouldn’t be any aid and Vice President Pence would not even come to the inauguration? Parnas: Correct.”); Parnas stated that it was through Fruman’s contacts that he was able to meet with Shefir. CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 2)*, YOUTUBE, at 2:04–2:20 (Jan 16, 2020), https://www.youtube.com/watch?v=QUXht__f3Rk (“Cooper Interview Pt. 2”).

²³ Maddow Interview Pt. 1 at 10:15–11:22 (“Maddow: And so did anybody in the U.S. Government or Mr. Giuliani actually convey to officials in Ukraine that you were there as a representative of President Trump? Parnas: Absolutely. To each one of those officials . . . I put Rudy on the phone The first thing I did is introduce myself and tell them: ‘I’m here on behalf of Rudy Giuliani and the President of the United States, and I’d like to put you on speaker phone,’ you know, to confirm him, which we did, we put Rudy on the phone. Rudy relayed to him basically that we were there on behalf of the President of the United States. Maddow: That you were there to speak on President Trump’s behalf? Parnas: Correct, exactly. Those exact words.”); *see also* Cooper Interview Pt. 1 at 4:21–4:35 (Cooper: How did you have the authority to say ‘the Vice President of the United States will not attend the inauguration’ if you don’t do what I say? Parnas: I mean that’s what I was told to do. Cooper: Who told you to do that? Parnas: Rudy Giuliani.”). Parnas stated that “President Trump knew exactly what was going on” with respect to his and Giuliani’s activities in Ukraine. Maddow Interview Pt. 1 at 6:30–6:44; *accord* Cooper Interview Pt. 2 at 3:20–3:34.

²⁴ Maddow Interview Pt. 1 at 16:40–16:55 (“Parnas: Then around eight o’clock or nine o’clock I text him back again saying: ‘Any word? What’s the situation?’ And at that point — because on WhatsApp you can see when a person, like, disconnects you, and he disconnected me. Maddow: He blocked, you? Parnas: He blocked me.”); Cooper Interview Pt. 1 at 3:37–3:43.

²⁵ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

²⁶ Williams Dep. at 37.

1 European Union Gordon Sondland, Special Representative for Ukraine Negotiations Kurt
2 Volker, and National Security Council Staff Member Lt. Col. Alexander Vindman.²⁷

3 **D. Conditioning of White House Visit on Announcement of Investigation**

4 Upon returning to the United States, Perry, Sondland, and Volker met with Trump on
5 May 23, 2019; according to their testimony, these officials offered a very positive report on the
6 situation in Ukraine and their impressions of its new president, Zelensky — particularly with
7 respect to his willingness and desire to combat corruption.²⁸ The three men encouraged Trump
8 to schedule a meeting with Zelensky in the Oval Office.²⁹ Participants in that meeting later
9 described Trump’s negative reaction³⁰ with accounts of Trump telling his advisors that they
10 would have to “talk to Rudy” before an Oval Office meeting would be scheduled.³¹ Volker and

²⁷ Vindman Dep. at 17; Deposition of Ambassador Gordon Sondland before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 24 (Oct. 17, 2019) (“Sondland Dep.”).

²⁸ Taylor Dep. at 24; Volker Dep. at 29–30 (“The four of us [Volker, Sondland, Perry, and Senator Ron Johnson], who had been part of the Presidential delegation, had requested the meeting in order to brief the President after our participation at the inauguration on of the new Ukrainian President, and meeting with the new President, an hour-long meeting that we had with him. And we had a very favorable impression of President Zelensky. We believed that he was sincerely committed to reform in Ukraine, to fighting corruption. And we believed that this was the best opportunity that Ukraine has had for 20-some years to really break the grip of corruption that has set the country back for so long. And we wanted to convey this to the President and urge that the U.S. and that he personally engage with the President of Ukraine in order to demonstrate full U.S. support for him.”).

²⁹ Taylor Dep. at 24; Volker Dep. at 29–30.

³⁰ See Holmes Dep. at 29 (“On September 5th, I took notes at Senator Johnson and Senator Chris Murphy’s meeting with President Zelensky in Kyiv. . . . Senator Johnson cautioned President Zelensky that President Trump has a negative view of Ukraine and that President Zelensky would have a difficult time overcoming it. Senator Johnson further explained that he was, quote, ‘shocked’ by President Trump’s negative reaction during an Oval Office meeting on May 23rd when he and [Volker, Sondland, and Perry] proposed that President Trump meet President Zelensky and show support for Ukraine.”); see also Bolton Book at 462 (“I spoke with [Deputy National Security Advisor Charles] Kupperman, who had attended Trump’s debriefing earlier that day (it was still May 23 in Washington when we spoke) from our delegation to Zelensky’s inaugural: Perry, Sondland, Volker and Senator Ron Johnson. . . . ‘I don’t want to have any [] thing to do with Ukraine,’ said Trump, per Kupperman. . . . ‘They [] attacked me. I can’t understand why. . . .’ All this, he said, pertained to the Clinton campaign’s efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.”).

³¹ Volker Dep. at 305 (“And I don’t know how he phrased it with Rudy, but it was I think he said, not as an instruction but just as a comment, talk to Rudy, you know. He knows all of these things, and they’ve got some bad people around him.”); Sondland Dep. at 25 (“On May 23rd, 2019, 3 days after the Zelensky inauguration, we were

1 Sondland testified that they understood from Trump’s directive to involve Giuliani in discussions
2 about Ukraine that Giuliani had essentially established an alternate channel of Ukraine-related
3 information and advice; as such, they concluded that they would have to work through the
4 Giuliani channel to advance U.S.-Ukraine policy goals, such as the White House meeting with
5 Zelensky.³²

6 Giuliani, in communications with Sondland and Volker, made it clear that a White House
7 meeting would not be scheduled until Ukraine announced the two investigations and, according
8 to Sondland, “Giuliani also expressed those requests directly to the Ukrainians.”³³ At the same

in the — we, in the U.S. delegation, briefed President Trump and key aides at the White House. We emphasized the strategic importance of Ukraine and the strengthening relationship with President Zelensky, a reformer who received a strong mandate from the Ukrainian people to fight corruption and pursue greater economic prosperity. We asked the White House to arrange a working phone call from President Trump and a working Oval Office visit. However, President Trump was skeptical that Ukraine was serious about reforms and anti-corruption, and he directed those of us present at the meeting to talk to Mr. Giuliani, his personal attorney about his concerns.”).

³² Sondland Dep. at 26 (“[B]ased on the President’s direction we were faced with a choice. We could abandon the goal of a White House meeting for President Zelensky, which we all believed was crucial to strengthening U.S.-Ukrainian ties . . . or we could do as President Trump directed and talk to Mr. Giuliani to address the President’s concerns. We chose the latter path.”); Gordon D. Sondland before the United States House of Representatives Permanent Select Committee on Intelligence at 17 (Nov. 20, 2019), <https://docs.house.gov/meetings/IG/IG00/20191120/110233/HHRG-116-IG00-Transcript-20191120.pdf> (“Sondland Hearing”) (“First, Secretary Perry, Ambassador Volker, and I worked with Mr. Rudy Giuliani on Ukraine matters at the express direction of the President of the United States. We did not want to work with Mr. Giuliani. Simply put, we were playing the hand we were dealt. We all understood that if we refused to work with Mr. Giuliani, we would lose a very important opportunity to cement relations between the United States and Ukraine.”); Kurt Volker and Timothy Morrison before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 19, 2019), <https://docs.house.gov/meetings/IG/IG00/20191119/110232/HHRG-116-IG00-Transcript-20191119.pdf> (“Volker & Morrison Hearing”) (Volker: “It was clear to me that despite the positive news and recommendations being conveyed by this official delegation about the new President, President Trump had a deeply rooted negative view on Ukraine rooted in the past. He was receiving other information from other sources, including Mayor Giuliani, that was more negative, causing him to retain this negative view.”).

³³ Sondland Hearing at 26–27 (“Mr. Giuliani conveyed to Secretary Perry, Ambassador Volker, and others that President Trump wanted a public statement from President Zelensky committing to investigations of Burisma and the 2016 election. Mr. Giuliani expressed those requests directly to the Ukrainians, and Mr. Giuliani also expressed those requests directly to us. We all understood that these prerequisites for the White House call and the White House meeting reflected President Trump’s desires and requirements.”); *see also* Taylor Dep. at 26 (“By mid-July, it was becoming clear to me that the meeting President Zelensky wanted was conditioned on investigations of Burisma and alleged Ukrainian influence in the 2016 elections. It was also clear that this condition was driven by the irregular policy channel I had come to understand was guided by Mr. Giuliani.”); Fiona Hill and David Homes before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 21,

1 time, Giuliani continued publicly calling for such investigations, tweeting on June 21, 2019:
2 “New Pres of Ukraine still silent on investigation of the Ukrainian interference in 2016 election
3 and alleged Biden bribery of President Poroshenko. Time for leadership and investigate both if
4 you want to purge how Ukraine was abused by Hillary and Obama people.”³⁴

5 On June 28, 2019, Volker told Sondland, Taylor, and Perry that he “planned to be explicit
6 with President Zelensky in a one-on-one meeting in Toronto on July 2nd about what President
7 Zelensky should do to get the meeting in the White House.”³⁵ Volker stated that “he would relay
8 that President Trump wanted to see rule of law, transparency, but also, specifically, cooperation
9 on investigations to get to the bottom of things.”³⁶ On July 3, 2019, Volker met with Zelensky in
10 Toronto, Canada, and conveyed that Giuliani had Trump’s attention on Ukraine and had been
11 amplifying a negative impression of Ukraine with Trump.³⁷

12 On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian
13 counterpart, Oleksandr Danyliuk, and a number of others, including Sondland and Volker, as

2019), https://republicans-intelligence.house.gov/uploadedfiles/hill_and_holmes_hearing_transcript.pdf (“Hill & Holmes Hearing”) (Holmes: “[I]t was made clear that some action on Burisma/Biden investigation was a precondition for an Oval Office visit.”).

³⁴ Rudy W. Giuliani (@RudyGiuliani), Twitter (June 21, 2019 11:04 AM), <https://twitter.com/RudyGiuliani/status/1142085975230898176>.

³⁵ Taylor Dep. at 25–26.

³⁶ *Id.* at 26.

³⁷ Volker Dep. at 137 (“I believed that Rudy Giuliani, as we saw in an earlier text message, he had been in touch with Prosecutor General Lutsenko. I believe he was getting bad information, and I believe that his negative messaging about Ukraine would be reinforcing the President’s already negative position about Ukraine. So I discussed this with President Zelensky when I saw him in Toronto on July 3rd, and I said I think this is a problem that we have Mayor Giuliani — so I didn’t discuss his meeting with Lutsenko then. That came later. I only learned about that later. But I discussed even on July 3rd with President Zelensky that you have a problem with your message of being, you know, clean, reform, that we need to support you, is not getting or is getting countermanded or contradicted by a negative narrative about Ukraine, that it is still corrupt, there’s still terrible people around you.”).

1 well as National Security Council staff members Dr. Fiona Hill and Vindman.³⁸ According to
2 those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the
3 promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement
4 with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after
5 Ukraine initiated the investigations.³⁹ Testimony reflects that Bolton “stiffened” at this comment
6 and quickly ended the meeting;⁴⁰ Hill testified that Bolton asked her to inform the National
7 Security Council’s legal counsel what Sondland had said, and to say that Bolton “was not part of
8 whatever drug deal Sondland and Mulvaney are cooking up.”⁴¹

9 At a follow-up meeting that took place immediately after the Bolton meeting, Sondland
10 more explicitly told the Ukrainians that a White House visit would happen only after Ukraine

³⁸ Vindman Dep. at 17; Deposition of Dr. Fiona Hill before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 63 (Oct. 14, 2019) (“Hill Dep.”); Bolton Book at 464.

³⁹ Vindman Dep. at 17 (“The meeting proceeded well until the Ukrainians broached the subject of a meeting between the two Presidents. The Ukrainians saw this meeting as critically important in order to solidify the support for their most important international partner. Ambassador Sondland started — when Ambassador Sondland started to speak about Ukraine delivering specific investigations in order to secure the meeting with the President”); Hill Dep. at 65–67 (“Then Ambassador Sondland blurted out: Well, we have an agreement with the Chief of Staff for a meeting if these investigations in the energy sector start.”); *see also* Bolton Book at 464 (“Since I knew, and [Perry, Sondland, and Volker] should have realized after their May 23[, 2019] Oval Office meeting with Trump, that he didn’t want to have anything to do with Ukrainians of any stripe . . . I didn’t play along.”); Sondland stated that he had no “recollection of referencing Mulvaney in the July 10th meeting” but that he did not “have any reason to agree or dispute” Vindman or Hill’s accounts of the meeting. Sondland Hearing at 96–97.

⁴⁰ Hill Dep. at 67; *see* Bolton Book at 464–65 (“Danylyuk was surprised and uncomfortable that I didn’t readily agree to a Zelensky visit, which came from the incessant boosterism of the others in the meeting, but I wasn’t about to explain to foreigners that the three of them were driving outside their lanes. The more I resisted, the more Sondland pushed . . . I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

⁴¹ Hill Dep. at 70–71 (“I went back to talk to Ambassador Bolton. And Ambassador Bolton asked me to go over and report this to our NSC counsel, to John Eisenberg. And he told me, and this is, a direct quote from Ambassador Bolton: You go and tell Eisenberg that I am not part of whatever drug deal Sondland and Mulvaney are cooking up on this, and you go and tell him what you’ve heard and what I’ve said.”); *see* Bolton Book at 465 (confirming Hill’s testimony on this point).

1 announced the requested investigations.⁴² After the Ukrainians left the meeting, Hill and
2 Vindman confronted Sondland about the conditioning of a White House meeting on announcing
3 investigations, which Hill and Vindman said they felt was inappropriate.⁴³

4 In mid-July 2019, U.S. officials, at the urging of Giuliani, further pressured Ukrainian
5 officials to conduct investigations into alleged Ukrainian interference in the 2016 election to
6 benefit Clinton, and purported corruption relating to the Biden family’s activities in Ukraine. On
7 July 19, 2019, Volker had breakfast with Giuliani and Parnas, and agreed to arrange for Giuliani
8 to meet one of Zelensky’s closest advisors, Andriy Yermak, in Madrid, Spain.⁴⁴ After the
9 breakfast, Volker texted Sondland and Taylor to relay that, per Giuliani, it was most important

⁴² Vindman Dep. at 29 (“Ambassador Sondland relatively quickly went into outlining how the — you know, these investigations need to — on the deliverable for these investigations in order to secure this meeting. Again, I think, you know, I may not have agreed with what he was doing, but his intent was to normalize relationships with — between the U.S. and Ukraine, and this was — as far as I understand, this is what he believed the deliverable to be.”); Hill Dep. at 69 (“And Ambassador Sondland, in front of the Ukrainians, as I came in, was talking about how he had an agreement with Chief of Staff Mulvaney for a meeting with the Ukrainians if they were going to go forward with investigations.”).

⁴³ Vindman Dep. at 31 (“Q: What was the discord? A: The fact that it was clear that I, as the representative — I, as the representative of the NSC, thought it was inappropriate and that we were not going to get involved in investigations. Q: Did you say that to Ambassador Sondland? A: Yes, I did.”); Hill Dep. at 70 (“And he asked the Ukrainians to basically leave the room. So they basically moved out into the corridor. And I said: Look, I don’t know what’s going on here, but Ambassador Bolton wants to make it very clear that we have to talk about, you know, how are we going to set up this meeting. It has to go through proper procedures. And he started to basically talk about discussions that he had had with the Chief of Staff. He mentioned Mr. Giuliani, but then I cut him off because I didn’t want to get further into this discussion at all. And I said: Look, we’re the National Security Council. We’re basically here to talk about how we set this up, and we’re going to set this up in the right way. And you know, Ambassador Bolton has asked me to make it completely clear that we’re going to talk about this, and, you know, we will deal with this in the proper procedures. And Ambassador Sondland was clearly annoyed with this, but then, you know, he moved off. He said he had other meetings.”).

⁴⁴ Volker Dep. at 229; Letter from Eliot L. Engel, House Committee on Foreign Affairs Chairman, Adam B. Schiff, House Permanent Select Committee on Intelligence Chairman, and Elijah E. Cummings, House Committee on Oversight and Reform Chairman to Members of the Intelligence, Oversight and Reform, and Foreign Affairs Committees, Attachment at 1 (Oct. 3, 2019), https://foreignaffairs.house.gov/_cache/files/a/4/a4a91fab-99cd-4eb9-9c6c-ec1c586494b9/621801458E982E9903839ABC7404A917.chairmen-letter-on-state-department-texts-10-03-19.pdf (“First Volker Text Excerpts”).

1 for Zelensky to say that he “will help” with the investigation.⁴⁵ The following day, July 20,
2 2019, Ukrainian national security advisor Danyliuk spoke with Taylor and expressed that
3 Zelensky “did not want to be used as a pawn” in U.S. election matters.⁴⁶

4 Despite Zelensky’s apparent reservations, the messages from Trump’s representatives
5 leading up to the July 25, 2019, call between Zelensky and Trump communicated that Zelensky
6 would need to convince Trump that he would look into the investigation matters in order for their
7 relationship to advance. Taylor testified that on July 20, 2019, the same day that Danyliuk
8 informed Taylor of Zelensky’s reservations, Sondland told Taylor “that he had recommended to
9 President Zelensky that he use the phrase ‘I will leave no stone unturned’ with regard to
10 investigations when President Zelensky spoke with President Trump.”⁴⁷ Further, thirty minutes
11 before the July 25 call between Zelensky and Trump, Volker texted Yermak to reiterate that, per
12 Volker’s discussions with the White House, if Zelensky convinced Trump that he would
13 investigate foreign election interference in 2016, they could schedule a White House visit for
14 Zelensky.⁴⁸

⁴⁵ First Volker Text Excerpts at 1 (“[7/19/19, 7:01:22 PM] Kurt Volker: Good. Had breakfast with Rudy this morning-teeing up call w Yermak Monday. Must have helped. Most imp’t is for Zelensky to say that he will help investigation-and address any specific personnel issues-if there are any”).

⁴⁶ Taylor Dep. at 30.

⁴⁷ *Id.*

⁴⁸ First Volker Text Excerpts at 2 (“[7/25/19, 8:36:45 AM] Kurt Volker: Good lunch - thanks. Heard from White House-assuming President Z convinces trump he will investigate / ‘get to the bottom of what happened’ in 2016, we will nail down date for visit to Washington. Good luck! See you tomorrow- kurt”); *see* Volker Dep. at 273 (“[W]hat I said concerning that message to Andriy Yermak is, ‘convince the President,’ so be convincing, ‘and get to the bottom of what happened in 2016.’ So this is looking backward at whether there was any election interference.”).

1 **E. The July 25 Phone Call Between Trump and Zelensky**

2 During the July 25 phone call between Trump and Zelensky, Trump repeatedly asked
3 Zelensky to work with Giuliani and U.S. Attorney General William Barr to investigate the
4 allegations involving 2016 election interference and the Bidens. Specifically, according to the
5 White House’s telephone conversation memorandum, Trump told Zelensky “I would like you to
6 do us a favor” and continued: “I would like you to find out what happened with this whole
7 situation with Ukraine, they say CrowdStrike . . . [t]he server, they say Ukraine has it” —
8 comments alluding to the allegation that proof of Ukraine’s purported interference in the 2016
9 U.S. presidential election could be found on a DNC server in Ukraine.⁴⁹ Trump added, “I would
10 like to have the Attorney General call you or your people and I would like you to get to the
11 bottom of it.”⁵⁰ Trump concluded the point by saying: “Whatever you can do, it’s very
12 important that you do it if that’s possible.”⁵¹ Zelensky replied by noting the importance of
13 cooperation between the U.S. and Ukraine and stated: “[I]n addition to that investigation, I

⁴⁹ The White House, Memorandum of Telephone Conversation at 3 (July 25, 2019) (“July 25 Call Memo”) (“I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it. I would like you to find out what happened with this whole situation with Ukraine, they say CrowdStrike. . . . I guess you have one of your wealthy people. . . . The server, they say Ukraine has it. There are a lot of things that went on, the whole situation I think you’re surrounding yourself with some of the same people. I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it. As you saw yesterday, that whole nonsense ended with a very poor performance by a man named Robert Mueller, an incompetent performance, but they say a lot of it started with Ukraine. Whatever you can do, it’s very important that you do it if that’s possible.” (ellipses in original)). U.S. National Security Advisor John Bolton listened in on the July 25 call, and his recollection of the conversation is generally consistent with the White House memorandum. *See* Bolton Book at 466–68.

⁵⁰ July 25 Call Memo at 3.

⁵¹ *Id.*

1 guarantee as the President of Ukraine that all the investigations will be done openly and
2 candidly.”⁵²

3 Trump continued, bringing up former Prosecutor General Shokin, who had reportedly
4 been fired at Biden’s urging:

5 The other thing, [t]here’s a lot of talk about Biden’s son, that Biden
6 stopped the prosecution and a lot of people want to find out about
7 that so whatever you can do with the Attorney General would be
8 great. Biden went around bragging that he stopped the prosecution
9 so if you can look into it It sounds horrible to me.⁵³

10 Zelensky responded to Trump, “I understand and I’m knowledgeable about the
11 situation[,]” and stated that he would be appointing a new Ukrainian Prosecutor General who
12 would be “100% my person, my candidate,” and that this person would “look into the situation,
13 specifically to the company that you mentioned in this issue.”⁵⁴ Zelensky reiterated that “we will
14 take care of that and will work on the investigation of the case.”⁵⁵ Trump again told Zelensky

⁵² *Id.*

⁵³ *Id.* at 4 (ellipsis in original); *see also* Trump-Niinistö Press Conference (“Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: Look, Biden and his son are stone-cold crooked. And you know it. His son walks out with millions of dollars. The kid knows nothing. You know it, and so do we.”); Remarks by President Trump before Marine One Departure (Oct. 3, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-marine-one-departure-67/> (“October 3 Trump Remarks”) (“Q: Mr. President, what exactly did you hope Zelensky would do about the Bidens after your phone call? Exactly. THE PRESIDENT: Well, I would think that, if they were honest about it, they’d start a major investigation into the Bidens. It’s a very simple answer. They should investigate the Bidens So, I would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren’t crooked. That was a crooked deal — 100 percent. He had no knowledge of energy; didn’t know the first thing about it. All of a sudden, he is getting \$50,000 a month, plus a lot of other things. Nobody has any doubt. And they got rid of a prosecutor who was a very tough prosecutor. They got rid of him. Now they’re trying to make it the opposite way. But they got rid — So, if I were the President, I would certainly recommend that of Ukraine.”).

⁵⁴ July 25 Call Memo at 4. Vindman, who listened in to the July 25 call, recalled that Zelensky had said “Burisma,” rather than “the company.” Vindman Dep. at 54. Bolton recalls Zelensky saying “the next Prosecutor General will be one hundred percent my candidate. He will start in September. He will look at the company.” Bolton Book at 468.

⁵⁵ July 25 Call Memo at 4.

1 that he would have Giuliani and Barr call, adding: “[W]e will get to the bottom of it. I’m sure
2 you will figure it out.”⁵⁶

3 Later in the conversation, Zelensky thanked Trump “for your invitation to visit the United
4 States, specifically Washington[,] DC. On the other hand, I also want to ensure [sic] you that we
5 will be very serious about the case and will work on the investigation.”⁵⁷ Trump replied: “I will
6 tell Rudy and Attorney General Barr to call. Thank you. Whenever you would like to come to
7 the White House, feel free to call.”⁵⁸

8 **F. Events After the July 25 Phone Call**

9 After Trump and Zelensky spoke on July 25, 2019, Trump’s advisors began negotiating
10 with Zelensky’s aides on specific language to satisfy Trump’s demand for a public
11 announcement of the investigations.

12 The following day, July 26, 2019, Volker, Sondland, and Taylor met with Zelensky in
13 Kyiv, where, according to the sworn testimony of David Holmes, an official at the U.S. Embassy
14 in Ukraine, Zelensky mentioned that Trump had raised “very sensitive issues” on their call.⁵⁹
15 Sondland also separately met with Yermak.⁶⁰ Sondland stated that he did not “recall the

⁵⁶ *Id.*

⁵⁷ *Id.* at 5.

⁵⁸ *Id.*

⁵⁹ Holmes Dep. at 21–22 (describing meeting with Volker, Sondland, and Zelensky the day after the July 25 phone call, in which “President Zelensky stated that during the July 25th call, President Trump had, quote, unquote, three times raised, quote, unquote, some very sensitive issues, and that he would have to follow up on those issues when they met, quote, unquote, in person. Not having received a read-out of the July 25th call, I did not know what those sensitive issues were.”); Sondland Hearing at 25 (testifying that Sondland met separately with Yermak and that he did not “recall the specifics of our conversation, but I believe the issue of investigations was probably a part of that agenda or meeting”).

⁶⁰ Sondland Hearing at 25.

1 specifics of our conversation, but I believe the issue of investigations was probably a part of that
2 agenda or meeting.”⁶¹ That same day, Trump asked Sondland, by phone, if Zelensky was “going
3 to do the investigation[,]”⁶² and Sondland replied that Zelensky would do “anything you ask him
4 to.”⁶³ Per Holmes’s sworn testimony, after the call ended, Sondland told Holmes that Trump
5 “did not give a shit about Ukraine” and only cared about “‘big stuff’ that benefits [Trump], like
6 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”⁶⁴ Sondland and
7 Volker later stated to Taylor, in separate instances, “that President Trump is a businessman.
8 When a businessman is about to sign a check to someone who owes him something . . . the
9 businessman asks that person to pay up before signing the check.”⁶⁵

10 Giuliani met with Yermak, Zelensky’s advisor, in Madrid, on August 2, 2019.⁶⁶ They
11 agreed that Ukraine would make a public statement announcing the investigation, and they

⁶¹ *Id.*

⁶² Holmes Dep. at 24 (“While Ambassador Sondland’s phone was not on speaker phone, I could hear the President’s voice through the ear piece of the phone. The President’s voice was very loud and recognizable, and Ambassador Sondland held the phone away from his ear for a period of time, presumably because of the loud volume. . . . I then heard President Trump ask, quote, ‘So he’s going to do the investigation?’ unquote.”); *see also* Sondland Hearing at 26 (“Other witnesses have recently shared their recollection of overhearing this call. For the most part, I have no reason to doubt their accounts.”).

⁶³ Holmes Dep. at 24.

⁶⁴ Holmes Dep. at 25 (“I then took the opportunity to ask Ambassador Sondland for his candid impression of the President’s views on Ukraine. In particular, I asked Ambassador Sondland if it was true that the President did not give a shit about Ukraine. Ambassador Sondland agreed that the President did not give a shit about Ukraine. I asked why not, and Ambassador Sondland stated, the President only cares about, quote, unquote, ‘big stuff.’ I noted that there was, quote, unquote, big stuff going on in Ukraine, like a war with Russia. And Ambassador Sondland replied that he meant, quote, unquote, ‘big stuff’ that benefits the President, like the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”).

⁶⁵ Taylor Dep. at 40.

⁶⁶ *E.g.*, Volker Dep. at 112 (“THE CHAIRMAN: And some time after this call, Rudy Giuliani goes to Madrid to meet with Andriy Yermak. Do I have the chronology right? MR. VOLKER: Yes. That took place on August 2nd.”).

1 discussed the White House visit.⁶⁷ Following additional phone and text conversations,⁶⁸ on
 2 August 12, 2019, Yermak sent a draft statement to Volker, which lacked specific references to
 3 the two investigations Trump had asked Zelensky to conduct.⁶⁹ Sondland and Volker discussed
 4 the proposed statement with Giuliani, who said that if the statement “doesn’t say Burisma and if
 5 it doesn’t say 2016, . . . it’s not credible.”⁷⁰ Parnas later stated in an interview that when Giuliani
 6 learned that the Ukrainians were preparing to make a generic statement about fighting
 7 corruption, “Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t
 8 supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and
 9 Burisma.”⁷¹ Volker added specific references to Burisma and 2016 election interference to the

⁶⁷ Kurt Volker Document Production, Bates KV00000019 (Oct. 2, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD677.pdf>; First Volker Text Excerpts at 3 (“[8/9/19, 11:27 AM] Kurt Volker: Hi Mr Mayor! Had a good chat with Yermak last night. He was pleased with your phone call. Mentioned Z making a statement. Can we all get on the phone to make sure I advise Z correctly as to what he should be saying? Want to make sure we get this done right. Thanks!”)

⁶⁸ *See, e.g.*, First Volker Text Excerpts at 3 (“[8/9/19, 5:51:18 PM] Gordon Sondland: To avoid misunderstandings [sic], might be helpful to ask Andrey [Yermak] for a draft statement [sic] (embargoed) so that we can see exactly what they propose to cover. Even though Ze[lensky] does a live presser they can still summarize in a brief statement. Thoughts? [8/9/19, 5:51:42 PM] Kurt Volker: Agree!”).

⁶⁹ Volker Dep. at 113 (“[Q]: And so after [the August 2] meeting, Yermak proposes to include in this statement to get the meeting a mention of Burisma? MR. VOLKER: No. Andriy Yermak sent me a draft statement that did not include that. And I discussed that statement with Gordon Sondland and with Rudy Giuliani to see — in my — not knowing this, is this going to be helpful, will this help convey a sense of commitment of Ukraine to fighting corruption, et cetera. And in that conversation it was Mr. Giuliani who said: If it doesn’t say Burisma and 2016, it’s not credible, because what are they hiding? I then discussed that with Mr. Yermak after that conversation, and he did not want to include Burisma and 2016, and I agreed with him.”).

⁷⁰ Volker Dep. at 71–72 (“Q: And the draft statement went through some iterations. Is that correct? A: Yeah. It was pretty quick, though. I don’t know the timeline exactly. We have it. But, basically, Andriy sends me a text. I share it with Gordon Sondland. We have a conversation with Rudy to say: The Ukrainians are looking at this text. Rudy says: Well, if it doesn’t say Burisma and if it doesn’t say 2016, what does it mean? You know, it’s not credible.”).

⁷¹ Maddow Interview Pt. 2 at 16:17–17:02 (“Parnas: I know that there was another conversation, that Perry called after the inauguration, telling him that he spoke to Zelensky and Zelensky’s going to do it. . . . And they did, they announced, but they didn’t announce that. . . . So they announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”).

1 proposed statement and sent the revised draft to Yermak.⁷² Yermak expressed several concerns
 2 with adding these specific references to the statement, including that Ukraine would “be seen as
 3 a factor or a football in American domestic politics.”⁷³ Yermak therefore asked if the U.S.
 4 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the
 5 investigations.⁷⁴ No such official inquiry was ever made, and Taylor later testified: “A formal
 6 U.S. request to the Ukrainians to conduct an investigation based on violations of their own law
 7 struck [him] as improper, and [he] recommended to Ambassador Volker that we stay clear.”⁷⁵
 8 Volker agreed with Yermak that Zelensky should not issue the public statement with specific
 9 references to Burisma and 2016 election interference, because it was important to “avoid

⁷² Volker Dep. at 72–73; *see* First Volker Text Excerpts at 4 (“[8/13/19, 10:26:44 AM] Kurt Volker: Special attention should be paid to the problem of interference in the political processes of the United States especially with the alleged involvement of some Ukrainian politicians. I want to declare that this is unacceptable. We intend to initiate and complete a transparent and unbiased investigation of all available facts and episodes, including those involving Burisma and the 2016 U.S. elections, which in turn will prevent the recurrence of this problem in the future. [8/13/19, 10:27:20 AM] Gordon Sondland: Perfect. Lets [sic.] send to Andrey [Yermak] after our call”); *id.* (“[8/17/19, 3:06:19 PM] Gordon Sondland: Do we still want Ze[lensky] to give us an unequivocal draft with 2016 and Boresma [sic]? [8/17/19, 4:34:21 PM] Kurt Volker: That’s the clear message so far”).

⁷³ Volker Dep. at 120 (“[Question]: Wasn’t there also a concern, Ambassador [Volker], with not being used to investigate a political candidate in the 2020 election? MR. VOLKER: I think the way they put it was they don’t want to be seen as a factor or a football in American domestic politics”); *see also* Bolton Book at 472 (“Flying to Kiev on August 26[, 2019], I spoke with Volker[, who] . . . stressed that Zelensky had no wish to become involved in US domestic politics, although he was happy to have investigated whatever may have happened in 2016, before his time.”).

⁷⁴ Volker Dep. at 197–8.

⁷⁵ Taylor Dep. at 32 (“On August 16, I exchanged text messages with Ambassador Volker, in which I learned that Mr. Yermak had asked that the United States submit an official request for an investigation into Burisma’s alleged violations of Ukrainian law, if that’s what the United States desired. A formal U.S. request to the Ukrainians to conduct an investigation based on violations of their own law struck me as improper, and I recommended to Ambassador Volker that we stay clear. To find out the legal aspects of the question, however, I gave him the name of a Deputy Assistant Attorney General whom I thought would be the proper point of contact for seeking a U.S. referral for a foreign investigation.”).

1 anything that would look like it would play into [U.S.] domestic politics, and this could.”⁷⁶ As
2 such, efforts to prepare the statement did not proceed further.⁷⁷

3 **G. Withholding U.S. Security Aid to Ukraine**

4 Congress appropriated \$391 million in aid to Ukraine for fiscal year 2019, with \$250
5 million to be administered by the Department of Defense and the remaining \$141 million to be
6 administered by the Department of State.⁷⁸ On July 3, 2019, however, the Office of
7 Management and Budget (“OMB”) blocked the Congressional notification required to release the
8 funds to State and subsequently placed a hold on all military support funding.⁷⁹ According to
9 Bolton’s account, Secretary of Defense Mark Esper, Secretary of State Mike Pompeo, and
10 Bolton repeatedly pressed Trump, individually and in tandem, to release the aid to Ukraine.⁸⁰
11 According to sworn testimony by Bill Taylor and Deputy Assistant Secretary of Defense Laura
12 Cooper, numerous officials at the Department of Defense, the Department of State, and the
13 National Security Council considered this aid to be crucial support for Ukraine in its ongoing
14 war with Russia, which was viewed as serving the U.S. national security interest.⁸¹ No specific

⁷⁶ Volker Dep. at 44–45.

⁷⁷ *Id.*

⁷⁸ Department of Defense Appropriations Act, 2019, Pub. L. No. 115-245, div. A, title IX, § 9013 (2018); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, §7046(a)(2) (2019); Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Title VIII (2017).

⁷⁹ Vindman Dep. at 178–179; Taylor Dep. at 27; Deposition of Laura K. Cooper before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 47 (Oct. 23, 2019) (“Cooper Dep.”).

⁸⁰ Bolton Book at 468–69 (“[T]he State and Defense Departments pressed to transfer nearly \$400 million of security assistance to Ukraine, calling for high-level meetings . . . Pompeo, Esper, and I had been discussing this subject quietly for some time, making efforts with Trump to free up the money, all of which had failed. (By the time I resigned [on September 10, 2019], we calculated that, individually and in various combinations, we had talked to Trump between eight and ten times to get the money released.)”).

⁸¹ Taylor Dep. at 28 (“At one point the Defense Department was asked to perform an analysis of the effectiveness of the assistance. Within a day, the Defense Department came back with the determination that the assistance was effective and should be resumed. My understanding was that the Secretaries of Defense and State,

1 official reason was given by the White House or OMB for putting a hold on the Congressionally-
 2 appropriated funds other than a footnote in an apportionment schedule that “described the
 3 withholding as necessary ‘to determine the best use of such funds.’”⁸² Sworn testimony
 4 indicates that the Office of the Secretary of Defense raised a contemporaneous concern that the
 5 hold may even have violated federal law requiring the timely release of Congressionally-
 6 appropriated funds.⁸³

the CIA Director, and the National Security Advisor, sought a joint meeting with the President to convince him to release the hold, but such meeting was hard to schedule, and the hold lasted well into September.”); *id.* at 132 (stating that the opinion that aid should be resumed was the “[u]nanimous opinion of every level of interagency discussion.”); Cooper Dep. at 16 (“Q: In 2018 and 2019, has Ukrainian security assistance received bipartisan support? A: It has always received bipartisan support, in my experience. Q: And that’s both in the House and the Senate? A: Absolutely, in my experience. Q: And what about at the interagency level? A: I have witnessed, even in the recent past, overwhelming consensus in favor of providing Ukraine security assistance. Q: And when you say ‘within the recent past,’ you mean even over the course of this year? A: Even over the course of the summer.”).

⁸² U.S. Government Accountability Office, Decision, *Matter of Office of Management and Budget—Withholding of Ukraine Security Assistance*, B-331564 at 6 (Jan. 16, 2020) (“GAO Decision”) (“OMB did not identify — in either the apportionment schedules themselves or in its response to us — any contingencies as recognized by the ICA [Impoundment Control Act], savings or efficiencies that would result from a withholding, or any law specifically authorizing the withholding. Instead, the footnote in the apportionment schedules described the withholding as necessary “to determine the best use of such funds.”); *see also* Volker Dep. at 80 (“I don’t believe — in fact, I am quite sure that at least I, Secretary Pompeo, the official representatives of the U.S., never communicated to Ukrainians that it is being held for a reason. We never had a reason.”).

⁸³ Deposition of Timothy Morrison before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 163 (Oct. 31, 2019) (“Morrison Dep.”) (“Q: Was there any discussion of the legality or illegality of the hold at the PCC meeting? A: Yes. Q: What was — can you explain what was discussed? A: Because of the nature of the appropriations, is it actually legally permissible for the President to not allow for the disbursement of the funding. . . . Q: Okay. Who was raising concerns that there may be a legal problem? A: OSD. Q: That’s Office — A: Office of the Secretary of Defense. Q: DOD, okay. And did they raise concerns about possible violations of the Impoundment Act? A: Yes.”). The U.S. Government Accountability Office issued a report on January 16, 2020, finding that OMB violated the Impoundment Control Act when it withheld from obligation \$214 million of the security assistance for a “policy reason.” GAO Decision at 7.

1 Ukrainian officials apparently noticed the withholding of security aid at some point in
 2 late July or early August 2019,⁸⁴ and the aid remained frozen throughout August 2019.⁸⁵
 3 According to Bolton’s published account, on August 20, 2019, Trump “said he wasn’t in favor”
 4 of sending Ukraine anything until all the materials related to Biden and 2016 election
 5 interference investigations had been turned over, and added “[t]hat could take years, so it didn’t
 6 sound like there was much of a prospect that the military aid would proceed.”⁸⁶ The fact that the
 7 aid had been frozen became public knowledge when it was publicly reported on August 28,
 8 2019, prompting concern by Ukrainian officials.⁸⁷ Because the White House and OMB had
 9 provided no particular explanation for the hold, U.S. officials, including Taylor, could not
 10 explain the hold to Ukrainian officials, though Taylor did express, in a text to Volker the next

⁸⁴ Deposition of Catherine Croft before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 86–87 (Oct. 30, 2019) (“I think it was sort of known among the circles that do Ukraine security assistance, sort of gradually, as I said. From July 18 on it was sort of inevitable that it was eventually going to come out. . . . Two individuals from the Ukrainian Embassy approached me quietly and in confidence to ask me about an OMB hold on Ukraine security assistance. Q: And when was that? A: I don’t have those dates. Q: But it was before the August 28th time period, do you think? A: I believe it was, yes.”).

⁸⁵ Karoun Demirjian, *et al.*, *Trump Ordered Hold on Military Aid Days before Calling Ukrainian President, Officials Say*, WASH. POST (Sept. 23, 2019), https://www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html; Sondland Dep. at 107.

⁸⁶ Bolton Book at 471.

⁸⁷ Volker Dep. at 80–81 (“A: By the time it hit Politico publicly, I believe it was the end of August. And I got a text message from, it was either the Foreign Minister or — I think it was the future Foreign Minister. And, you know, basically, you’re just — you’re — I have to verbalize this. You’re just trying to explain that we are trying this. We have a complicated system. We have a lot of players in this. We are working this. Give us time to fix it. Q: So anybody on the Ukrainian side of things ever express like grave concern that this would not get worked out? A: Not that it wouldn’t get worked out, no, they did not. They expressed concern that, since this has now come out publicly in this Politico article, it looks like that they’re being, you know, singled out and penalized for some reason. That’s the image that that would create in Ukraine.”); *see* Caitlin Emma and Connor O’Brien, *Trump Holds Up Ukraine Military Aid Meant to Confront Russia*, POLITICO (Aug. 28, 2019), www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531 (“Politico Article”); *see also* Compl. ¶ 14 (citing Josh Dawsey, Paul Sonne, Michael Kranish and David L. Stern, “How Trump and Giuliani pressured Ukraine to investigate the president’s rivals,” WASH. POST (Sept. 20, 2019), https://www.washingtonpost.com/politics/how-trump-and-giuliani-pressured-ukraine-to-investigate-the-presidents-rivals/2019/09/20/0955801c-dbb6-11e9-a688-303693fb4b0b_story.html).

1 week, his understanding of the reason for the hold: “[I]t’s crazy to withhold security assistance
2 for help with a political campaign.”⁸⁸ On September 1, 2019, Zelensky met with Vice President
3 Pence in Warsaw, Poland, where the status of the security aid was “the very first question that
4 President Zelensky had.”⁸⁹ Zelensky said that even the appearance of U.S. support for Ukraine
5 faltering might embolden Russian aggression towards Ukraine.⁹⁰ During a briefing before the
6 meeting, Sondland had raised concerns with Pence that the delay in security assistance had
7 “become tied to the issue of investigations.”⁹¹

8 Sondland spoke with Yermak later that day, explaining that the security assistance was
9 conditioned on the public announcement of the investigations.⁹² On learning of this discussion,

⁸⁸ Taylor Dep. at 138 (“And I couldn’t tell them. I didn’t know and I didn’t tell them, because we hadn’t — we hadn’t — there’d been no guidance that I could give them.”); First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

⁸⁹ Williams Dep. at 81 (“Once the cameras left the room, the very first question that President Zelensky had was about the status of security assistance.”).

⁹⁰ *Id.* at 82–83 (“He made the point, though, that as important as the funding itself was, that it was the strategic value of — the symbolic value of U.S. support in terms of security assistance that was just as valuable to the Ukrainians as the actual dollars. . . . He was making the point that, you know, any hold or appearance of reconsideration of such assistance might embolden Russia to think that the United States was no longer committed to Ukraine.”).

⁹¹ Sondland Hearing at 30; *see also id.* at 57 (“A: I don’t know exactly what I said to him. This was a briefing attended by many people, and I was invited at the very last minute. I wasn’t scheduled to be there. But I think I spoke up at some point late in the meeting and said, it looks like everything is being held up until these statements get made, and that’s my, you know, personal belief. Q: And Vice President Pence just nodded his head? A: Again, I don’t recall any exchange or where he asked me any questions. I think he — it was sort of a duly noted response.”).

⁹² Declaration of Ambassador Gordon D. Sondland (Nov. 4, 2019), <https://docs.house.gov/meetings/IG/IG00/CPRT-116-IG00-D006.pdf> (“Also, I now do recall a conversation on September 1, 2019, in Warsaw with Mr. Yermak. This brief pull-aside conversation followed the larger meeting involving Vice President Pence and President Zelensky, in which President Zelensky had raised the issue of the suspension of U.S. aid to Ukraine directly with Vice President Pence. After that large meeting, I now recall speaking individually with Mr. Yermak, where I said that resumption of U.S. aid would likely not occur until Ukraine provided the public anti-corruption statement that we had been discussing for many weeks. I also recall some question as to whether the public statement could come from the newly appointed Ukrainian Prosecutor General, rather than from President Zelensky directly.”).

1 Taylor texted Sondland: “Are we now saying that security assistance and WH meeting are
2 conditioned on investigations?”⁹³ In an ensuing phone call, Sondland explained to Taylor that he
3 had made a mistake telling the Ukrainians that only the White House meeting was conditioned
4 on the investigations announcement; in fact, to his understanding, “everything” was conditioned
5 on the announcement and that Trump had said that he “wanted President Zelensky in a box, by
6 making [a] public statement about ordering such investigations.”⁹⁴

7 Sondland said, at the time, that Trump told him, on September 7, 2019, that “there was no
8 *quid pro quo*, but President Zelensky must announce the opening of the investigations” for the
9 hold on security aid to be lifted.⁹⁵ Sondland further relayed that Trump had also made clear that
10 Zelensky himself would have to announce the investigations and do so publicly.⁹⁶ The
11 Ukrainians notified Sondland and Volker that Zelensky was to appear on CNN for an interview,
12 and would use that forum to make the announcement; Zelensky ultimately did not do so.⁹⁷

⁹³ First Volker Text Excerpts at 5.

⁹⁴ Sondland Hearing at 31 (“I told Mr. Yermak that I believed that the resumption of U.S. aid would likely not occur until Ukraine took some kind of action on the public statement that we had been discussing for many weeks.”); First Volker Text Excerpts at 5; Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. Ambassador Sondland also told me that he now recognized that he had made a mistake by earlier telling Ukrainian officials to whom he spoke that a White House meeting with President Zelensky was dependent on a public announcement of investigations. In fact, Ambassador Sondland said everything was dependent on such an announcement, including security assistance. He said that President Trump wanted President Zelensky in a box by making [a] public statement about ordering such investigations.”).

⁹⁵ Morrison Dep. at 190–91 (“THE CHAIRMAN: And what did Ambassador Sondland tell you in the phone call? . . . MR. MORRISON: He told me, as is related here in Ambassador Taylor’s statement, that there was no *quid pro quo*, but President Zelensky must announce the opening of the investigations and he should want to do it.”).

⁹⁶ Taylor Dep. at 39 (“The following day, on September 8th, Ambassador Sondland and I spoke on the phone. He said he had talked to President Trump, as I had suggested a week earlier, but that President Trump was adamant that President Zelensky himself had to clear things up and do it in public. President Trump said it was not a *quid pro quo*.”).

⁹⁷ Sondland Hearing at 110–11 (“The Ukrainians said to me or to Ambassador Volker or both of us that they had planned to do an interview anyway on CNN and they would use that occasion to mention these items.”); Taylor Dep. at 39 (“Ambassador Sondland said that he had talked to President Zelensky and Mr. Yermak and told them

1 After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine
 2 on September 11, 2019.⁹⁸ No official reason for the hold was ever given, although in subsequent
 3 public statements, Trump stated that he was concerned about Ukrainian corruption and felt that
 4 European Union countries should be providing Ukraine with more security assistance.⁹⁹ At a
 5 White House press briefing on October 17, 2019, Mulvaney said that the security aid had been
 6 withheld to pressure Ukraine to cooperate with “an ongoing investigation” by DOJ into 2016
 7 election interference, and that “[t]here’s going to be political influence in foreign policy . . . that
 8 is going to happen.”¹⁰⁰

that, although this was not a quid pro quo, if President Zelensky did not clear things up in public, we would be at a stalemate. I understood a stalemate to mean that Ukraine would not receive the much-needed military assistance. Ambassador Sondland said that this conversation concluded with President Zelensky agreeing to make a public statement in an interview with CNN.”); *see also* Holmes Dep. at 30 (“On September 13th, an Embassy colleague received a phone call from a colleague at the U.S. Embassy to the European Union under Ambassador Sondland and texted me regarding the call, quote, Sondland said the Zelensky interview is supposed to be on Monday — that would be September 16th — sorry, today or Monday, September 16th, and they plan to announce that a certain investigation that was, quote, ‘on hold’ will progress. The text also explained that our European Union Embassy colleague did not know if this was decided or if Ambassador Sondland was advocating for it.”).

⁹⁸ *See, e.g.*, Taylor Dep. at 40; Trump- Niinistö Press Conference (“I gave the money because [Senator] Rob Portman and others called me and asked.”); Politico Article.

⁹⁹ Seung Min Kim and Colby Itkowitz, *Trump Says He Has Authorized Release of Transcript of Call with the Ukrainian President*, WASH. POST at 0:04–0:42 (Sept. 24, 2019), https://www.washingtonpost.com/politics/trump-confirms-he-withheld-military-aid-from-ukraine-says-he-wants-other-countries-to-help-pay/2019/09/24/42bdf66c-ded2-11e9-8dc8-498eabc129a0_story.html (“Sep. 24 Trump Press Conference”) (“My complaint has always been, and I’d withhold again and I’ll continue to withhold until such time as Europe and other nations contribute to Ukraine because they’re not doing it”); Trump- Niinistö Press Conference (“We give money to Ukraine, and it’s bothered me from day one. . . . But what I was having a problem with are two things. Number one, Ukraine is known — before him — for tremendous corruption. Tremendous. More than just about any country in the world. In fact, they’re rated one of the most corrupt countries in the world. And I don’t like giving money to a country that’s that corrupt. Number two . . . European countries are helped far more than we are, and those countries should pay more to help Ukraine.”).

¹⁰⁰ The White House, *Press Briefing by Acting Chief of Staff Mick Mulvaney* (Oct. 17, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/press-briefing-acting-chief-staff-mick-mulvaney/> (“Q: So the demand for an investigation into the Democrats was part of the reason that he ordered to withhold funding to Ukraine? MULVANEY: The look back to what happened in 2016 certainly was part of the thing that he was worried about in corruption with that nation. And that is absolutely appropriate. . . . And I have news for everybody: Get over it. There’s going to be political influence in foreign policy. . . . [There were] [t]hree — three factors. Again, I was involved with the process by which the money was held up temporarily, okay? Three issues for that: the corruption of the country; whether or not other countries were participating in the support of the Ukraine; and

1 In a March 4, 2020, televised interview, Trump said that with respect to the Ukrainian
2 investigation of Joe Biden’s alleged misconduct while serving as U.S. Vice President, he
3 intended to make the allegation “a major issue in [his 2020 reelection] campaign,” saying that he
4 “will bring that up all the time”¹⁰¹

5 Biden became the Democratic Party’s nominee for President on June 5, 2020.¹⁰²

6 **H. The Complaint and Response**

7 The complaint, which was filed on September 23, 2019, alleged that Giuliani “solicited,
8 or provided substantial assistance in the solicitation of, a contribution from foreign nationals” in
9 connection with Trump’s request to Zelensky that Ukraine investigate Joe Biden and 2016
10 election interference.¹⁰³ It further alleges that, in the “July 25, 2019, phone call, President
11 Trump solicited a ‘contribution’ as defined [in the Act] from Ukraine President Zelensky in
12 connection with the 2020 U.S. presidential election and for the purpose of influencing the 2020
13 presidential election candidacy of Joe Biden” and that Giuliani did the same “[i]n multiple
14 meetings with Ukraine prosecutors and other Ukraine officials.”¹⁰⁴

whether or not they were cooperating in an ongoing investigation with our Department of Justice. That’s completely legitimate.”)

¹⁰¹ Fox News, *Trump blasts Biden’s record in ‘Hannity’ exclusive interview*, YOUTUBE (Mar. 4, 2020) at 5:54–7:47, <https://www.youtube.com/watch?v=fqjrlKfW93I&feature=youtu.be&t=354> (“Hannity Interview”) (“HANNITY: Let me ask you, because we now know that there is a corruption issue and there’s an investigation officially in the country of Ukraine as it relates to Joe Biden . . . after all you went through, and now that you see Ron Johnson in the Senate and you see Ukraine investigating this issue . . . it has to be a campaign issue; how do you plan to use it, or do you plan to use it? TRUMP: . . . That will be a major issue in the campaign, I will bring that up all the time because I don’t see any way out. . . . That was purely corrupt.”).

¹⁰² E.g., Stephen Ohlemacher and Will Weissert, *Biden formally clinches Democratic presidential nomination*, ASSOCIATED PRESS (June 6, 2020), <https://apnews.com/bb261be1a4ca285b9422b2f6b93d8d75>.

¹⁰³ Compl. ¶¶ 1, 41, 45.

¹⁰⁴ *Id.* ¶¶ 41, 44.

1 Giuliani filed a response to the complaint denying the allegations and asserting that as
2 Trump’s personal attorney he had attempted to acquire and develop “rebuttal information” to
3 defend Trump from the allegation that Trump may have colluded with Russia during the 2016
4 election, which was the subject of Special Counsel Robert Mueller’s then-ongoing
5 investigation.¹⁰⁵ Giuliani also contended that because his actions preceded the April 2019
6 announcement of Joe Biden’s presidential candidacy in the 2020 election, they could not be
7 construed as attempting to generate “opposition research” to influence a federal election.¹⁰⁶

8 Giuliani acknowledged that he met with “a Ukrainian prosecutor” and a “former official”
9 who “offered very detailed information and additional evidence about substantial collusion
10 between Ukraine government officials and officials of the Clinton campaign and employees of
11 the DNC” as well as “corroborating evidence of the Biden bribery and money laundering.”¹⁰⁷
12 Giuliani’s response denies that he ever saw a proposed draft of Zelensky’s announcement
13 regarding investigations, but it acknowledges that when Volker and Sondland asked him about “a
14 statement the Ukrainians were going to make,” he told them that “the statement should make
15 clear that the President [Zelensky] was committed to rooting out corruption including completing
16 the investigation of the 2016 corruption. Collusion, Burisma and whatever else remained.”¹⁰⁸

¹⁰⁵ Resp. of Rudy Giuliani at 2 (Oct. 29, 2019). Giuliani’s response states that he received information from a private investigator and former Assistant U.S. Attorney “concerning actual collusion by Ukraine in 2016 and investigated it as fully as he could. He asserts that he developed evidence of substantial collusion by Ukraine officials with members of the Obama Administration, the U.S. Embassy, the Democratic National Committee (DNC) and the Clinton campaign. He also states that he corroborated allegations of prime facie bribery by then Vice President Biden in ‘strong arming’ the President of the Ukraine to fire the prosecutor who was investigating Biden’s son.” *Id.*

¹⁰⁶ *Id.* at 1–2.

¹⁰⁷ *Id.* at 2.

¹⁰⁸ *Id.* at 3.

1 **II. LEGAL ANALYSIS**

2 The available information indicates that Rudy Giuliani requested, recommended, and
3 pressured Ukrainian President Volodymyr Zelensky, both directly and indirectly through
4 representatives — including Giuliani’s associate, Lev Parnas, and diplomatic officials Gordon
5 Sondland and Kurt Volker — to make an official public announcement and conduct an
6 investigation into Burisma, Joe and Hunter Biden, and purported Ukrainian electoral interference
7 intended to support Hillary Clinton during the 2016 U.S. presidential election, in order to
8 influence the 2020 presidential election. The record indicates that Giuliani asked that Zelensky
9 investigate these two allegations and announce the investigation with explicit references to the
10 allegations, for the purpose of benefiting Trump’s reelection campaign. As such, Giuliani
11 knowingly solicited a foreign national to provide in-kind “contributions” — *i.e.*, things “of
12 value” sought “for the purpose of influencing” the 2020 U.S. presidential election — from
13 Ukrainian nationals.¹⁰⁹

14 **A. The Act and Commission Regulations Prohibit the Solicitation of Foreign**
15 **National Contributions or Donations in Connection with a Federal Election**

16 The Act and Commission regulations prohibit any “foreign national” from directly or
17 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
18 independent expenditure, or disbursement, in connection with a federal, state, or local
19 election.¹¹⁰ Moreover, the Act and Commission regulations prohibit any person from knowingly

¹⁰⁹ See 52 U.S.C. § 30101(8)(A)(i).

¹¹⁰ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have upheld the provisions of the Act prohibiting foreign national contributions and independent expenditures on the ground that the government “has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S.

1 soliciting, accepting, or receiving any such contribution or donation from a foreign national,¹¹¹
 2 and Commission regulations further prohibit any person from knowingly providing substantial
 3 assistance in soliciting, making, accepting, or receiving any such contribution or donation.¹¹²
 4 Under Commission regulations, “to solicit” means “to ask, request, or recommend, explicitly or
 5 implicitly, that another person make a contribution, donation, transfer of funds, or otherwise
 6 provide anything of value.”¹¹³

7 The Act’s definition of “foreign national” includes an individual who is not a citizen or
 8 national of the United States and who is not lawfully admitted for permanent residence,¹¹⁴ as
 9 well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a
 10 government of a foreign country.”¹¹⁵ A “contribution” includes “any gift, subscription, loan,
 11 advance, or deposit of money or anything of value made by any person for the purpose of
 12 influencing any election for Federal office.”¹¹⁶ Under Commission regulations, “anything of
 13 value” includes all in-kind contributions, which include “the provision of any goods or services

political process.” *Bluman v. FEC*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff’d* 565 U.S. 1104 (2012); *see United States v. Singh*, 924 F.3d 1030, 1041–44 (9th Cir. 2019).

¹¹¹ 52 U.S.C. § 30121(a)(2); *see also* 11 C.F.R. § 110.20(g) (providing that “no person shall *knowingly* solicit” a foreign national contribution (emphasis added); 11 C.F.R. § 110.20(a)(4) (defining “knowingly” to include “actual knowledge” that the target of the solicitation is a foreign national).

¹¹² 11 C.F.R. § 110.20(h). In this context, the Commission has explained that “substantial assistance means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction[.]” and “does not include strictly ministerial activity undertaken pursuant to the instructions of an employer, manager or supervisor.” Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,945–46 (Nov. 19, 2002) (“Prohibitions E&J”).

¹¹³ 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

¹¹⁴ 52 U.S.C. § 30121(b)(2).

¹¹⁵ 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

¹¹⁶ 52 U.S.C. § 30101(8)(A).

1 without charge or at a charge that is less than the usual and normal charge for such goods or
2 services.”¹¹⁷

3 Under the Act, soliciting, accepting, or receiving information in connection with an
4 election from a foreign national, as opposed to purchasing the information at the usual and
5 normal charge or hiring a foreign national in a bona fide commercial transaction to perform
6 services for the political committee, could potentially result in the receipt of a prohibited in-kind
7 contribution. Indeed, the Commission has recognized the “broad scope” of the foreign national
8 contribution prohibition and found that even where the value of a good “may be nominal or
9 difficult to ascertain,” such contributions are nevertheless prohibited.¹¹⁸

10 **B. The Commission Finds Reason to Believe Giuliani Knowingly Solicited**
11 **Contributions from a Foreign National**

12 1. Giuliani Knowingly Solicited Zelensky to Publicly Announce and
13 Investigate Allegations Regarding Joe Biden and Burisma, and Foreign
14 Interference in the 2016 U.S. Presidential Election

15 The available record indicates that Giuliani knowingly solicited a prohibited contribution
16 when he directly and indirectly asked, requested, or recommended that Zelensky issue a public
17 announcement and investigate allegations that Joe Biden pressured Ukraine to fire its Prosecutor
18 General in order to terminate an investigation of Burisma and thus protect his son, Hunter Biden,

¹¹⁷ 11 C.F.R. § 100.52(d).

¹¹⁸ Advisory Op. 2007-22 at 6 (Hurysz) (“Advisory Op. 2007-22”) (quoting 120 Cong. Rec. 8,782 (Mar. 28, 1974) (statement of Sen. Bentsen, author of the amendment prohibiting foreign national contributions) (“I am saying that contributions by foreigners are wrong, and they have no place in the American political system”)); Prohibitions E&J, 67 Fed. Reg. at 69,940 (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and *expand* the ban on contributions, donations, and other things of value by foreign nationals.” (emphasis added)); *see also* Gen. Counsel’s Rpt. at 24, MUR 4250 (Republican Nat’l Comm., *et al.*) (describing the legislative history of the foreign national prohibition, which, “unlike other provisions of the Act, has its origins in, and essentially remains, a national security provision with broad application”).

1 and that foreign interference in the 2016 U.S. presidential election originated in Ukraine in
2 coordination with the DNC.¹¹⁹

3 Commission regulations specify:

4 A solicitation is an oral or written communication that, construed
5 as reasonably understood in the context in which it is made,
6 contains a clear message asking, requesting, or recommending that
7 another person make a contribution, donation, transfer of funds, or
8 otherwise provide anything of value. A solicitation may be made
9 directly or indirectly. The context includes the conduct of persons
10 involved in the communication. A solicitation does not include
11 mere statements of political support or mere guidance as to the
12 applicability of a particular law or regulation.¹²⁰

13 Commission regulations also provide examples of statements that would constitute
14 solicitations, including but not limited to: “The candidate will be very pleased if we can count
15 on you for \$10,000;”¹²¹ “I will not forget those who contribute at this crucial stage;”¹²² and
16 “Your contribution to this campaign would mean a great deal to the entire party and to me
17 personally.”¹²³ However, the Commission has “emphasize[d] that the definition . . . is not tied in
18 any way to a candidate’s use of particular ‘magic words’ or specific phrases.”¹²⁴ The
19 Commission has also explained that communications must be reasonably construed in context,

¹¹⁹ See 11 C.F.R. § 300.2(m) (defining “solicit”).

¹²⁰ *Id.*

¹²¹ *Id.* § 300.2(m)(2)(xii).

¹²² *Id.* § 300.2(m)(2)(xi).

¹²³ *Id.* § 300.2(m)(2)(xiii).

¹²⁴ Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13,926, 13,928 (Mar. 20, 2006) (“Solicitation E&J”). The Commission revised the definition of “to solicit” in 2006, specifically in response to *Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005), in which the U.S. Court of Appeals for the D.C. Circuit invalidated the Commission’s original definition because it covered only “explicit direct requests” and left open the possibility that candidates could evade the statutory restriction on soft money solicitations with “winks, nods, and circumlocutions to channel money in favored directions — anything that makes their intention clear without overtly ‘asking’ for money.” *Id.* at 106.

1 such that “the Commission’s objective standard hinges on whether the recipient should have
2 reasonably understood that a solicitation was made.”¹²⁵

3 Applying these provisions, the Commission has previously found that asking a foreign
4 national to make a political contribution, while offering a potential benefit in return, results in a
5 prohibited solicitation. In MUR 6528, the Commission found reason to believe that a federal
6 candidate knowingly and willfully “solicited or played an active role in the solicitation” of
7 foreign national contributions, including by offering to help obtain immigration status for a
8 foreign national if he contributed to the candidate’s campaign, and telling the foreign national
9 that although he could not legally contribute to the candidate’s campaign, he could provide funds
10 to third parties to make such contributions.¹²⁶

11 Giuliani knowingly solicited Zelensky by asking, requesting, or recommending, directly
12 and through intermediaries,¹²⁷ that Zelensky provide two deliverables: The Ukrainian

¹²⁵ Solicitation E&J, 71 Fed. Reg. at 13,929 (“[I]t is necessary to reasonably construe the communication in context, rather than hinging the application of the law on subjective interpretations of the Federal candidate’s or officeholder’s communications or on the varied understandings of the listener. The revised definition reflects the need to account for the context of the communication and the necessity of doing so through an objective test.”); see Factual & Legal Analysis (“F&LA”) at 6, MUR 6939 (Mike Huckabee, *et al.*) (dismissing an allegation that a candidate solicited an excessive contribution by saying, in a speech announcing his candidacy, “[i]f you want to give a million dollars, please do it” because, in context, “an objective listener would not reasonably have understood” the statement to be a solicitation for “million-dollar contributions” as opposed to “a humorous aside in the course of his speech”).

¹²⁶ Factual & Legal Analysis at 2–3, 6 MUR 6528 (Michael Grimm for Congress, *et al.*); see also 52 U.S.C. § 30122 (prohibiting making a contribution in the name of another).

¹²⁷ That a solicitation is made through intermediaries does not change the analysis. Commission regulations specify that a “solicitation may be made directly or indirectly” and thus capture solicitations made through persons acting on behalf of the principal or principals. 11 C.F.R. § 300.2(m) (incorporated in foreign national prohibition at 11 C.F.R. § 110.20(a)(6)); see Factual & Legal Analysis at 5–6, MUR 7122 (Right to Rise USA, *et al.*) (Oct. 11, 2018) (finding that the agent of an independent-expenditure-only political committee (“IEOPC”) solicited foreign national contributions by having a conversation with a foreign national, the majority owner of a foreign company, about the foreign company’s U.S. subsidiary contributing to the IEOPC, and then emailing both the Chief Executive and a foreign national board member of the subsidiary to indicate that the foreign parent company’s majority owner “expressed interest” in making a contribution to the IEOPC); Conciliation Agreement, MUR 7122 (Right to Rise

1 investigation of allegations regarding Burisma/Biden and 2016 election interference, and a public
2 announcement of that investigation. Giuliani communicated with Zelensky (through his aides)
3 after his election as President of Ukraine and therefore had “actual knowledge” that Zelensky
4 was a foreign national and the head of a foreign government.¹²⁸ In discussions between
5 intermediaries, Giuliani represented Trump and asked Zelensky to provide these deliverables,
6 linking them to a White House visit for Zelensky and U.S. security aid to Ukraine, both of which
7 the record reflects that Zelensky and the Ukrainians desired and which U.S. officials testified
8 was considered crucial to U.S. interests, but which Trump and Giuliani sought to use as leverage
9 to obtain the deliverables.¹²⁹

10 As discussed above, efforts to solicit Zelensky began with a May 12, 2019, meeting
11 between Parnas and Serhiy Shefir, Zelensky’s aide, in which Parnas expressed that he
12 represented Trump and Giuliani and told Shefir that Zelensky needed to announce an
13 investigation into the Bidens before Vice President Pence would attend Zelensky’s inauguration
14 as planned.¹³⁰ Parnas also told Shefir that if Zelensky did not comply, the two countries’

USA) (settling IEOPC’s violations of 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) arising from agent’s solicitation).

¹²⁸ See 11 C.F.R. § 110.20(a)(3) (defining “foreign national”); *id.* § 110.20(a)(4) (defining “knowingly”).

¹²⁹ For the Act’s purposes, a solicitation need not involve any coercion, pressure, or reciprocal inducement; to “solicit” requires only that someone “ask, request, or recommend” another person provide a contribution, donation, transfer of funds, or other thing of value. 11 C.F.R. § 300.2(m). Nevertheless, any such coercion, pressure, or inducement offered may provide relevant “context” in which the communications must be viewed to determine whether they would have been “reasonably understood” to convey “a clear message” asking, requesting, or recommending that the listener provide a contribution, donation, transfer of funds, or other thing of value. *Id.* As such, even if the White House meeting and the release of U.S. security aid to Ukraine were not conditioned on or linked to the public announcement and investigation — *i.e.*, even if there was no *quid pro quo* — the record would still support the conclusion that the request for Zelensky to publicly announce and conduct the investigation was a solicitation. The fact that Trump, Giuliani, and Parnas pressured and induced Zelensky, by using the White House visit and U.S. security aid to Ukraine as leverage, only adds further contextual support for that conclusion.

¹³⁰ *Supra* note 23 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

1 “relationships would be sour” and that the U.S. “would stop giving them any kind of aid.”¹³¹

2 Interviews and testimony reflect that when Shefir did not respond to these overtures, Parnas
3 informed Giuliani of the apparent rejection and, the following day, Trump instructed Pence not
4 to attend Zelensky’s inauguration.¹³²

5 Parnas’s statements conveyed, on behalf of Trump and Giuliani, a clear request and
6 recommendation that Zelensky provide the desired announcement of the investigation —
7 particularly when those statements are reasonably construed in the context of Parnas’s comment
8 that refusal would “sour” the U.S.-Ukraine relationship and lead to the loss of future U.S. aid, as
9 well as the planned attendance of Vice President Pence at Zelensky’s inauguration. Giuliani also
10 directly told Zelensky’s aides, as well as Sondland and Volker, that Trump wanted Zelensky to
11 make a public announcement committing Ukraine to conducting the desired investigation.¹³³

12 Both personally and through his associate, Parnas, Giuliani conveyed a clear request that
13 Zelensky publicly announce and conduct the investigation.

14 Accordingly, the overall record establishes that Giuliani knowingly solicited Zelensky to
15 provide the announcement and investigation of these allegations.

16 2. The Announcement and Investigation Were “Contributions” Under
17 the Act

18
19 As set forth above, the record indicates that Giuliani solicited Zelensky to provide an
20 official public announcement and investigation of allegations regarding Joe Biden and foreign
21 interference in the 2016 U.S. presidential election. In so doing, he solicited “contributions” from

¹³¹ *Id.*

¹³² Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

¹³³ Sondland Hearing at 26–27; Taylor Dep. at 26.

1 a foreign national, in that the announcement and investigation were each a thing “of value”
 2 sought “for the purpose of influencing” a federal election.¹³⁴

3 1. The Act Defines a “Contribution” to Include “Anything of
 4 Value”

5 In defining a “contribution,” the Act uses a broadly-encompassing phrase, “anything of
 6 value,”¹³⁵ which, under the Commission’s regulation, includes “*all* in-kind contributions” and
 7 “the provision of *any* goods or services” at no charge or at a reduced charge.¹³⁶ The regulation
 8 also provides a non-exhaustive list of examples that satisfy various campaign needs and
 9 represent a wide variety of electoral “value,” such as: places to operate (“facilities”), methods of
 10 conveying a message (“advertising services”), and raw voter data (“mailing lists”), as well as
 11 physical and human resources (“supplies” and “personnel,” respectively).¹³⁷ The list of
 12 examples conveys that a wide variety of things that may confer a benefit to a campaign, and thus
 13 potentially spare the campaign’s own resources, conceivably constitute things of value.

¹³⁴ 52 U.S.C. § 30101(8)(A).

¹³⁵ 52 U.S.C. § 30101(8)(A); *see also United States v. Girard*, 601 F.2d 69, 71 (2d Cir. 1979) (holding that law enforcement report disclosing the names of confidential informants is a “thing of value” under federal theft statute, 18 U.S.C. § 641) (“These words [‘thing of value’] are found in so many criminal statutes throughout the United States that they have in a sense become words of art. The word ‘thing’ notwithstanding, *the phrase is generally construed to cover intangibles as well as tangibles*. For example, amusement is held to be a thing of value under gambling statutes. Sexual intercourse, or the promise of sexual intercourse, is a thing of value under a bribery statute. So also are a promise to reinstate an employee, and an agreement not to run in a primary election. The testimony of a witness is a thing of value under 18 U.S.C. § 876, which prohibits threats made through the mails with the intent to extort money or any other ‘thing of value.’ Although the content of a writing is an intangible, it is nonetheless a thing of value. The existence of a property in the contents of unpublished writings was judicially recognized long before the advent of copyright laws.” (emphasis added, citations omitted)).

¹³⁶ 11 C.F.R. § 100.52(d)(1) (emphases added).

¹³⁷ *Id.* (“Examples of such goods or services *include, but are not limited to:* Securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.” (emphasis added)).

1 The phrase “anything of value” facially contemplates a broad, case-by-case application,
 2 and in prior matters, the Commission has found that many tangible and intangible things fall
 3 within the scope of the regulatory text.¹³⁸ In prior matters, when evaluating whether something
 4 is a thing “of value” under the Act, the Commission has considered questions such as the
 5 following: whether the thing may confer a benefit on the recipient campaign;¹³⁹ whether
 6 political campaigns have previously used their own resources to procure the thing in question;¹⁴⁰
 7 whether the provision of the thing would “relieve” the campaign of an “expense it would
 8 otherwise incur”;¹⁴¹ whether the provider of the thing or any third party “utilized its resources”

¹³⁸ See Advisory Op. 2000-30 (pac.com) (stock); Advisory Op. 1980-125 (Cogswell for Senate Comm. 1980) (silver coins); Advisory Op. 1982-8 (Barter PAC) (barter credit units); Factual and Legal Analysis at 3,7-8, MUR 6725 (Ron Paul 2012) (finding reason to believe committee failed to disclose value of gold coin as in-kind contribution of commodity to be liquidated); Factual and Legal Analysis at 10-11, MUR 6040 (Rangel for Congress, et al.) (finding reason to believe that rent-controlled apartment occupied by political committees under terms and conditions that differed from other tenants was excessive in-kind contribution); First Gen. Counsel’s Report at 10, MUR 5409 (Grover Norquist, et al.) (adopted as dispositive by Comm’n on Oct. 1, 2004) (finding reason to believe that master contact list of activists was something of value under Act even though it lacked commercial or market value and despite difficulty in quantifying its precise worth); Factual and Legal Analysis at 29-30, MUR 6718 (John Ensign, et al.) (finding reason to believe severance payment made by candidate’s parents to committee’s former treasurer for the loss of her job following extramarital affair was in-kind contribution); Gen. Counsel’s Brief at 7-8, MUR 5225 (New York Senate 2000) (probable cause finding by Comm’n on Oct. 20, 2005) (detailing approximately \$395,000 worth of in-kind contributions related to benefit concert production costs); see also Certification, MUR 5409 (Oct. 19, 2004) (approving recommendations in First General Counsel’s Report).

¹³⁹ See, e.g., Advisory Op. 1990-12 (Strub for Congress) at 2 (“Advisory Op. 1990-12”) (finding that the provision of poll results by a campaign volunteer who paid for the poll would result in an in-kind contribution); Advisory Op. 2007-22 at 6 (finding that the provision of printed foreign election materials, including “flyers, advertisements, door hangers, tri-folds, signs, and other printed material,” would result in an in-kind contribution); First Gen. Counsel’s Report at 10, MUR 5409 (Norquist) (adopted as dispositive) (finding that contact lists provided to a campaign without charge were “of value” because they “may at least point [the campaign] in the direction of persons who might help [its] election efforts”).

¹⁴⁰ See, e.g., Advisory Op. 1990-12 at 2 (discussing Commission regulations addressing the making and acceptance of contributions in the form of poll results) (citing 11 C.F.R. § 106.4); see also First Gen. Counsel’s Report at 14, MUR 6651 (noting that campaigns often pay advance staff to generate crowds for campaign events).

¹⁴¹ See Advisory Op. 2007-22 at 6 (noting that the provision of election materials to a campaign results in a contribution because it “would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials”); Advisory Op. 1990-12 at 2.

1 to produce, organize, or collect the thing provided;¹⁴² and whether the thing “may not have been
2 publicly available” for the campaign’s use absent the provider’s actions.¹⁴³

3 The Commission has concluded that the provision of free opposition research may
4 constitute a contribution under the Act. In MUR 5409, the Commission found that a corporation
5 made prohibited in-kind contributions by providing a campaign with its private lists of
6 organizations and individuals with similar political views, which the corporation “utilized its
7 resources to obtain and compile,” and which “contain[ed] information that may be of value in
8 connection with” a federal election.¹⁴⁴ Moreover, in the foreign national context, the
9 Commission has previously explained that a foreign national makes a prohibited contribution by
10 providing anything to a campaign that thereby “relieve[s the] campaign of the expense that it
11 would otherwise incur,” even if the item’s value “may be nominal or difficult to ascertain.”¹⁴⁵

¹⁴² See, e.g., First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation “utilized its resources to obtain and compile”).

¹⁴³ Compare First Gen. Counsel’s Report at 9, MUR 5409 (adopted as dispositive) (observing that attendee lists provided to a campaign “may not have been publicly available”); with Factual & Legal Analysis at 4–5, MUR 6938 (Rand Paul for President) (“F&LA”) (finding it unclear that author’s private discussion of a forthcoming book has value for a candidate, particularly when the book information had also been publicly discussed).

¹⁴⁴ First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive); cf. F&LA at 4–5, MUR 6938 (finding that an author’s hour-long discussion with a U.S. Senator and potential presidential candidate regarding the author’s upcoming book — which purportedly contained negative information about another presidential candidate’s foreign business activities — did not result in an in-kind contribution because the allegations in the book were already being publicly discussed, the book had been provided to news outlets in advance of its publication, and the author averred, in a sworn affidavit, that he met with the Senator not to influence the upcoming presidential election but to discuss government officials’ conflicts of interest).

¹⁴⁵ Advisory Op. 2007-22 at 6 (noting that foreign nationals are prohibited from providing even “flyers, advertisements, door hangers, tri-folds, signs, and other printed material” to a campaign, “particularly in light of the broad scope of the prohibition on contributions from foreign nationals”) (citing 120 Cong. Rec. 8782 and Prohibitions E&J, 67 Fed. Reg. at 69,940).

1 using campaign advertisements and other paid efforts to disseminate the damaging narrative,
2 which would have involved spending campaign funds and reporting the expenditures in
3 disclosure reports,¹⁴⁹ Trump and Giuliani asked that Zelensky use the resources and authority of
4 his office to do so, thus seeking the same electoral benefit at no cost to the Trump Committee
5 and with no public disclosure of the thing that Zelensky was asked to provide as a “favor.”¹⁵⁰

6 As an official statement by the Ukrainian government, the announcement was a unique
7 deliverable that only Zelensky (or another Ukrainian government official with the requisite
8 authority) could provide; it was not readily or publicly available for Trump or his campaign to
9 obtain, absent its provision by Zelensky.¹⁵¹ Although Trump and Giuliani publicly aired these
10 allegations about Biden and the DNC, only Zelensky could announce an official investigation of
11 the allegations as president of Ukraine, lending them the authority that would be at the root of the
12 potential electoral benefit.¹⁵² As such, the announcement required the use of Zelensky’s official

advertisements that were broadcast in the Presidential election battleground states . . . and on national cable television stations . . . [and a]ll of these advertisements attacked the character, qualifications, and fitness for office of Senator John Kerry, the Democratic Presidential nominee.”). Even if a third party is not a foreign national and is otherwise permitted to make such expenditures under the Act, if those expenditures are “coordinated” with a candidate, authorized campaign committee, or an agent thereof, the result is either a “coordinated expenditure” or a “coordinated communication,” either of which results in an in-kind contribution from the third party to the candidate. *See* 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b) (coordinated expenditures for activity that does not include communications); 11 C.F.R. § 109.21 (coordinated communications).

¹⁴⁹ *See* 52 U.S.C. § 30101(9)(A) (defining “expenditure”); *id.* § 30104(b) (mandating periodic disclosure of all expenditures).

¹⁵⁰ July 25 Call Memo at 3 (“The President: I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it.”).

¹⁵¹ *See* First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending Commission find reason to believe corporation and corporate officer made an impermissible contribution to a committee by utilizing resources to obtain nonpublic materials, which were provided to the committee).

¹⁵² Because the facts in these matters do not suggest that the desired announcement involved Zelensky making a voluntary public statement in his personal capacity, or voluntarily offering a personal opinion or assessment of a federal candidate — akin to an endorsement or public critique — it appears unnecessary to evaluate whether a foreign national provides “anything of value” under the Act merely by making a voluntary public statement relating to a federal election. *See, e.g.*, 52 U.S.C. § 30101(8)(B)(i) (a “contribution” excludes “the value of services

1 authority, and the Ukrainian government’s resources, to support the Trump Committee.¹⁵³
 2 Because of this demand, Zelensky and his aides were involved in multiple, weeks-long
 3 negotiations with Department of State officials regarding the requested announcement, including
 4 the specific language that it would need to include.¹⁵⁴ This activity required Ukraine to direct
 5 human and logistical resources to this end,¹⁵⁵ akin to the type of resources necessary for the
 6 provision of a “service” at no charge, which Commission regulations include in the definition of
 7 a “contribution.”¹⁵⁶ Thus, in requesting an announcement of an investigation from the Ukrainian
 8 President, to be delivered in a public setting and with the assistance of other Ukrainian
 9 government personnel, Trump requested a deliverable that necessarily would have involved
 10 expending Ukrainian resources.

provided without compensation by any individual who volunteers on behalf of a candidate or political committee”); Advisory Op. 2014-20 (Make Your Laws PAC) at 3–4 (foreign nationals may voluntarily provide a campaign with personal services to help design website code, logos, and trademarks, and may provide the intellectual property rights resulting “directly and exclusively” from those services, without making a prohibited contribution); Advisory Op. 2007-22 at 3 (foreign nationals may engage in uncompensated campaign activity, including canvassing and phone banking, without making a prohibited contribution); Advisory Op. 2004-26 (Weller) at 3 (the foreign national spouse of a candidate may, as an uncompensated volunteer, attend campaign events, give speeches, and solicit campaign contributions); Advisory Op. 1987-25 (Otaola) at 2 (uncompensated services by foreign national student would not result in prohibited contributions); Factual & Legal Analysis at 6–9, MURs 5987, 5995, and 6015 (Sir Elton John) (finding no reason to believe a foreign national made a prohibited contribution by volunteering his services to perform at a campaign fundraiser and agreeing to let the campaign use his name and likeness in its emails promoting the concert and soliciting support); *but see* Advisory Op. 2007-08 at 4 n.2 (King) (clarifying that the volunteer services exception from the definition of contribution “is restricted to donations of the volunteer’s own time and services and does not generally exempt actual costs incurred on behalf of a Federal candidate”).

¹⁵³ See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

¹⁵⁴ See Sondland Dep. at 84; 169 (“What I understood was that breaking the logjam with getting the President to finally approve a White House visit was a public utterance by Zelensky, either through the press statement or through an interview or some other public means, that he was going to pursue transparency, corruption, and so on.”); 240 (“[T]he first time I recall hearing about 2016 and Burisma was during the negotiations of the press statement.”); 347; Volker Dep. at 71–72 (discussing negotiating the text of the statement).

¹⁵⁵ See Taylor Dep. at 135–36.

¹⁵⁶ 11 C.F.R § 100.52(d)(1); *see id.* § 100.111(e)(1).

1 Although there appears to be no record of any political committee previously purchasing
2 this type of deliverable, *i.e.*, an official announcement regarding a law enforcement investigation,
3 and there does not appear to be an identifiable commercial market for it, this does not disqualify
4 the announcement from being a thing “of value” for purposes of the Act.¹⁵⁷ A unique or unusual
5 deliverable, such as an official announcement of an investigation, may be a thing of value —
6 even if there is no apparent record of a political campaign previously purchasing such an item, or
7 any commercial market for doing so, and even if it is difficult to ascribe a monetary value to it —
8 since the Commission has made clear that even contributions whose value “may be nominal or
9 difficult to ascertain” are prohibited when provided by a foreign national.¹⁵⁸

10 Trump and Giuliani demanded that Zelensky make an official announcement raising the
11 public profile of politically damaging allegations about Biden and the DNC, using the authority
12 of Zelensky’s office and the Ukrainian government’s resources. In so doing, they pursued a
13 deliverable that Zelensky was uniquely situated to provide, and which supplied an electoral
14 benefit to the Trump Committee: Amplifying a narrative casting Trump’s potential election
15 opponent in a negative light, thereby sparing Trump’s reelection campaign the cost and public
16 disclosure involved in disseminating that narrative itself. As such, the announcement was a thing
17 “of value” under the Act.

¹⁵⁷ See First Gen. Counsel’s Report at 8 n.12, MUR 5409 (adopted as dispositive) (“It is difficult to ascertain a market value for unique goods such as the materials [respondent] provided to the Committee. *The lack of a market, and thus the lack of a ‘usual and normal charge,’ however, does not necessarily equate to a lack of value.*” (emphasis added)).

¹⁵⁸ *E.g.* Advisory Op. 2007-22 at 6.

1 Further, the requested investigation was a thing “of value” irrespective of whether it
2 ultimately produced any useful information for the Trump Committee. Like an opposition
3 research service paid for by any campaign, the “value” of the requested Ukraine investigation in
4 this context, for the Act’s purposes, derives from the cost of the investigative *effort*, without
5 regard to the perceived value of the resulting *information*, just as the value of a campaign ad, for
6 the Act’s purposes, generally derives from the production and distribution costs without regard to
7 its effectiveness in persuading voters. The requested investigation would have required that
8 Ukraine deploy its official law enforcement infrastructure to pursue information regarding
9 Biden’s alleged conduct with respect to Burisma, and the DNC’s alleged conduct with respect to
10 alleged Ukrainian election interference, which would incur a cost even if the Ukrainian
11 investigation failed to produce any information supporting these allegations. Accordingly,
12 because Ukraine’s government would have had to use its resources to investigate the allegations,
13 thus sparing the Trump Committee the expense of doing so and potentially allowing the
14 campaign to otherwise direct its resources, the requested investigation was a thing “of value.”¹⁶¹

15 4. The Announcement and Investigation Were Sought “for the
16 Purpose of Influencing” the 2020 U.S. Presidential Election

17 The available information indicates that the requested announcement and investigation
18 were sought “for the purpose of influencing” a federal election.¹⁶² As discussed above, Trump
19 repeatedly requested that Zelensky confer with Giuliani and investigate allegations regarding
20 Biden and 2016 election interference during their July 25, 2019, phone call. Trump’s later

¹⁶¹ See F&LA at 3–4, 13–14, MUR 6414 (discussing the nature and value of investigative services provided by a research company, some of which were allegedly provided at a discount or at no charge).

¹⁶² 52 U.S.C. § 30101(8)(A)(i).

1 comments regarding the July 25 call, and his ongoing support for Giuliani’s investigation of the
2 same allegations, indicate that the request was motivated by an electoral purpose — *i.e.*, seeking
3 and publicizing damaging information about Biden, Trump’s potential opponent in the 2020 U.S.
4 presidential election,¹⁶³ and the DNC’s alleged involvement in foreign electoral interference.
5 Trump further demonstrated that electoral purpose by repeatedly refusing — without first
6 receiving the public announcement of the investigation — to schedule a White House meeting
7 with Zelensky.

8 In analyzing whether the provision of funds or any other thing of value is a
9 “contribution” under the Act and Commission regulations, the Commission has concluded that
10 the question is whether a thing of value was “provided for the purpose of influencing a federal
11 election [and] not whether [it] provided a benefit to [a federal candidate’s] campaign.”¹⁶⁴ As
12 such, the Commission has previously found that activity lacking the requisite purpose of
13 influencing a federal election — including, *e.g.*, activity to advance a commercial interest,¹⁶⁵

¹⁶³ See May 9 NY Times Article (reporting that Giuliani planned trip “potentially to damage Mr. Biden, the early front-runner for the 2020 Democratic presidential nomination”).

¹⁶⁴ Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate).

¹⁶⁵ *E.g.*, Advisory Op. 2012-31 (AT&T) at 4 (wireless carrier charging a reduced fee to process text message-based donations to federal candidates did not thereby make “contributions” to the candidates because the reduced fee “reflects commercial considerations and does not reflect considerations outside of a business relationship”); Advisory Op. 2004-06 (Meetup) at 4 (commercial web service provider that can be used to arrange meetings and events based on shared interests did not make contributions by featuring federal candidates in its list of “event topics” or by offering its services to federal candidates and committees because “any similarly situated member of the general public” could use these services); see First Gen. Counsel’s Report at 13–17, MURs 5474 and 5539 (Dog Eat Dog Films) (recommending finding no reason to believe with respect to allegation that producers and distributors of a film criticizing a federal candidate made “contributions” or “expenditures,” because the record established that the film was made and distributed “for genuinely commercial purposes rather than to influence a federal election”) and Certification ¶¶ A.1–2, B.1, MURs 5474 and 5539 (June 8, 2005) (approving recommendations); Advisory Op. 1994-30 (Conservative Concepts/Pence) (identifying factors used to determine whether “entrepreneurial activity” referencing a federal candidate will result in a “contribution,” including “whether the activity” is “for genuinely commercial purposes”).

1 fulfill the obligations of holding federal office,¹⁶⁶ or engage in legal or policy advocacy¹⁶⁷ —
 2 does not result in a “contribution” or “expenditure,” even if it confers a benefit on a candidate or
 3 otherwise affects a federal election. The electoral purpose may be clear on its face, as in a third
 4 party’s payments for a coordinated communication, or inferred from the surrounding
 5 circumstances.¹⁶⁸

6 The overall record in these matters supports the conclusion that like Trump, Giuliani also
 7 pursued these allegations — and thus sought the announcement and investigation — for the
 8 purpose of benefitting Trump’s candidacy, *i.e.*, influencing the 2020 presidential election.
 9 Giuliani acknowledged in May 2019 that he was planning a trip to Ukraine for the specific

¹⁶⁶ *E.g.*, Advisory Op. 1981-37 (Gephardt) at 2 (federal candidate did not receive a contribution by appearing at a series of “public affairs forums” paid for by a corporation because “the purpose of the activity is not to influence the nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder” and although “involvement in the public affairs programs may indirectly benefit future campaigns, . . . the major purpose of the activity contemplated . . . would not be the nomination or election of you or any other candidate to Federal office”).

¹⁶⁷ *E.g.*, F&LA at 8, MUR 7024 (free legal services provided to a federal candidate challenging FEC disclosure regulations were not contributions because the services were provided “for the purpose of challenging a rule of general application, not to influence a particular election”); Advisory Op. 2010-03 (National Democratic Redistricting Trust) at 4 (federal candidates can solicit funds outside of the Act’s limitations and prohibitions for redistricting litigation costs, because “[a]lthough the outcome of redistricting litigation often has political consequences, . . . such activity is sufficiently removed that it is not ‘in connection with’ the elections themselves”); Advisory Op. 1982-35 (Hopfman) at 2 (funds collected by federal candidate to challenge state party’s ballot access rule precluding him from the ballot were not “contributions” because “the candidate is not attempting to influence a Federal election by preventing the electorate from voting for a particular opponent [but instead] proposes to use the judicial system to test the constitutionality of the application of a party rule to his candidacy”); Advisory Op. 1996-39 (Heintz for Congress) (same); *cf.* Advisory Op. 1980-57 (Bexar County Democratic Party) at 3 (funds raised for federal candidate’s lawsuit seeking removal of a potential opponent from the ballot *were* contributions because litigation “to force an election opponent off the ballot . . . is as much an effort to influence an election as is a campaign advertisement derogating that opponent”).

¹⁶⁸ *E.g.* Advisory Op. 1988-22 at 5 (San Joaquin Valley Republican Associates) (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions); *see* Factual & Legal Analysis at 17–20, MURs 4568, 4633, and 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with “uncompensated fundraising and campaign management assistance” and “advertising assistance[.]” including spending “several million dollars” on coordinated advertisements); Advisory Op. 2000-08 (Harvey) at 1, 3 (concluding private individual’s \$10,000 “gift” to a federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”).

1 purpose of what he described as “meddling in an investigation” — *i.e.*, to urge the newly-elected
2 Ukrainian president, Zelensky, to pursue the Biden/Burisma and 2016 election interference
3 allegations. Giuliani, as Trump’s personal counsel, expressed his belief that Ukraine’s
4 investigation of these allegations would uncover “information [that] will be very, very helpful to
5 my client.”¹⁶⁹ Viewed in the context of his broader effort to develop and disseminate these
6 allegations — including by pushing for the removal of Ambassador Yovanovitch, who Giuliani
7 viewed as an impediment to the desired investigation,¹⁷⁰ and meeting with Shokin, the former
8 Ukrainian prosecutor who had allegedly tried to investigate Burisma before being removed at
9 Biden’s behest, as well as Shokin’s successor Lutsenko — Giuliani’s comments indicate
10 recognition that the Ukrainian investigation would likely benefit Trump personally because of
11 the influence such actions would have on the election in his non-official capacity, *i.e.*, in his
12 campaign.

13 Giuliani later publicly claimed that his purpose in investigating “2016 Ukrainian
14 collusion and corruption” was “solely” to defend Trump “against false charges[,]”¹⁷¹ a claim that
15 Giuliani also raises in his response filed with the Commission.¹⁷² Even if one were to accept,
16 *arguendo*, that Giuliani’s reason for urging Ukraine to investigate the 2016 election interference
17 allegation was to defend his client, Trump, in connection with Special Counsel Robert Mueller’s

¹⁶⁹ May 9 NY Times Article.

¹⁷⁰ See *supra* notes 8–11 and accompanying text (discussing Giuliani’s effort to have Yovanovitch removed).

¹⁷¹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), https://twitter.com/RudyGiuliani/status/1192180680391843841?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1192193760681242624&ref_url=https%3A%2F%2Fthehill.com%2Fhomenews%2Fadministration%2F469324-george-conway-giuliani-tweet-by-itself-establishes-that-trump.

¹⁷² Giuliani Resp. at 2.

1 investigation of Russian electoral interference in the 2016 presidential election, that reasoning
2 could plausibly provide a non-electoral purpose for Giuliani’s actions only until the Special
3 Counsel’s Report was confidentially submitted to the Attorney General, ending the investigation,
4 on March 22, 2019 — *i.e.*, weeks before Giuliani’s planned trip to Ukraine for the purpose of
5 “meddling in investigations,” and months before the July 25, 2019, Trump-Zelensky phone call
6 that is the focus of the complaint at issue in these matters.¹⁷³ Giuliani’s claim that he was acting
7 solely to defend Trump is therefore inconsistent with his continued pursuit of a Ukrainian
8 investigation into the 2016 election interference allegation well after the Special Counsel’s
9 investigation had ended.

10 Moreover, Giuliani’s pursuit of the announcement of the Burisma/Biden allegation —
11 which his associate, Parnas, characterized in a television interview as “the most important” of the
12 demands of Zelensky¹⁷⁴ — has no cognizable connection with the Special Counsel’s
13 investigation. As such, Giuliani’s efforts to pressure Zelensky to announce and investigate the
14 Biden/Burisma allegation cannot reasonably be viewed as an attempt to defend Trump in specific
15 connection with that inquiry. Giuliani’s efforts, and the timing of them, further undermine
16 Giuliani’s argument as to his purpose and instead support the conclusion that Giuliani acted to
17 benefit Trump politically with regard to his 2020 presidential reelection campaign.¹⁷⁵

¹⁷³ Devlin Barrett, *et al.*, *Mueller Report Sent to Attorney General, Signaling His Russia Investigation Has Ended*, WASH. POST (Mar. 22, 2019), https://www.washingtonpost.com/world/national-security/mueller-report-sent-to-attorney-general-signaling-his-russia-investigation-has-ended/2019/03/22/b061d8fa-323e-11e9-813a-0ab2f17e305b_story.html; *see also*, Compl. ¶¶ 27, 40.

¹⁷⁴ Maddow Interview Pt. 1 at 13:43–16:12.

¹⁷⁵ *See* F&LA at 6, MUR 7024 (quoting 52 U.S.C. § 30101(8)(A)(i)).

1 Parnas’s statements indicate that he shared Giuliani’s purpose when he pursued the
2 announcement of the Biden investigation in a May 12, 2019, meeting with Zelensky’s aide
3 Serhiy Shefir. At that meeting, Parnas told Shefir that the announcement was a prerequisite for
4 Vice President Pence to attend Zelensky’s inauguration¹⁷⁶ and, after Shefir demurred, Parnas
5 informed Giuliani, and Trump directed Pence not to attend Zelensky’s inauguration.¹⁷⁷ Viewed
6 in light of Parnas’s later acknowledgement that among the “several demands” that he conveyed
7 to Shefir, the “most important one was the announcement of the Biden investigation,”¹⁷⁸
8 Giuliani’s response when that demand was not satisfied — “OK, they’ll see”¹⁷⁹ — and Trump’s
9 subsequent directive that Pence not attend Zelensky’s inauguration, Parnas’s statements evince
10 an electoral purpose since Parnas acknowledged which demand was “the most important” and
11 attempted to pressure Zelensky into providing it to benefit Trump’s campaign.

12 Further, numerous U.S. officials expressed concern regarding the requests that Zelensky
13 announce and investigate these allegations, stemming from the fact that the announcement and
14 investigation were pursued through an improper, irregular channel — namely, through Giuliani,
15 a private citizen acting as Trump’s personal attorney¹⁸⁰ — rather than through an official
16 channel, such as a request for intergovernmental law enforcement cooperation, and were sought
17 for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or
18 policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted

¹⁷⁶ Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

¹⁷⁷ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

¹⁷⁸ Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

¹⁷⁹ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

¹⁸⁰ *See supra* notes **Error! Bookmark not defined.**–17 and accompanying text.

1 negatively to Sondland’s statement to the Ukrainians that the White House would agree to
2 schedule an official meeting for Zelensky after Ukraine initiated the investigations; Bolton
3 swiftly ended the meeting and afterward instructed his associate, Hill, to inform the National
4 Security Council’s legal counsel about Sondland’s statement and that he, Bolton, was not party
5 to the offer.¹⁸¹

6 Bolton later asserted that he did not agree with Sondland’s persistent effort to get
7 approval for a face-to-face meeting between Zelensky and Trump, and did not think that such a
8 meeting should be used to discuss the allegations that Giuliani wanted Zelensky to investigate.¹⁸²
9 At a follow-up meeting without Bolton, Sondland again told the Ukrainians that a White House
10 visit for Zelensky would happen only after the announcement of the Burisma/Biden and 2016
11 election interference investigations, after which Hill and Vindman confronted Sondland to
12 express their view that Sondland’s statement was inappropriate.¹⁸³ The fact that Bolton, Hill,
13 and Vindman all expressed immediate concern with the requests to the Ukrainian delegation
14 indicates that they perceived — and objected to — the linkage between an important diplomatic
15 goal and the announcement of an investigation into Trump’s potential electoral opponent.

16 Zelensky’s representatives, Andrey Yermak and Oleksandr Danyliuk, also understood the
17 purpose of the request to be political, expressing concern about Ukraine being improperly drawn

¹⁸¹ Vindman Dep. at 17; Hill Dep. at 65–67, 70–71; *see also* Bolton Book at 465 (“I told [Hill] to take this whole matter to the White House Counsel’s office; she quoted me accurately as saying, ‘I am not part of whatever drug deal Sondland and Mulvaney are cooking up.’ I thought the whole affair was bad policy, questionable legally, and unacceptable as presidential behavior.”).

¹⁸² Bolton Book at 465 (“I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

¹⁸³ Vindman Dep. at 29–31; Hill Dep. at 69–70.

1 into a U.S. domestic political matter. On July 20, 2019, ten days after his meeting with Bolton,
2 Danyliuk told Bill Taylor that Zelensky “did not want to be used as a pawn” in U.S. election
3 matters.¹⁸⁴ Yermak, Zelensky’s closest advisor, also expressed concern that Ukraine could get
4 drawn into a U.S. domestic political issue by satisfying Trump’s and Giuliani’s wishes. After the
5 Trump-Zelensky phone call, and after Yermak met with Giuliani on August 2, 2019, where they
6 discussed the White House visit and a public announcement of the investigations, Yermak sent
7 Volker a draft of a potential announcement on August 12, 2019, which generally discussed
8 Ukraine’s commitment to combating corruption but lacked specific mention of the
9 Biden/Burisma and 2016 election-interference allegations.¹⁸⁵ Upon considering Yermak’s
10 proposed statement, however, Giuliani reportedly rejected it because it did not contain specific
11 references to the allegations, telling Volker that if the announcement “doesn’t say Burisma and
12 2016, it’s not credible.”¹⁸⁶

13 Giuliani’s reported insistence on these specific references belies the argument that the
14 announcement’s purpose was non-electoral — *e.g.*, that it was sought to publicly ensure
15 Ukrainian commitment to investigating corruption — and instead supports the inference that the
16 announcement’s purpose was to amplify allegations that would harm the reputations of Biden

¹⁸⁴ Taylor Dep. at 30; Bolton Book at 472.

¹⁸⁵ First Volker Text Excerpts at 3; Volker Dep. at 113.

¹⁸⁶ Volker Dep. at 71–72, 113; *see also* Maddow Interview Pt. 2 at 16:17–17:02 (“They [Zelensky’s administration] announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”). Giuliani contends, in his response, that “[n]either [Volker nor Sondland] shared with Mr. Giuliani a copy of the letter nor did they read a draft to him.” Giuliani Resp. at 3. This representation does not contradict the representations of Volker and Parnas, as Giuliani’s response does not dispute that he was made aware of the statement’s general content.

1 and the DNC, as well as publicly commit Ukraine to investigating those allegations.¹⁸⁷ Volker
2 testified that to implement Giuliani’s instructions and advance the negotiations, he incorporated
3 the desired references and sent a revised draft statement to Yermak, although Volker also
4 advised Yermak that announcing an investigation with specific references to these two
5 allegations was “not a good idea” and that a “generic statement about fighting corruption” would
6 be better.¹⁸⁸ These sentiments appear to reflect contemporaneous recognition by the officials
7 involved that conditioning a White House visit — seen by officials on both sides as critical to the
8 diplomatic relationship¹⁸⁹ — on the public announcement and investigation of these specific
9 allegations was improper, because it placed pressure on Zelensky to provide deliverables that
10 could draw him and Ukraine into the 2020 U.S. presidential election.

11 Trump’s refusal to release the Congressionally-approved security aid to Ukraine, despite
12 many requests to do so, also underscores the personal, electoral motive driving the demand for
13 the announcement and investigation. Former National Security Advisor Bolton recounts that he
14 and the Secretaries of Defense and State repeatedly lobbied Trump to release the aid, to no
15 avail.¹⁹⁰ Officials at their respective agencies uniformly agreed, and represented vocally, that the
16 aid to Ukraine was vital and effective, a perspective mirrored in bipartisan Congressional support

¹⁸⁷ See Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. . . . He said that President Trump wanted President Zelensky in a box, by making [a] public statement about ordering such investigations.”).

¹⁸⁸ Volker Dep. at 44.

¹⁸⁹ Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

¹⁹⁰ Bolton Book at 468–69.

1 for the aid appropriation.¹⁹¹ The Department of Defense raised a further concern that the OMB
2 hold on appropriated funds presented a potential violation of federal appropriations law, a
3 concern later validated by the U.S. Government Accountability Office.¹⁹² Taylor expressed his
4 concern about the apparent reason for the hold on security funds to Ukraine, writing in a text
5 message to Volker and Sondland, “I think it’s crazy to withhold security assistance for help with
6 a political campaign.”¹⁹³

7 Nevertheless, Trump continued to refuse to release the aid, reportedly telling Bolton on
8 August 20, 2019, that “he wasn’t in favor” of releasing the aid until all of the materials related to
9 the Biden and 2016 election interference investigations had been turned over.¹⁹⁴ Testimony
10 reflects that Trump also told Sondland that Zelensky would have to announce the investigation
11 for the aid to be released.¹⁹⁵ Trump’s refusal to release the aid, viewed in context with his
12 explanatory statements to Bolton and Sondland, indicate an electoral motivation driving his
13 demands of Zelensky, namely, influencing the 2020 presidential election through the
14 announcement and investigation of his potential opponent and the opposing political party.

15 In public statements regarding his actions, Trump has claimed that he withheld the
16 Ukraine aid because of concern about corruption in Ukraine and his view that the U.S. provides a
17 disproportionately high amount of aid to Ukraine, relative to countries in the European Union.¹⁹⁶

¹⁹¹ Taylor Dep. at 28 and 132; Cooper Dep. at 16.

¹⁹² Morrison Dep. at 163; GAO Decision at 1, 8.

¹⁹³ First Volker Text Excerpts at 9.

¹⁹⁴ Bolton Book at 471.

¹⁹⁵ Morrison Dep. at 190–91; Taylor Dep. at 39.

¹⁹⁶ Sep. 24 Trump Press Conference at 0:04–0:42; Trump- Niinistö Press Conference.

1 These subsequent explanations, however, do not sufficiently account for Trump’s actions and
2 above-described statements. Trump’s statements to Bolton and Sondland directly tied the aid to
3 the investigation of the Biden/Burisma and 2016 election interference allegations, neither of
4 which had, according to Trump’s advisors, a discernable connection to a concern with the U.S.
5 giving more aid to Ukraine than the countries of the European Union, but had a clear connection
6 with the 2020 presidential election.¹⁹⁷

7 Trump’s other contention — that concern with Ukrainian corruption animated the
8 decision to withhold the aid — is inconsistent with Giuliani’s rejection of a general public
9 statement committing Ukraine to combating corruption, which Yermak had proposed after
10 discussions with Volker and Sondland.¹⁹⁸ Moreover, Parnas stated publicly that the pursuit of
11 the Burisma allegation was never about combating corruption, but rather about Joe and Hunter
12 Biden.¹⁹⁹ The insistence on a public announcement committing Ukraine to investigating these
13 *particular* allegations connected to a potential candidate in the next presidential election supports
14 a reasonable inference that the true purpose for withholding the aid was not to ensure Ukraine’s
15 commitment to fighting corruption — a general commitment that Zelensky had campaigned on
16 and had, indeed, offered to announce publicly²⁰⁰ — but rather to influence the 2020 presidential
17 election.

¹⁹⁷ See First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

¹⁹⁸ Volker Dep. at 113.

¹⁹⁹ Maddow Interview Pt. 1 at 8:58–9:37.

²⁰⁰ Taylor Dep. at 198-99; Volker Dep. at 29–30.

1 * * *

2 The available information, viewed as a whole, supports the conclusion that the
3 announcement and investigation sought by Giuliani would have been in-kind contributions if
4 provided to the Trump Committee because they are things of value that were sought for the
5 purpose of influencing a federal election. Had Zelensky acceded to the demands to provide these
6 two deliverables, the announcement would have amplified negative allegations, akin to negative
7 paid advertising, regarding Biden and the DNC in advance of the 2020 presidential election, and
8 the investigation would have provided a service akin to opposition research. Both deliverables
9 would have incurred the use of Ukraine’s official resources, at no cost to the Trump Committee,
10 providing a campaign benefit to Trump’s campaign while relieving it of the attendant costs. The
11 overall record also supports the conclusion that Giuliani pursued these deliverables to improve
12 Trump’s electoral prospects in the 2020 presidential election — *i.e.*, for the purpose of
13 influencing a federal election.

14 Because Giuliani knowingly solicited these contributions from Zelensky, a foreign
15 national, the Commission finds reason to believe that Giuliani, violated 52 U.S.C. § 30121(a)(2)
16 and 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign national contributions [OR
17 knowingly providing substantial assistance in soliciting a prohibited foreign national contribution
18 under 11 C.F.R. § 110.20(h)].

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Lev Parnas MURs 7645

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”) by Common Cause and Paul S. Ryan alleging that Lev Parnas violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by knowingly soliciting a prohibited a foreign national contribution [OR knowingly providing substantial assistance in soliciting a prohibited foreign national contribution] from Ukrainian President Volodymyr Zelensky. The complaint alleges that Lev Parnas, in coordination with Trump and his personal attorney, Rudolph “Rudy” Giuliani, requested, recommended, and pressured Zelensky to investigate two allegations: First, that 2020 presidential candidate and current President Joseph R. Biden, while previously serving as Vice President, improperly coerced the Ukrainian government to remove its chief prosecutor for allegedly investigating a Ukrainian company, Burisma, in order to protect Biden’s son, Hunter Biden, who served on the Burisma board of directors; and second, that Ukraine coordinated with the Democratic National Committee (“DNC”) to interfere in the 2016 U.S. presidential election and to support Trump’s general-election opponent, Hillary Clinton. Parnas did not file a response to the complaint.

As set forth below, the record indicates that, through a series of communications, including a July 25, 2019 phone call between Trump and Ukrainian President Zelensky, Trump and Parnas, on his behalf, requested, recommended, and pressured Zelensky to publicly announce and conduct an investigation into allegations regarding Burisma and purported Ukrainian interference in the 2016 presidential election in order to make Biden’s alleged corruption a major issue in Trump’s 2020 presidential reelection campaign. Because the

1 requested announcement and investigations fall within the meaning of “anything of value” and,
2 as the record reflects, were sought for the purpose of influencing the 2020 presidential election,
3 the requests constituted a legally prohibited solicitation of a contribution from a foreign national
4 in violation of the Act.

5 Accordingly, the Commission finds reason to believe that Parnas violated 52 U.S.C.
6 § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign national
7 contributions [OR knowingly providing substantial assistance in soliciting a prohibited foreign
8 national contribution under 11 C.F.R. § 110.20(h)].

9 I. FACTUAL BACKGROUND

10 A. Overview

11 The available information indicates that between April and September of 2019, President
12 Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to
13 request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly
14 announce, and thereafter conduct, an investigation into whether, when he was Vice President,
15 Joe Biden¹ acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to
16 end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter
17 was a board member; and an investigation into whether, during the 2016 presidential election,
18 the DNC coordinated with Ukraine to support Hillary Clinton, Trump’s opponent in that
19 election. The available information indicates that Trump and Giuliani requested Zelensky’s
20 announcement and the investigation of these allegations in order to advance Trump’s personal

¹ Biden officially declared his candidacy for the 2020 presidential election on April 25, 2019. Statement of Candidacy, Joseph R. Biden Jr. (Apr. 25, 2019).

1 political goal of depicting Biden and his political party in a negative light during the 2020
2 presidential campaign.

3 During a July 25, 2019, phone call, Trump urged Zelensky to investigate these allegations
4 and work with Giuliani to do so. Giuliani, in turn, pressed diplomatic intermediaries — such as
5 Gordon Sondland and Kurt Volker — and his associate Parnas to communicate that the provision
6 of two items of significant value to Zelensky and the Ukrainian government were conditioned on
7 Zelensky announcing that the Ukrainian government would conduct these investigations.
8 Specifically, Trump refused to schedule a White House visit for Zelensky and blocked the
9 release of \$391 million in Congressionally-approved security aid for Ukraine until Zelensky
10 made the desired public announcement of investigations. Zelensky, directly and through his
11 aides, expressed concern about becoming embroiled in a U.S. domestic political matter. After
12 news of Trump and Giuliani’s efforts became public, the security aid was released, and Zelensky
13 ultimately did not announce the requested investigations.

14 **B. Early Efforts to Develop Allegations Regarding Burisma**

15 According to news reports and testimony, in 2018 and early 2019, Giuliani, along with
16 his associates Parnas and Igor Fruman, engaged in a concerted effort to develop evidence
17 supporting the allegation that in 2016, while serving as Vice President, Biden had acted
18 improperly by pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin,
19 to prevent an investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-
20 time board member of Burisma.² Giuliani made several attempts to meet with Shokin —

² Compl. ¶ 20 (Sept. 23, 2019) (citing Michael Sallah, *et al.*, *Two Unofficial US Operatives Reporting to Trump’s Lawyer Privately Lobbied a Foreign Government in a Bid to Help the President Win in 2020*, BUZZFEEDNEWS (July 22, 2019), <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman> (“BuzzfeedNews Article”)); Ben Protess, *et al.*, *Giuliani Pursued Business in Ukraine While Pushing for Inquiries for Trump*, N.Y. TIMES (Nov. 27, 2019), www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html; *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS

1 including by seeking to obtain a U.S. visa for Shokin in exchange for a meeting to discuss the
2 Bidens³ — and Shokin’s successor, Yuriy Lutsenko — who had also made allegations
3 underlying Giuliani’s claims — to further this effort.⁴ Giuliani and Parnas were also in contact
4 with Victoria Toensing, who appears to have served as counsel to both Shokin and Lutsenko,⁵
5 and Toensing may have relayed information regarding the allegations to them from her clients.⁶

(May 11, 2019), <https://video.foxnews.com/v/6035385372001#sp=show-clips>. Specifically, Biden stated that he, as part of a broader effort to remove Shokin due to corruption concerns, had threatened to withhold loan guarantees unless the Ukrainian government removed Shokin. Council on Foreign Relations, *Foreign Affairs Issue Launch with Joe Biden*, YOUTUBE, at 51:58–53:20, https://www.youtube.com/watch?v=Q0_AqpdwqK4. Giuliani alleged that Biden acted to protect his son, Hunter, who at the time sat on the board of a Ukrainian oil company, Burisma, whose owner had at one time been investigated for corruption in Ukraine. *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS at 4:18–5:02; *see also, e.g.*, Deposition of Deputy Assistant Secretary George Kent before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 79–86 (Oct. 15, 2019) (“Kent Dep.”) (describing 2014 investigation of Burisma’s beneficial owner, Mykola Zlochevsky, and subsequent hiring of Hunter Biden to Burisma board).

³ BuzzFeedNews Article; Kent Dep. at 44 (“The next time I heard Mr. Giuliani’s name mentioned was on the 9th of January this year, 2019, when I was copied on an email that Giuliani was calling the State Department regarding the inability of the previous prosecutor general Viktor Shokin to get a visa to come to the United States.”).

⁴ BuzzFeedNews Article; Kent Dep. at 43; Deposition of Special Representative for Ukraine Negotiations Kurt Volker before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 104–5 (Oct. 3, 2019) (“Volker Dep.”).

⁵ Shokin appears to have retained Victoria Toensing, an attorney barred in the District of Columbia, “for the purpose of collecting evidence regarding his March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing, and presenting such evidence to U.S. and foreign authorities.” Letter from diGenova & Toensing, LLP to Viktor Shokin at 1 (Apr. 15, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD926.pdf> (“Shokin Retainer Agreement”). Lutsenko also appears to have retained Toensing for, among other things, “assistance to meet and discuss with United States government officials the evidence of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016 U.S. elections[.]” Letter from diGenova & Toensing, LLP to Yurii Lutsenko at 1 (Apr. 12, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD927.pdf> (“Lutsenko Retainer Agreement”). Toensing had briefly served as counsel to President Trump in connection with Special Counsel Robert Mueller’s investigation on Russian interference in the 2016 presidential election before she stepped down because of a conflict of interest. *See* Kenneth P. Vogel, *Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump*, N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html> (“May 9 NY Times Article”) (cited by Compl.).

⁶ *See, e.g.*, MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 1*, YOUTUBE, at 21:15-22 (Jan. 15, 2020), <https://www.youtube.com/watch?v=DVnZVuhOyys> (“Maddow Interview Pt. 1”) (statement by Parnas that Toensing was part of the “team”).

1 In early 2019, Giuliani, Parnas, and Fruman reportedly endeavored to have the U.S.
 2 Ambassador to Ukraine, Marie Yovanovitch, removed from her post, primarily because they
 3 viewed Yovanovitch, a holdover from the administration of President Barack Obama, as an
 4 impediment to their investigation of the Biden/Burisma allegation.⁷ In a March 22, 2019,
 5 communication to Parnas, Lutsenko suggested that he would withdraw his allegations regarding
 6 Joe Biden and Burisma if Yovanovitch was not removed.⁸ Giuliani later wrote in a Twitter post
 7 that Yovanovitch “needed to be removed” because she had impeded his efforts to push for the
 8 investigations, including by “denying visas to Ukrainians who wanted to come to US and explain
 9 Dem corruption in Ukraine.”⁹ In May, 2019, President Trump recalled Yovanovitch, who was

⁷ BuzzFeedNews Article; Kent Dep. at 58 (“Mr. Giuliani was almost unmissable starting in mid-March. As the news campaign, or campaign of slander against, not only Ambassador Yovanovitch unfolded, he had a very high — a media promise, so he was on TV, his Twitter feed ramped up and it was all focused on Ukraine, and it was focused on the four story lines that unfolded in those days between March 20 and 23rd.”); Maddow Interview Pt. 1 at 26:58–27:14 (“Maddow: Do you believe that part of a motivation to get rid of Ambassador Yovanovitch, to get her out of post, was because she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden? Parnas: That was the only motivation. There was no other motivation.”).

⁸ Text from Yuriy Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), https://intelligence.house.gov/uploaded-files/20200114_-_parnas_excerpts_translated_slide_deck.pdf (“It’s just that if you don’t make a decision about Madam—you are bringing into question all my allegations. Including about B.” (rough translation)); *see* MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 2*, YOUTUBE (Jan. 15, 2020), <https://www.youtube.com/watch?v=Xj-4V5ui8H4> (“Maddow Interview Pt. 2”) at 7:55–8:48 (“Maddow: Is Mr. Lutsenko saying in effect ‘listen if you want me to make these Biden allegations you’re gonna have to get rid of this ambassador?’ Parnas: Oh absolutely.”).

⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 17, 2019, 7:07AM), <https://twitter.com/RudyGiuliani/status/1206908888320221186> (“Yovanovitch needed to be removed for many reasons most critical she was denying visas to Ukrainians who wanted to come to US and explain Dem corruption in Ukraine. She was OBSTRUCTING JUSTICE and that’s not the only thing she was doing. She at minimum enabled Ukrainian collusion.”) (emphasis in original). *See* John Bolton, *THE ROOM WHERE IT HAPPENED* at 454 (Simon & Schuster, 1st ed. 2020) (“Bolton Book”) (“Trump had complained about our Ambassador Yovanovitch, for some time, noting to me on March 21[, 2019] during a telephone call covering a number of subjects that she was ‘bad-mouthing us like crazy’ and . . . saying he wanted her fired ‘today.’ . . . A few days later, on March 25[, . . . I learned Giuliani was the source of the stories about Yovanovitch . . .”); *id.* at 456 (“[On] April 23[, 2019,] I was called to the Oval to find Trump and [then-Acting White House Chief of Staff] Mulvaney on the phone, discussing Yovanovitch again with Giuliani, who was still pressing for her removal. . . . In Giuliani’s mind, Yovanovitch was protecting Hillary Clinton, whose campaign was purportedly the subject of Ukrainian criminal investigations, and there was some connection with Joe Biden’s son Hunter in there as well.”).

1 eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S.
2 Ambassador to Ukraine.¹⁰

3 Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to
4 arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a
5 meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.¹¹ Parnas
6 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,
7 but Kolomoisky declined to do so.¹² According to U.S. National Security Advisor John Bolton's
8 published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a
9 "desire to meet with President-Elect Zelensky to discuss his country's investigation" of the 2016
10 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky
11 and "make sure Giuliani got his meeting in Kiev next week."¹³

12 As reported in a New York Times interview published the following day, May 9, 2019,
13 Giuliani stated that he intended to travel to Ukraine for the purpose of "meddling" in Ukrainian
14 investigations, specifying that "this isn't [about] foreign policy" and that the investigations
15 would uncover "information [that] will be very, very helpful to my client, and may turn out to be

¹⁰ BuzzFeedNews Article; Deposition of Ambassador William B. Taylor before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 22 (Oct. 22, 2019) ("Taylor Dep.").

¹¹ BuzzFeedNews Article.

¹² *Id.*

¹³ Bolton Book at 459 ("On May 8, [2019], . . . Trump called me to the Oval, where he was meeting with Giuliani, Mulvaney, Cipollone, and perhaps others. The subject was Ukraine, and Giuliani's desire to meet with President-Elect Zelensky to discuss his country's investigation of either Hillary Clinton's efforts to influence the 2016 campaign or something having to do with Hunter Biden and the 2020 election, or maybe both. . . . Trump was clear I was to call Zelensky and make sure Giuliani got his meeting in Kiev next week."); *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf ("In my capacity as personal counsel to President Trump and with his knowledge and consent, I request a meeting with you on this upcoming Monday, May 13th or Tuesday, May 14th. I will need no more than a half-hour of your time and I will be accompanied by my colleague Victoria Toensing, a distinguished American attorney who is very familiar with this matter.").

1 helpful to my government.”¹⁴ Giuliani wrote to Zelensky on May 10, 2019, in an effort to set up
 2 a meeting while on this trip, in which he stated: “I am private counsel to President Donald J.
 3 Trump. Just to be precise, I represent him as a private citizen, not as President of the United
 4 States.”¹⁵ Amid backlash following the publication of the New York Times article, however,
 5 Giuliani canceled the trip.¹⁶ He later sought to clarify his intentions in a November 6, 2019,
 6 Twitter post: “The investigation I conducted concerning 2016 Ukrainian collusion and
 7 corruption, was done solely as a defense attorney to defend my client against false charges.”¹⁷
 8 On October 2, 2019, Trump stated during a press conference: “And just so you know, we’ve
 9 been investigating, on a personal basis — through Rudy and others, lawyers — corruption in the
 10 2016 election.”¹⁸

¹⁴ May 9 NY Times Article (“We’re not meddling in an election, we’re meddling in an investigation, which we have a right to do,” Mr. Giuliani said in an interview on Thursday when asked about the parallel to the special counsel’s inquiry. ‘There’s nothing illegal about it,’ he said. ‘Somebody could say it’s improper. And this isn’t foreign policy — I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop. And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.’”); *see* Text from Rudy Giuliani to Lev Parnas [5/11/2019 8:07:39 AM(UTC-4)], https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“My purpose was to share information to assist their on-going investigation of Ukrainian officials being used by Americans to gather information to assist Clinton in last election. It was also to alert them to the very real dangers that their [sic] are people involved in the investigation as targets who are attempting to shut it down before it reaches a conclusion.”).

¹⁵ Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

¹⁶ *See* Bolton Book at 461 (noting that after the publication of the New York Times piece, Bolton, John Eisenberg, and Pat Cipollone met and “agreed Giuliani couldn’t be allowed to go to Ukraine”).

¹⁷ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), <https://twitter.com/RudyGiuliani/status/1192180680391843841>.

¹⁸ Remarks by President Trump and President Niinistö of the Republic of Finland in Joint Press Conference, The White House (Oct. 2, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-joint-press-conference/> (“Trump-Niinistö Press Conference”); *but see* Maddow Interview Pt. 1 at 8:58–9:37 (“Maddow: When you say that the President knew about your movements and knew what you were doing. Are you saying specifically . . . that the President was aware that you and Mr. Giuliani were working on this effort in Ukraine to basically try to hurt Joe Biden’s political career, he knew about that? Parnas: Basically. It was all about Joe Biden, Hunter Biden. . . . It was never about corruption. It was never — it was strictly about the Burisma which included Hunter Biden and Joe Biden.”).

1 **C. Zelensky’s Inauguration**

2 On April 21, 2019, President Trump called Ukrainian President-Elect Zelensky to
3 congratulate him on his recent election victory and extended him an invitation to visit the White
4 House.¹⁹ According to official records and testimony, Zelensky’s aides and U.S. experts sought
5 to schedule a White House meeting, which they viewed as crucial to the public perception that
6 the U.S. supported Ukraine and the new Zelensky administration.²⁰

7 Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to
8 attend Zelensky’s inauguration.²¹ After Giuliani canceled his aforementioned trip to meet
9 Zelensky in Ukraine, however, Lev Parnas met with Zelensky’s aide, Serhiy Shefir, in Kyiv on
10 May 12, 2019; Parnas stated in subsequent interviews that he told Shefir that “Zelensky needed

¹⁹ The White House, Memorandum of Telephone Conversation (“April 21 Call Memo”) at 2 (Apr. 21, 2019), <https://assets.documentcloud.org/documents/6550349/First-Trump-Ukraine-Call.pdf>; Deposition of Lieutenant Colonel Alexander S. Vindman before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 16–17 (Oct. 29, 2019) (“Vindman Dep.”).

²⁰ *See, e.g.*, April 21 Call Memo at 2; Deposition of Christopher Anderson before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 50 (Oct. 30, 2019) (“But, you know, in sort of the scale of meetings, the best would be an Oval Office visit for President Zelensky. Q: And why is that? A: Because it is the best show of support and it has the greatest pomp and circumstance, and so that has the most impact, both in Ukraine but also in Moscow.”); Deposition of David A. Holmes before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 40–41 (Nov. 15, 2019) (“Holmes Dep.”) (“THE CHAIRMAN: Why was this White House meeting so important to Zelensky? Mr. Holmes: . . . [T]he Zelensky team were adamant that it was important. So we heard that from them in every interaction that it absolutely was critical for them for Zelensky to get the imprimatur of the U.S. President to indicate that the United States would continue to support Ukraine and his administration”); Taylor Dep. at 76–77 (“So a meeting with President Trump or any President for that matter, but President Trump in the Oval Office doesn’t happen regularly doesn’t happen to very many heads of state. And if you get that, you can be sure or you can think or people might be able to believe that you’ve got a good relationship between the two countries and I think that’s what they were looking for.”); Volker Dep. at 38 (“It was important to show support for the new Ukrainian President. He was taking on an effort to reform Ukraine, fight corruption, a big sea change in everything that had happened in Ukraine before, and demonstrating strong U.S. support for him would have been very important.”).

²¹ Deposition of Jennifer Williams before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 36–37 (Nov. 7, 2019) (“Williams Dep.”). During the period at issue, Williams was detailed from the Department of State to the Office of the Vice President, where she served as Special Adviser on National Security Affairs; her role was to “keep the Vice President [Pence] aware and abreast of all foreign policy issues going on in that region [Europe and Russia], [and] prepare him for his foreign policy and foreign leader engagements.” *Id.* at 11–12.

1 to immediately make an announcement, . . . that they were opening up an investigation on
 2 Biden,” otherwise Vice President Pence would not attend the inauguration and that the two
 3 countries’ “relationships would be sour — that we would stop giving them any kind of aid.”²²
 4 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and
 5 Trump.²³ After their meeting, Parnas sent Shefir a follow-up message, and Shefir disconnected
 6 from the messenger app without response and blocked further messages from Parnas.²⁴ Parnas

²² Maddow Interview Pt. 1 at 13:43–16:12 (Parnas: “The message that I was supposed to — that I gave Sergey Shefir was a very harsh message that was told to me to give it to him in a very harsh way, not in a pleasant way. Maddow: Who told you to give it to him in a harsh way? Parnas: Mayor Giuliani. Rudy told me after, you know, meeting at the White House; he called me . . . the message was, it wasn’t just military aid, it was all aid basically their relationships would be sour, that we would stop giving them any kind of aid, that — Maddow: unless — Parnas: Unless there was an announcement — well several things, several demands at that point. *The most important one was the announcement of the Biden investigation* . . . In the conversation I told him that if he doesn’t — the announcement was the key at that time because of the inauguration — that Pence would not show up, nobody would show up to his inauguration. Maddow: Unless he announced an investigation into Joe Biden, no U.S. officials, particularly Vice President Mike Pence, would not come to the inauguration? Parnas: It was particularly Mike Pence.”) (emphasis added); CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 1)*, YOUTUBE, at 2:32–3:33 (Jan. 16, 2020), https://www.youtube.com/watch?v=9JKraI_Rh6g (“Cooper Interview Pt. 1”) (“Parnas: I basically told him very strict and very stern that . . . Zelensky needed to immediately make an announcement, literally that night or tomorrow, within the next 24 hours, that they were opening up an investigation on Biden. . . . If they didn’t make the announcement, basically, there would be no relationship. . . . there was gonna be no inauguration, Pence wouldn’t be at the inauguration, there would be no visit to the White House, there would be, basically, they would have no communication. Cooper: You told the top official in the Zelensky inner circle that if they did not announce an investigation of the Bidens immediately and get rid of some folks around Zelensky who they believed were opposed to President Trump that there wouldn’t be any aid and Vice President Pence would not even come to the inauguration? Parnas: Correct.”); Parnas stated that it was through Fruman’s contacts that he was able to meet with Shefir. CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 2)*, YOUTUBE, at 2:04–2:20 (Jan 16, 2020), https://www.youtube.com/watch?v=QUXht__f3Rk (“Cooper Interview Pt. 2”).

²³ Maddow Interview Pt. 1 at 10:15–11:22 (“Maddow: And so did anybody in the U.S. Government or Mr. Giuliani actually convey to officials in Ukraine that you were there as a representative of President Trump? Parnas: Absolutely. To each one of those officials . . . I put Rudy on the phone The first thing I did is introduce myself and tell them: ‘I’m here on behalf of Rudy Giuliani and the President of the United States, and I’d like to put you on speaker phone,’ you know, to confirm him, which we did, we put Rudy on the phone. Rudy relayed to him basically that we were there on behalf of the President of the United States. Maddow: That you were there to speak on President Trump’s behalf? Parnas: Correct, exactly. Those exact words.”); *see also* Cooper Interview Pt. 1 at 4:21–4:35 (Cooper: How did you have the authority to say ‘the Vice President of the United States will not attend the inauguration’ if you don’t do what I say? Parnas: I mean that’s what I was told to do. Cooper: Who told you to do that? Parnas: Rudy Giuliani.”). Parnas stated that “President Trump knew exactly what was going on” with respect to his and Giuliani’s activities in Ukraine. Maddow Interview Pt. 1 at 6:30–6:44; *accord* Cooper Interview Pt. 2 at 3:20–3:34.

²⁴ Maddow Interview Pt. 1 at 16:40–16:55 (“Parnas: Then around eight o’clock or nine o’clock I text him back again saying: ‘Any word? What’s the situation?’ And at that point — because on WhatsApp you can see

1 took this to mean that Zelensky would not make the requested announcement and passed that
2 information along to Giuliani, who responded, “OK, they’ll see.”²⁵ The following day, Trump
3 instructed Pence not to attend the inauguration.²⁶

4 In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended
5 Zelensky’s inauguration in Ukraine on May 20, 2019, which included Ambassador to the
6 European Union Gordon Sondland, Special Representative for Ukraine Negotiations Kurt
7 Volker, and National Security Council Staff Member Lt. Col. Alexander Vindman.²⁷

8 **D. Conditioning of White House Visit on Announcement of Investigation**

9 Upon returning to the United States, Perry, Sondland, and Volker met with Trump on
10 May 23, 2019; according to their testimony, these officials offered a very positive report on the
11 situation in Ukraine and their impressions of its new president, Zelensky — particularly with
12 respect to his willingness and desire to combat corruption.²⁸ The three men encouraged Trump
13 to schedule a meeting with Zelensky in the Oval Office.²⁹ Participants in that meeting later

when a person, like, disconnects you, and he disconnected me. Maddow: He blocked, you? Parnas: He blocked me.”); Cooper Interview Pt. 1 at 3:37–3:43.

²⁵ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

²⁶ Williams Dep. at 37.

²⁷ Vindman Dep. at 17; Deposition of Ambassador Gordon Sondland before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 24 (Oct. 17, 2019) (“Sondland Dep.”).

²⁸ Taylor Dep. at 24; Volker Dep. at 29–30 (“The four of us [Volker, Sondland, Perry, and Senator Ron Johnson], who had been part of the Presidential¹ delegation, had requested the meeting in order to brief the President after our participation at the inauguration on of the new Ukrainian President, and meeting with the new President, an hour-long meeting that we had with him. And we had a very favorable impression of President Zelensky. We believed that he was sincerely committed to reform in Ukraine, to fighting corruption. And we believed that this was the best opportunity that Ukraine has had for 20-some years to really break the grip of corruption that has set the country back for so long. And we wanted to convey this to the President and urge that the U.S. and that he personally engage with the President of Ukraine in order to demonstrate full U.S. support for him.”).

²⁹ Taylor Dep. at 24; Volker Dep. at 29–30.

1 described Trump’s negative reaction³⁰ with accounts of Trump telling his advisors that they
 2 would have to “talk to Rudy” before an Oval Office meeting would be scheduled.³¹ Volker and
 3 Sondland testified that they understood from Trump’s directive to involve Giuliani in discussions
 4 about Ukraine that Giuliani had essentially established an alternate channel of Ukraine-related
 5 information and advice; as such, they concluded that they would have to work through the
 6 Giuliani channel to advance U.S.-Ukraine policy goals, such as the White House meeting with
 7 Zelensky.³²

³⁰ See Holmes Dep. at 29 (“On September 5th, I took notes at Senator Johnson and Senator Chris Murphy’s meeting with President Zelensky in Kyiv. . . . Senator Johnson cautioned President Zelensky that President Trump has a negative view of Ukraine and that President Zelensky would have a difficult time overcoming it. Senator Johnson further explained that he was, quote, ‘shocked’ by President Trump’s negative reaction during an Oval Office meeting on May 23rd when he and [Volker, Sondland, and Perry] proposed that President Trump meet President Zelensky and show support for Ukraine.”); see also Bolton Book at 462 (“I spoke with [Deputy National Security Advisor Charles] Kupperman, who had attended Trump’s debriefing earlier that day (it was still May 23 in Washington when we spoke) from our delegation to Zelensky’s inaugural: Perry, Sondland, Volker and Senator Ron Johnson. . . . ‘I don’t want to have any [] thing to do with Ukraine,’ said Trump, per Kupperman. . . . ‘They [] attacked me. I can’t understand why. . . .’ All this, he said, pertained to the Clinton campaign’s efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.”).

³¹ Volker Dep. at 305 (“And I don’t know how he phrased it with Rudy, but it was I think he said, not as an instruction but just as a comment, talk to Rudy, you know. He knows all of these things, and they’ve got some bad people around him.”); Sondland Dep. at 25 (“On May 23rd, 2019, 3 days after the Zelensky inauguration, we were in the — we, in the U.S. delegation, briefed President Trump and key aides at the White House. We emphasized the strategic importance of Ukraine and the strengthening relationship with President Zelensky, a reformer who received a strong mandate from the Ukrainian people to fight corruption and pursue greater economic prosperity. We asked the White House to arrange a working phone call from President Trump and a working Oval Office visit. However, President Trump was skeptical that Ukraine was serious about reforms and anti-corruption, and he directed those of us present at the meeting to talk to Mr. Giuliani, his personal attorney about his concerns.”).

³² Sondland Dep. at 26 (“[B]ased on the President’s direction we were faced with a choice. We could abandon the goal of a White House meeting for President Zelensky, which we all believed was crucial to strengthening U.S.-Ukrainian ties . . . or we could do as President Trump directed and talk to Mr. Giuliani to address the President’s concerns. We chose the latter path.”); Gordon D. Sondland before the United States House of Representatives Permanent Select Committee on Intelligence at 17 (Nov. 20, 2019), <https://docs.house.gov/meetings/IG/IG00/20191120/110233/HHRG-116-IG00-Transcript-20191120.pdf> (“Sondland Hearing”) (“First, Secretary Perry, Ambassador Volker, and I worked with Mr. Rudy Giuliani on Ukraine matters at the express direction of the President of the United States. We did not want to work with Mr. Giuliani. Simply put, we were playing the hand we were dealt. We all understood that if we refused to work with Mr. Giuliani, we would lose a very important opportunity to cement relations between the United States and Ukraine.”); Kurt Volker and Timothy Morrison before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 19, 2019), <https://docs.house.gov/meetings/IG/IG00/20191119/110232/HHRG-116-IG00-Transcript-20191119.pdf> (“Volker & Morrison Hearing”) (Volker: “It was clear to me that despite the positive news and recommendations being conveyed by this official delegation about the new President, President Trump had a deeply rooted negative

1 Giuliani, in communications with Sondland and Volker, made it clear that a White House
2 meeting would not be scheduled until Ukraine announced the two investigations and, according
3 to Sondland, “Giuliani also expressed those requests directly to the Ukrainians.”³³ At the same
4 time, Giuliani continued publicly calling for such investigations, tweeting on June 21, 2019:
5 “New Pres of Ukraine still silent on investigation of the Ukrainian interference in 2016 election
6 and alleged Biden bribery of President Poroshenko. Time for leadership and investigate both if
7 you want to purge how Ukraine was abused by Hillary and Obama people.”³⁴

8 On June 28, 2019, Volker told Sondland, Taylor, and Perry that he “planned to be explicit
9 with President Zelensky in a one-on-one meeting in Toronto on July 2nd about what President
10 Zelensky should do to get the meeting in the White House.”³⁵ Volker stated that “he would relay
11 that President Trump wanted to see rule of law, transparency, but also, specifically, cooperation
12 on investigations to get to the bottom of things.”³⁶ On July 3, 2019, Volker met with Zelensky in

view on Ukraine rooted in the past. He was receiving other information from other sources, including Mayor Giuliani, that was more negative, causing him to retain this negative view.”).

³³ Sondland Hearing at 26–27 (“Mr. Giuliani conveyed to Secretary Perry, Ambassador Volker, and others that President Trump wanted a public statement from President Zelensky committing to investigations of Burisma and the 2016 election. Mr. Giuliani expressed those requests directly to the Ukrainians, and Mr. Giuliani also expressed those requests directly to us. We all understood that these prerequisites for the White House call and the White House meeting reflected President Trump's desires and requirements.”); *see also* Taylor Dep. at 26 (“By mid-July, it was becoming clear to me that the meeting President Zelensky wanted was conditioned on investigations of Burisma and alleged Ukrainian influence in the 2016 elections. It was also clear that this condition was driven by the irregular policy channel I had come to understand was guided by Mr. Giuliani.”); Fiona Hill and David Holmes before the United States House of Representatives Permanent Select Committee on Intelligence at 18 (Nov. 21, 2019), https://republicans-intelligence.house.gov/uploadedfiles/hill_and_holmes_hearing_transcript.pdf (“Hill & Holmes Hearing”) (Holmes: “[I]t was made clear that some action on Burisma/Biden investigation was a precondition for an Oval Office visit.”).

³⁴ Rudy W. Giuliani (@RudyGiuliani), Twitter (June 21, 2019 11:04 AM), <https://twitter.com/RudyGiuliani/status/1142085975230898176>.

³⁵ Taylor Dep. at 25–26.

³⁶ *Id.* at 26.

1 Toronto, Canada, and conveyed that Giuliani had Trump’s attention on Ukraine and had been
2 amplifying a negative impression of Ukraine with Trump.³⁷

3 On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian
4 counterpart, Oleksandr Danyliuk, and a number of others, including Sondland and Volker, as
5 well as National Security Council staff members Dr. Fiona Hill and Vindman.³⁸ According to
6 those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the
7 promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement
8 with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after
9 Ukraine initiated the investigations.³⁹ Testimony reflects that Bolton “stiffened” at this comment
10 and quickly ended the meeting;⁴⁰ Hill testified that Bolton asked her to inform the National

³⁷ Volker Dep. at 137 (“I believed that Rudy Giuliani, as we saw in an earlier text message, he had been in touch with Prosecutor General Lutsenko. I believe he was getting bad information, and I believe that his negative messaging about Ukraine would be reinforcing the President’s already negative position about Ukraine. So I discussed this with President Zelensky when I saw him in Toronto on July 3rd, and I said I think this is a problem that we have Mayor Giuliani — so I didn’t discuss his meeting with Lutsenko then. That came later. I only learned about that later. But I discussed even on July 3rd with President Zelensky that you have a problem with your message of being, you know, clean, reform, that we need to support you, is not getting or is getting countermanded or contradicted by a negative narrative about Ukraine, that it is still corrupt, there’s still terrible people around you.”).

³⁸ Vindman Dep. at 17; Deposition of Dr. Fiona Hill before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 63 (Oct. 14, 2019) (“Hill Dep.”); Bolton Book at 464.

³⁹ Vindman Dep. at 17 (“The meeting proceeded well until the Ukrainians broached the subject of a meeting between the two Presidents. The Ukrainians saw this meeting as critically important in order to solidify the support for their most important international partner. Ambassador Sondland started — when Ambassador Sondland started to speak about Ukraine delivering specific investigations in order to secure the meeting with the President”); Hill Dep. at 65–67 (“Then Ambassador Sondland blurted out: Well, we have an agreement with the Chief of Staff for a meeting if these investigations in the energy sector start.”); *see also* Bolton Book at 464 (“Since I knew, and [Perry, Sondland, and Volker] should have realized after their May 23[, 2019] Oval Office meeting with Trump, that he didn’t want to have anything to do with Ukrainians of any stripe . . . I didn’t play along.”); Sondland stated that he had no “recollection of referencing Mulvaney in the July 10th meeting” but that he did not “have any reason to agree or dispute” Vindman or Hill’s accounts of the meeting. Sondland Hearing at 96–97.

⁴⁰ Hill Dep. at 67; *see* Bolton Book at 464–65 (“Danylyuk was surprised and uncomfortable that I didn’t readily agree to a Zelensky visit, which came from the incessant boosterism of the others in the meeting, but I wasn’t about to explain to foreigners that the three of them were driving outside their lanes. The more I resisted, the more Sondland pushed . . . I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky

1 Security Council’s legal counsel what Sondland had said, and to say that Bolton “was not part of
2 whatever drug deal Sondland and Mulvaney are cooking up.”⁴¹

3 At a follow-up meeting that took place immediately after the Bolton meeting, Sondland
4 more explicitly told the Ukrainians that a White House visit would happen only after Ukraine
5 announced the requested investigations.⁴² After the Ukrainians left the meeting, Hill and
6 Vindman confronted Sondland about the conditioning of a White House meeting on announcing
7 investigations, which Hill and Vindman said they felt was inappropriate.⁴³

8 In mid-July 2019, U.S. officials, at the urging of Giuliani, further pressured Ukrainian
9 officials to conduct investigations into alleged Ukrainian interference in the 2016 election to
10 benefit Clinton, and purported corruption relating to the Biden family’s activities in Ukraine. On

meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

⁴¹ Hill Dep. at 70–71 (“I went back to talk to Ambassador Bolton. And Ambassador Bolton asked me to go over and report this to our NSC counsel, to John Eisenberg. And he told me, and this is, a direct quote from Ambassador Bolton: You go and tell Eisenberg that I am not part of whatever drug deal Sondland and Mulvaney are cooking up on this, and you go and tell him what you’ve heard and what I’ve said.”); *see* Bolton Book at 465 (confirming Hill’s testimony on this point).

⁴² Vindman Dep. at 29 (“Ambassador Sondland relatively quickly went into outlining how the — you know, these investigations need to — on the deliverable for these investigations in order to secure this meeting. Again, I think, you know, I may not have agreed with what he was doing, but his intent was to normalize relationships with — between the U.S. and Ukraine, and this was — as far as I understand, this is what he believed the deliverable to be.”); Hill Dep. at 69 (“And Ambassador Sondland, in front of the Ukrainians, as I came in, was talking about how he had an agreement with Chief of Staff Mulvaney for a meeting with the Ukrainians if they were going to go forward with investigations.”).

⁴³ Vindman Dep. at 31 (“Q: What was the discord? A: The fact that it was clear that I, as the representative — I, as the representative of the NSC, thought it was inappropriate and that we were not going to get involved in investigations. Q: Did you say that to Ambassador Sondland? A: Yes, I did.”); Hill Dep. at 70 (“And he asked the Ukrainians to basically leave the room. So they basically moved out into the corridor. And I said: Look, I don’t know what’s going on here, but Ambassador Bolton wants to make it very clear that we have to talk about, you know, how are we going to set up this meeting. It has to go through proper procedures. And he started to basically talk about discussions that he had had with the Chief of Staff. He mentioned Mr. Giuliani, but then I cut him off because I didn’t want to get further into this discussion at all. And I said: Look, we’re the National Security Council. We’re basically here to talk about how we set this up, and we’re going to set this up in the right way. And you know, Ambassador Bolton has asked me to make it completely clear that we’re going to talk about this, and, you know, we will deal with this in the proper procedures. And Ambassador Sondland was clearly annoyed with this, but then, you know, he moved off. He said he had other meetings.”).

1 July 19, 2019, Volker had breakfast with Giuliani and Parnas, and agreed to arrange for Giuliani
2 to meet one of Zelensky’s closest advisors, Andriy Yermak, in Madrid, Spain.⁴⁴ After the
3 breakfast, Volker texted Sondland and Taylor to relay that, per Giuliani, it was most important
4 for Zelensky to say that he “will help” with the investigation.⁴⁵ The following day, July 20,
5 2019, Ukrainian national security advisor Danyliuk spoke with Taylor and expressed that
6 Zelensky “did not want to be used as a pawn” in U.S. election matters.⁴⁶

7 Despite Zelensky’s apparent reservations, the messages from Trump’s representatives
8 leading up to the July 25, 2019, call between Zelensky and Trump communicated that Zelensky
9 would need to convince Trump that he would look into the investigation matters in order for their
10 relationship to advance. Taylor testified that on July 20, 2019, the same day that Danyliuk
11 informed Taylor of Zelensky’s reservations, Sondland told Taylor “that he had recommended to
12 President Zelensky that he use the phrase ‘I will leave no stone unturned’ with regard to
13 investigations when President Zelensky spoke with President Trump.”⁴⁷ Further, thirty minutes
14 before the July 25 call between Zelensky and Trump, Volker texted Yermak to reiterate that, per
15 Volker’s discussions with the White House, if Zelensky convinced Trump that he would

⁴⁴ Volker Dep. at 229; Letter from Eliot L. Engel, House Committee on Foreign Affairs Chairman, Adam B. Schiff, House Permanent Select Committee on Intelligence Chairman, and Elijah E. Cummings, House Committee on Oversight and Reform Chairman to Members of the Intelligence, Oversight and Reform, and Foreign Affairs Committees, Attachment at 1 (Oct. 3, 2019), https://foreignaffairs.house.gov/_cache/files/a/4/a4a91fab-99cd-4eb9-9c6c-ec1c586494b9/621801458E982E9903839ABC7404A917.chairmen-letter-on-state-department-texts-10-03-19.pdf (“First Volker Text Excerpts”).

⁴⁵ First Volker Text Excerpts at 1 (“[7/19/19, 7:01:22 PM] Kurt Volker: Good. Had breakfast with Rudy this morning-teeing up call w Yermak Monday. Must have helped. Most imp’t is for Zelensky to say that he will help investigation-and address any specific personnel issues-if there are any”).

⁴⁶ Taylor Dep. at 30.

⁴⁷ *Id.*

1 investigate foreign election interference in 2016, they could schedule a White House visit for
2 Zelensky.⁴⁸

3 **E. The July 25 Phone Call Between Trump and Zelensky**

4 During the July 25 phone call between Trump and Zelensky, Trump repeatedly asked
5 Zelensky to work with Giuliani and U.S. Attorney General William Barr to investigate the
6 allegations involving 2016 election interference and the Bidens. Specifically, according to the
7 White House’s telephone conversation memorandum, Trump told Zelensky “I would like you to
8 do us a favor” and continued: “I would like you to find out what happened with this whole
9 situation with Ukraine, they say CrowdStrike . . . [t]he server, they say Ukraine has it” —
10 comments alluding to the allegation that proof of Ukraine’s purported interference in the 2016
11 U.S. presidential election could be found on a DNC server in Ukraine.⁴⁹ Trump added, “I would
12 like to have the Attorney General call you or your people and I would like you to get to the
13 bottom of it.”⁵⁰ Trump concluded the point by saying: “Whatever you can do, it’s very

⁴⁸ First Volker Text Excerpts at 2 (“[7/25/19, 8:36:45 AM] Kurt Volker: Good lunch - thanks. Heard from White House-assuming President Z convinces trump he will investigate / ‘get to the bottom of what happened’ in 2016, we will nail down date for visit to Washington. Good luck! See you tomorrow- kurt”); *see* Volker Dep. at 273 (“[W]hat I said concerning that message to Andriy Yermak is, ‘convince the President,’ so be convincing, ‘and get to the bottom of what happened in 2016.’ So this is looking backward at whether there was any election interference.”).

⁴⁹ The White House, Memorandum of Telephone Conversation at 3 (July 25, 2019) (“July 25 Call Memo”) (“I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it. I would like you to find out what happened with this whole situation with Ukraine, they say CrowdStrike. . . . I guess you have one of your wealthy people. . . . The server, they say Ukraine has it. There are a lot of things that went on, the whole situation I think you’re surrounding yourself with some of the same people. I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it. As you saw yesterday, that whole nonsense ended with a very poor performance by a man named Robert Mueller, an incompetent performance, but they say a lot of it started with Ukraine. Whatever you can do, it’s very important that you do it if that’s possible.” (ellipses in original)). U.S. National Security Advisor John Bolton listened in on the July 25 call, and his recollection of the conversation is generally consistent with the White House memorandum. *See* Bolton Book at 466–68.

⁵⁰ July 25 Call Memo at 3.

1 important that you do it if that’s possible.”⁵¹ Zelensky replied by noting the importance of
 2 cooperation between the U.S. and Ukraine and stated: “[I]n addition to that investigation, I
 3 guarantee as the President of Ukraine that all the investigations will be done openly and
 4 candidly.”⁵²

5 Trump continued, bringing up former Prosecutor General Shokin, who had reportedly
 6 been fired at Biden’s urging:

7 The other thing, [t]here’s a lot of talk about Biden’s son, that Biden
 8 stopped the prosecution and a lot of people want to find out about
 9 that so whatever you can do with the Attorney General would be
 10 great. Biden went around bragging that he stopped the prosecution
 11 so if you can look into it It sounds horrible to me.⁵³

12 Zelensky responded to Trump, “I understand and I’m knowledgeable about the
 13 situation[,]” and stated that he would be appointing a new Ukrainian Prosecutor General who
 14 would be “100% my person, my candidate,” and that this person would “look into the situation,
 15 specifically to the company that you mentioned in this issue.”⁵⁴ Zelensky reiterated that “we will

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 4 (ellipsis in original); *see also* Trump-Niinistö Press Conference (“Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: Look, Biden and his son are stone-cold crooked. And you know it. His son walks out with millions of dollars. The kid knows nothing. You know it, and so do we.”); Remarks by President Trump before Marine One Departure (Oct. 3, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-marine-one-departure-67/> (“October 3 Trump Remarks”) (“Q: Mr. President, what exactly did you hope Zelensky would do about the Bidens after your phone call? Exactly. THE PRESIDENT: Well, I would think that, if they were honest about it, they’d start a major investigation into the Bidens. It’s a very simple answer. They should investigate the Bidens So, I would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren’t crooked. That was a crooked deal — 100 percent. He had no knowledge of energy; didn’t know the first thing about it. All of a sudden, he is getting \$50,000 a month, plus a lot of other things. Nobody has any doubt. And they got rid of a prosecutor who was a very tough prosecutor. They got rid of him. Now they’re trying to make it the opposite way. But they got rid — So, if I were the President, I would certainly recommend that of Ukraine.”).

⁵⁴ July 25 Call Memo at 4. Vindman, who listened in to the July 25 call, recalled that Zelensky had said “Burisma,” rather than “the company.” Vindman Dep. at 54. Bolton recalls Zelensky saying “the next Prosecutor

1 take care of that and will work on the investigation of the case.”⁵⁵ Trump again told Zelensky
 2 that he would have Giuliani and Barr call, adding: “[W]e will get to the bottom of it. I’m sure
 3 you will figure it out.”⁵⁶

4 Later in the conversation, Zelensky thanked Trump “for your invitation to visit the United
 5 States, specifically Washington[,] DC. On the other hand, I also want to ensure [sic] you that we
 6 will be very serious about the case and will work on the investigation.”⁵⁷ Trump replied: “I will
 7 tell Rudy and Attorney General Barr to call. Thank you. Whenever you would like to come to
 8 the White House, feel free to call.”⁵⁸

9 **F. Events After the July 25 Phone Call**

10 After Trump and Zelensky spoke on July 25, 2019, Trump’s advisors began negotiating
 11 with Zelensky’s aides on specific language to satisfy Trump’s demand for a public
 12 announcement of the investigations.

13 The following day, July 26, 2019, Volker, Sondland, and Taylor met with Zelensky in
 14 Kyiv, where, according to the sworn testimony of David Holmes, an official at the U.S. Embassy
 15 in Ukraine, Zelensky mentioned that Trump had raised “very sensitive issues” on their call.⁵⁹

General will be one hundred percent my candidate. He will start in September. He will look at the company.”
 Bolton Book at 468.

⁵⁵ July 25 Call Memo at 4.

⁵⁶ *Id.*

⁵⁷ *Id.* at 5.

⁵⁸ *Id.*

⁵⁹ Holmes Dep. at 21–22 (describing meeting with Volker, Sondland, and Zelensky the day after the July 25 phone call, in which “President Zelensky stated that during the July 25th call, President Trump had, quote, unquote, three times raised, quote, unquote, some very sensitive issues, and that he would have to follow up on those issues when they met, quote, unquote, in person. Not having received a read-out of the July 25th call, I did not know what those sensitive issues were.”); Sondland Hearing at 25 (testifying that Sondland met separately with Yermak and

1 Sondland also separately met with Yermak.⁶⁰ Sondland stated that he did not “recall the
2 specifics of our conversation, but I believe the issue of investigations was probably a part of that
3 agenda or meeting.”⁶¹ That same day, Trump asked Sondland, by phone, if Zelensky was “going
4 to do the investigation[,]”⁶² and Sondland replied that Zelensky would do “anything you ask him
5 to.”⁶³ Per Holmes’s sworn testimony, after the call ended, Sondland told Holmes that Trump
6 “did not give a shit about Ukraine” and only cared about “‘big stuff’ that benefits [Trump], like
7 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”⁶⁴ Sondland and
8 Volker later stated to Taylor, in separate instances, “that President Trump is a businessman.
9 When a businessman is about to sign a check to someone who owes him something . . . the
10 businessman asks that person to pay up before signing the check.”⁶⁵

that he did not “recall the specifics of our conversation, but I believe the issue of investigations was probably a part of that agenda or meeting”).

⁶⁰ Sondland Hearing at 25.

⁶¹ *Id.*

⁶² Holmes Dep. at 24 (“While Ambassador Sondland’s phone was not on speaker phone, I could hear the President’s voice through the ear piece of the phone. The President’s voice was very loud and recognizable, and Ambassador Sondland held the phone away from his ear for a period of time, presumably because of the loud volume. . . . I then heard President Trump ask, quote, ‘So he’s going to do the investigation?’ unquote.”); *see also* Sondland Hearing at 26 (“Other witnesses have recently shared their recollection of overhearing this call. For the most part, I have no reason to doubt their accounts.”).

⁶³ Holmes Dep. at 24.

⁶⁴ Holmes Dep. at 25 (“I then took the opportunity to ask Ambassador Sondland for his candid impression of the President’s views on Ukraine. In particular, I asked Ambassador Sondland if it was true that the President did not give a shit about Ukraine. Ambassador Sondland agreed that the President did not give a shit about Ukraine. I asked why not, and Ambassador Sondland stated, the President only cares about, quote, unquote, ‘big stuff.’ I noted that there was, quote, unquote, big stuff going on in Ukraine, like a war with Russia. And Ambassador Sondland replied that he meant, quote, unquote, ‘big stuff’ that benefits the President, like the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”).

⁶⁵ Taylor Dep. at 40.

1 Giuliani met with Yermak, Zelensky’s advisor, in Madrid, on August 2, 2019.⁶⁶ They
2 agreed that Ukraine would make a public statement announcing the investigation, and they
3 discussed the White House visit.⁶⁷ Following additional phone and text conversations,⁶⁸ on
4 August 12, 2019, Yermak sent a draft statement to Volker, which lacked specific references to
5 the two investigations Trump had asked Zelensky to conduct.⁶⁹ Sondland and Volker discussed
6 the proposed statement with Giuliani, who said that if the statement “doesn’t say Burisma and if
7 it doesn’t say 2016, . . . it’s not credible.”⁷⁰ Parnas later stated in an interview that when Giuliani
8 learned that the Ukrainians were preparing to make a generic statement about fighting
9 corruption, “Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t
10 supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and

⁶⁶ *E.g.*, Volker Dep. at 112 (“THE CHAIRMAN: And some time after this call, Rudy Giuliani goes to Madrid to meet with Andriy Yermak. Do I have the chronology right? MR. VOLKER: Yes. That took place on August 2nd.”).

⁶⁷ Kurt Volker Document Production, Bates KV00000019 (Oct. 2, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD677.pdf>; First Volker Text Excerpts at 3 (“[8/9/19, 11:27 AM] Kurt Volker: Hi Mr Mayor! Had a good chat with Yermak last night. He was pleased with your phone call. Mentioned Z making a statement. Can we all get on the phone to make sure I advise Z correctly as to what he should be saying? Want to make sure we get this done right. Thanks!”)

⁶⁸ *See, e.g.*, First Volker Text Excerpts at 3 (“[8/9/19, 5:51:18 PM] Gordon Sondland: To avoid misunderstandings [sic], might be helpful to ask Andrey [Yermak] for a draft statement [sic] (embargoed) so that we can see exactly what they propose to cover. Even though Ze[lensky] does a live presser they can still summarize in a brief statement. Thoughts? [8/9/19, 5:51:42 PM] Kurt Volker: Agree!”).

⁶⁹ Volker Dep. at 113 (“[Q]: And so after [the August 2] meeting, Yermak proposes to include in this statement to get the meeting a mention of Burisma? MR. VOLKER: No. Andriy Yermak sent me a draft statement that did not include that. And I discussed that statement with Gordon Sondland and with Rudy Giuliani to see — in my — not knowing this, is this going to be helpful, will this help convey a sense of commitment of Ukraine to fighting corruption, et cetera. And in that conversation it was Mr. Giuliani who said: If it doesn’t say Burisma and 2016, it’s not credible, because what are they hiding? I then discussed that with Mr. Yermak after that conversation, and he did not want to include Burisma and 2016, and I agreed with him.”).

⁷⁰ Volker Dep. at 71–72 (“Q: And the draft statement went through some iterations. Is that correct? A: Yeah. It was pretty quick, though. I don’t know the timeline exactly. We have it. But, basically, Andriy sends me a text. I share it with Gordon Sondland. We have a conversation with Rudy to say: The Ukrainians are looking at this text. Rudy says: Well, if it doesn’t say Burisma and if it doesn’t say 2016, what does it mean? You know, it’s not credible.”).

1 Burisma.”⁷¹ Volker added specific references to Burisma and 2016 election interference to the
 2 proposed statement and sent the revised draft to Yermak.⁷² Yermak expressed several concerns
 3 with adding these specific references to the statement, including that Ukraine would “be seen as
 4 a factor or a football in American domestic politics.”⁷³ Yermak therefore asked if the U.S.
 5 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the
 6 investigations.⁷⁴ No such official inquiry was ever made, and Taylor later testified: “A formal
 7 U.S. request to the Ukrainians to conduct an investigation based on violations of their own law
 8 struck [him] as improper, and [he] recommended to Ambassador Volker that we stay clear.”⁷⁵
 9 Volker agreed with Yermak that Zelensky should not issue the public statement with specific

⁷¹ Maddow Interview Pt. 2 at 16:17–17:02 (“Parnas: I know that there was another conversation, that Perry called after the inauguration, telling him that he spoke to Zelensky and Zelensky’s going to do it. . . . And they did, they announced, but they didn’t announce that. . . . So they announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”).

⁷² Volker Dep. at 72–73; *see* First Volker Text Excerpts at 4 (“[8/13/19, 10:26:44 AM] Kurt Volker: Special attention should be paid to the problem of interference in the political processes of the United States especially with the alleged involvement of some Ukrainian politicians. I want to declare that this is unacceptable. We intend to initiate and complete a transparent and unbiased investigation of all available facts and episodes, including those involving Burisma and the 2016 U.S. elections, which in turn will prevent the recurrence of this problem in the future. [8/13/19, 10:27:20 AM] Gordon Sondland: Perfect. Lets [sic.] send to Andrey [Yermak] after our call”); *id.* (“[8/17/19, 3:06:19 PM] Gordon Sondland: Do we still want Ze[lensky] to give us an unequivocal draft with 2016 and Boresma [sic]? [8/17/19, 4:34:21 PM] Kurt Volker: That’s the clear message so far”).

⁷³ Volker Dep. at 120 (“[Question]: Wasn’t there also a concern, Ambassador [Volker], with not being used to investigate a political candidate in the 2020 election? MR. VOLKER: I think the way they put it was they don’t want to be seen as a factor or a football in American domestic politics”); *see also* Bolton Book at 472 (“Flying to Kiev on August 26[, 2019], I spoke with Volker[, who] . . . stressed that Zelensky had no wish to become involved in US domestic politics, although he was happy to have investigated whatever may have happened in 2016, before his time.”).

⁷⁴ Volker Dep. at 197–8.

⁷⁵ Taylor Dep. at 32 (“On August 16, I exchanged text messages with Ambassador Volker, in which I learned that Mr. Yermak had asked that the United States submit an official request for an investigation into Burisma’s alleged violations of Ukrainian law, if that’s what the United States desired. A formal U.S. request to the Ukrainians to conduct an investigation based on violations of their own law struck me as improper, and I recommended to Ambassador Volker that we stay clear. To find out the legal aspects of the question, however, I gave him the name of a Deputy Assistant Attorney General whom I thought would be the proper point of contact for seeking a U.S. referral for a foreign investigation.”).

1 references to Burisma and 2016 election interference, because it was important to “avoid
2 anything that would look like it would play into [U.S.] domestic politics, and this could.”⁷⁶ As
3 such, efforts to prepare the statement did not proceed further.⁷⁷

4 **G. Withholding U.S. Security Aid to Ukraine**

5 Congress appropriated \$391 million in aid to Ukraine for fiscal year 2019, with \$250
6 million to be administered by the Department of Defense and the remaining \$141 million to be
7 administered by the Department of State.⁷⁸ On July 3, 2019, however, the Office of
8 Management and Budget (“OMB”) blocked the Congressional notification required to release the
9 funds to State and subsequently placed a hold on all military support funding.⁷⁹ According to
10 Bolton’s account, Secretary of Defense Mark Esper, Secretary of State Mike Pompeo, and
11 Bolton repeatedly pressed Trump, individually and in tandem, to release the aid to Ukraine.⁸⁰
12 According to sworn testimony by Bill Taylor and Deputy Assistant Secretary of Defense Laura
13 Cooper, numerous officials at the Department of Defense, the Department of State, and the
14 National Security Council considered this aid to be crucial support for Ukraine in its ongoing

⁷⁶ Volker Dep. at 44–45.

⁷⁷ *Id.*

⁷⁸ Department of Defense Appropriations Act, 2019, Pub. L. No. 115-245, div. A, title IX, § 9013 (2018); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, §7046(a)(2) (2019); Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Title VIII (2017).

⁷⁹ Vindman Dep. at 178–179; Taylor Dep. at 27; Deposition of Laura K. Cooper before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 47 (Oct. 23, 2019) (“Cooper Dep.”).

⁸⁰ Bolton Book at 468–69 (“[T]he State and Defense Departments pressed to transfer nearly \$400 million of security assistance to Ukraine, calling for high-level meetings . . . Pompeo, Esper, and I had been discussing this subject quietly for some time, making efforts with Trump to free up the money, all of which had failed. (By the time I resigned [on September 10, 2019], we calculated that, individually and in various combinations, we had talked to Trump between eight and ten times to get the money released.)”).

1 war with Russia, which was viewed as serving the U.S. national security interest.⁸¹ No specific
 2 official reason was given by the White House or OMB for putting a hold on the Congressionally-
 3 appropriated funds other than a footnote in an apportionment schedule that “described the
 4 withholding as necessary ‘to determine the best use of such funds.’”⁸² Sworn testimony
 5 indicates that the Office of the Secretary of Defense raised a contemporaneous concern that the
 6 hold may even have violated federal law requiring the timely release of Congressionally-
 7 appropriated funds.⁸³

⁸¹ Taylor Dep. at 28 (“At one point the Defense Department was asked to perform an analysis of the effectiveness of the assistance. Within a day, the Defense Department came back with the determination that the assistance was effective and should be resumed. My understanding was that the Secretaries of Defense and State, the CIA Director, and the National Security Advisor, sought a joint meeting with the President to convince him to release the hold, but such meeting was hard to schedule, and the hold lasted well into September.”); *id.* at 132 (stating that the opinion that aid should be resumed was the “[u]nanimous opinion of every level of interagency discussion.”); Cooper Dep. at 16 (“Q: In 2018 and 2019, has Ukrainian security assistance received bipartisan support? A: It has always received bipartisan support, in my experience. Q: And that’s both in the House and the Senate? A: Absolutely, in my experience. Q: And what about at the interagency level? A: I have witnessed, even in the recent past, overwhelming consensus in favor of providing Ukraine security assistance. Q: And when you say ‘within the recent past,’ you mean even over the course of this year? A: Even over the course of the summer.”).

⁸² U.S. Government Accountability Office, Decision, *Matter of Office of Management and Budget—Withholding of Ukraine Security Assistance*, B-331564 at 6 (Jan. 16, 2020) (“GAO Decision”) (“OMB did not identify — in either the apportionment schedules themselves or in its response to us — any contingencies as recognized by the ICA [Impoundment Control Act], savings or efficiencies that would result from a withholding, or any law specifically authorizing the withholding. Instead, the footnote in the apportionment schedules described the withholding as necessary “to determine the best use of such funds.”); *see also* Volker Dep. at 80 (“I don’t believe — in fact, I am quite sure that at least I, Secretary Pompeo, the official representatives of the U.S., never communicated to Ukrainians that it is being held for a reason. We never had a reason.”).

⁸³ Deposition of Timothy Morrison before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 163 (Oct. 31, 2019) (“Morrison Dep.”) (“Q: Was there any discussion of the legality or illegality of the hold at the PCC meeting? A: Yes. Q: What was — can you explain what was discussed? A: Because of the nature of the appropriations, is it actually legally permissible for the President to not allow for the disbursement of the funding. . . . Q: Okay. Who was raising concerns that there may be a legal problem? A: OSD. Q: That’s Office — A: Office of the Secretary of Defense. Q: DOD, okay. And did they raise concerns about possible violations of the Impoundment Act? A: Yes.”). The U.S. Government Accountability Office issued a report on January 16, 2020, finding that OMB violated the Impoundment Control Act when it withheld from obligation \$214 million of the security assistance for a “policy reason.” GAO Decision at 7.

1 Ukrainian officials apparently noticed the withholding of security aid at some point in
2 late July or early August 2019,⁸⁴ and the aid remained frozen throughout August 2019.⁸⁵
3 According to Bolton’s published account, on August 20, 2019, Trump “said he wasn’t in favor”
4 of sending Ukraine anything until all the materials related to Biden and 2016 election
5 interference investigations had been turned over, and added “[t]hat could take years, so it didn’t
6 sound like there was much of a prospect that the military aid would proceed.”⁸⁶ The fact that the
7 aid had been frozen became public knowledge when it was publicly reported on August 28,
8 2019, prompting concern by Ukrainian officials.⁸⁷ Because the White House and OMB had
9 provided no particular explanation for the hold, U.S. officials, including Taylor, could not
10 explain the hold to Ukrainian officials, though Taylor did express, in a text to Volker the next

⁸⁴ Deposition of Catherine Croft before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 86–87 (Oct. 30, 2019) (“I think it was sort of known among the circles that do Ukraine security assistance, sort of gradually, as I said. From July 18 on it was sort of inevitable that it was eventually going to come out. . . . Two individuals from the Ukrainian Embassy approached me quietly and in confidence to ask me about an OMB hold on Ukraine security assistance. Q: And when was that? A: I don’t have those dates. Q: But it was before the August 28th time period, do you think? A: I believe it was, yes.”).

⁸⁵ Karoun Demirjian, *et al.*, *Trump Ordered Hold on Military Aid Days before Calling Ukrainian President, Officials Say*, WASH. POST (Sept. 23, 2019), https://www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html; Sondland Dep. at 107.

⁸⁶ Bolton Book at 471.

⁸⁷ Volker Dep. at 80–81 (“A: By the time it hit Politico publicly, I believe it was the end of August. And I got a text message from, it was either the Foreign Minister or — I think it was the future Foreign Minister. And, you know, basically, you’re just — you’re — I have to verbalize this. You’re just trying to explain that we are trying this. We have a complicated system. We have a lot of players in this. We are working this. Give us time to fix it. Q: So anybody on the Ukrainian side of things ever express like grave concern that this would not get worked out? A: Not that it wouldn’t get worked out, no, they did not. They expressed concern that, since this has now come out publicly in this Politico article, it looks like that they’re being, you know, singled out and penalized for some reason. That’s the image that that would create in Ukraine.”); *see* Caitlin Emma and Connor O’Brien, *Trump Holds Up Ukraine Military Aid Meant to Confront Russia*, POLITICO (Aug. 28, 2019), www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531 (“Politico Article”); *see also* Compl. ¶ 14, MUR 7645 (citing Josh Dawsey, Paul Sonne, Michael Kranish and David L. Stern, “How Trump and Giuliani pressured Ukraine to investigate the president’s rivals,” WASH. POST (Sept. 20, 2019), https://www.washingtonpost.com/politics/how-trump-and-giuliani-pressured-ukraine-to-investigate-the-presidents-rivals/2019/09/20/0955801c-dbb6-11e9-a688-303693fb4b0b_story.html).

1 week, his understanding of the reason for the hold: “[I]t’s crazy to withhold security assistance
2 for help with a political campaign.”⁸⁸ On September 1, 2019, Zelensky met with Vice President
3 Pence in Warsaw, Poland, where the status of the security aid was “the very first question that
4 President Zelensky had.”⁸⁹ Zelensky said that even the appearance of U.S. support for Ukraine
5 faltering might embolden Russian aggression towards Ukraine.⁹⁰ During a briefing before the
6 meeting, Sondland had raised concerns with Pence that the delay in security assistance had
7 “become tied to the issue of investigations.”⁹¹

8 Sondland spoke with Yermak later that day, explaining that the security assistance was
9 conditioned on the public announcement of the investigations.⁹² On learning of this discussion,

⁸⁸ Taylor Dep. at 138 (“And I couldn’t tell them. I didn’t know and I didn’t tell them, because we hadn’t — we hadn’t — there’d been no guidance that I could give them.”); First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

⁸⁹ Williams Dep. at 81 (“Once the cameras left the room, the very first question that President Zelensky had was about the status of security assistance.”).

⁹⁰ *Id.* at 82–83 (“He made the point, though, that as important as the funding itself was, that it was the strategic value of — the symbolic value of U.S. support in terms of security assistance that was just as valuable to the Ukrainians as the actual dollars. . . . He was making the point that, you know, any hold or appearance of reconsideration of such assistance might embolden Russia to think that the United States was no longer committed to Ukraine.”).

⁹¹ Sondland Hearing at 30; *see also id.* at 57 (“A: I don’t know exactly what I said to him. This was a briefing attended by many people, and I was invited at the very last minute. I wasn’t scheduled to be there. But I think I spoke up at some point late in the meeting and said, it looks like everything is being held up until these statements get made, and that’s my, you know, personal belief. Q: And Vice President Pence just nodded his head? A: Again, I don’t recall any exchange or where he asked me any questions. I think he — it was sort of a duly noted response.”).

⁹² Declaration of Ambassador Gordon D. Sondland (Nov. 4, 2019), <https://docs.house.gov/meetings/IG/IG00/CPRT-116-IG00-D006.pdf> (“Also, I now do recall a conversation on September 1, 2019, in Warsaw with Mr. Yermak. This brief pull-aside conversation followed the larger meeting involving Vice President Pence and President Zelensky, in which President Zelensky had raised the issue of the suspension of U.S. aid to Ukraine directly with Vice President Pence. After that large meeting, I now recall speaking individually with Mr. Yermak, where I said that resumption of U.S. aid would likely not occur until Ukraine provided the public anti-corruption statement that we had been discussing for many weeks. I also recall some question as to whether the public statement could come from the newly appointed Ukrainian Prosecutor General, rather than from President Zelensky directly.”).

1 Taylor texted Sondland: “Are we now saying that security assistance and WH meeting are
2 conditioned on investigations?”⁹³ In an ensuing phone call, Sondland explained to Taylor that he
3 had made a mistake telling the Ukrainians that only the White House meeting was conditioned
4 on the investigations announcement; in fact, to his understanding, “everything” was conditioned
5 on the announcement and that Trump had said that he “wanted President Zelensky in a box, by
6 making [a] public statement about ordering such investigations.”⁹⁴

7 Sondland said, at the time, that Trump told him, on September 7, 2019, that “there was no
8 *quid pro quo*, but President Zelensky must announce the opening of the investigations” for the
9 hold on security aid to be lifted.⁹⁵ Sondland further relayed that Trump had also made clear that
10 Zelensky himself would have to announce the investigations and do so publicly.⁹⁶ The
11 Ukrainians notified Sondland and Volker that Zelensky was to appear on CNN for an interview,
12 and would use that forum to make the announcement; Zelensky ultimately did not do so.⁹⁷

⁹³ First Volker Text Excerpts at 5.

⁹⁴ Sondland Hearing at 31 (“I told Mr. Yermak that I believed that the resumption of U.S. aid would likely not occur until Ukraine took some kind of action on the public statement that we had been discussing for many weeks.”); First Volker Text Excerpts at 5; Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. Ambassador Sondland also told me that he now recognized that he had made a mistake by earlier telling Ukrainian officials to whom he spoke that a White House meeting with President Zelensky was dependent on a public announcement of investigations. In fact, Ambassador Sondland said everything was dependent on such an announcement, including security assistance. He said that President Trump wanted President Zelensky in a box by making [a] public statement about ordering such investigations.”).

⁹⁵ Morrison Dep. at 190–91 (“THE CHAIRMAN: And what did Ambassador Sondland tell you in the phone call? . . . MR. MORRISON: He told me, as is related here in Ambassador Taylor’s statement, that there was no *quid pro quo*, but President Zelensky must announce the opening of the investigations and he should want to do it.”).

⁹⁶ Taylor Dep. at 39 (“The following day, on September 8th, Ambassador Sondland and I spoke on the phone. He said he had talked to President Trump, as I had suggested a week earlier, but that President Trump was adamant that President Zelensky himself had to clear things up and do it in public. President Trump said it was not a *quid pro quo*.”).

⁹⁷ Sondland Hearing at 110–11 (“The Ukrainians said to me or to Ambassador Volker or both of us that they had planned to do an interview anyway on CNN and they would use that occasion to mention these items.”); Taylor Dep. at 39 (“Ambassador Sondland said that he had talked to President Zelensky and Mr. Yermak and told them that, although this was not a *quid pro quo*, if President Zelensky did not clear things up in public, we would be at a

1 After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine
2 on September 11, 2019.⁹⁸ No official reason for the hold was ever given, although in subsequent
3 public statements, Trump stated that he was concerned about Ukrainian corruption and felt that
4 European Union countries should be providing Ukraine with more security assistance.⁹⁹ At a
5 White House press briefing on October 17, 2019, Mulvaney said that the security aid had been
6 withheld to pressure Ukraine to cooperate with “an ongoing investigation” by DOJ into 2016
7 election interference, and that “[t]here’s going to be political influence in foreign policy . . . that
8 is going to happen.”¹⁰⁰

stalemate. I understood a stalemate to mean that Ukraine would not receive the much-needed military assistance. Ambassador Sondland said that this conversation concluded with President Zelensky agreeing to make a public statement in an interview with CNN.”); *see also* Holmes Dep. at 30 (“On September 13th, an Embassy colleague received a phone call from a colleague at the U.S. Embassy to the European Union under Ambassador Sondland and texted me regarding the call, quote, Sondland said the Zelensky interview is supposed to be on Monday — that would be September 16th — sorry, today or Monday, September 16th, and they plan to announce that a certain investigation that was, quote, ‘on hold’ will progress. The text also explained that our European Union Embassy colleague did not know if this was decided or if Ambassador Sondland was advocating for it.”).

⁹⁸ *See, e.g.*, Taylor Dep. at 40; Trump- Niinistö Press Conference (“I gave the money because [Senator] Rob Portman and others called me and asked.”); Politico Article.

⁹⁹ Seung Min Kim and Colby Itkowitz, *Trump Says He Has Authorized Release of Transcript of Call with the Ukrainian President*, WASH. POST at 0:04–0:42 (Sept. 24, 2019), https://www.washingtonpost.com/politics/trump-confirms-he-withheld-military-aid-from-ukraine-says-he-wants-other-countries-to-help-pay/2019/09/24/42bdf66c-ded2-11e9-8dc8-498eabc129a0_story.html (“Sep. 24 Trump Press Conference”) (“My complaint has always been, and I’d withhold again and I’ll continue to withhold until such time as Europe and other nations contribute to Ukraine because they’re not doing it”); Trump- Niinistö Press Conference (“We give money to Ukraine, and it’s bothered me from day one. . . . But what I was having a problem with are two things. Number one, Ukraine is known — before him — for tremendous corruption. Tremendous. More than just about any country in the world. In fact, they’re rated one of the most corrupt countries in the world. And I don’t like giving money to a country that’s that corrupt. Number two . . . European countries are helped far more than we are, and those countries should pay more to help Ukraine.”).

¹⁰⁰ The White House, *Press Briefing by Acting Chief of Staff Mick Mulvaney* (Oct. 17, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/press-briefing-acting-chief-staff-mick-mulvaney/> (“Q: So the demand for an investigation into the Democrats was part of the reason that he ordered to withhold funding to Ukraine? MULVANEY: The look back to what happened in 2016 certainly was part of the thing that he was worried about in corruption with that nation. And that is absolutely appropriate. . . . And I have news for everybody: Get over it. There’s going to be political influence in foreign policy. . . . [There were] [t]hree — three factors. Again, I was involved with the process by which the money was held up temporarily, okay? Three issues for that: the corruption of the country; whether or not other countries were participating in the support of the Ukraine; and whether or not they were cooperating in an ongoing investigation with our Department of Justice. That’s completely legitimate.”)

1 In a March 4, 2020, televised interview, Trump said that with respect to the Ukrainian
2 investigation of Joe Biden’s alleged misconduct while serving as U.S. Vice President, he
3 intended to make the allegation “a major issue in [his 2020 reelection] campaign,” saying that he
4 “will bring that up all the time”¹⁰¹

5 Biden became the Democratic Party’s nominee for President on June 5, 2020.¹⁰²

6 II. LEGAL ANALYSIS

7 The available information indicates that Donald J. Trump and his personal attorney, Rudy
8 Giuliani, requested, recommended, and pressured Ukrainian President Volodymyr Zelensky,
9 both directly and indirectly through their representatives — including Giuliani’s associate, Lev
10 Parnas, and diplomatic officials Gordon Sondland and Kurt Volker — to make an official public
11 announcement and conduct an investigation into Burisma, Joe and Hunter Biden, and purported
12 Ukrainian electoral interference intended to support Hillary Clinton during the 2016 U.S.
13 presidential election, in order to influence the 2020 presidential election. The record indicates
14 that Trump, Giuliani, and Parnas asked that Zelensky investigate these two allegations and
15 announce the investigation with explicit references to the allegations, for the purpose of
16 benefiting Trump’s reelection campaign. As such, Parnas knowingly solicited [OR knowingly
17 provided substantial assistance in the soliciting of] a foreign national to provide in-kind

¹⁰¹ Fox News, *Trump blasts Biden’s record in ‘Hannity’ exclusive interview*, YOUTUBE (Mar. 4, 2020) at 5:54–7:47, <https://www.youtube.com/watch?v=fqjrlKfW93I&feature=youtu.be&t=354> (“Hannity Interview”) (“HANNITY: Let me ask you, because we now know that there is a corruption issue and there’s an investigation officially in the country of Ukraine as it relates to Joe Biden . . . after all you went through, and now that you see Ron Johnson in the Senate and you see Ukraine investigating this issue . . . it has to be a campaign issue; how do you plan to use it, or do you plan to use it? TRUMP: . . . That will be a major issue in the campaign, I will bring that up all the time because I don’t see any way out. . . . That was purely corrupt.”).

¹⁰² E.g., Stephen Ohlemacher and Will Weissert, *Biden formally clinches Democratic presidential nomination*, ASSOCIATED PRESS (June 6, 2020), <https://apnews.com/bb261be1a4ca285b9422b2f6b93d8d75>.

1 “contributions” — *i.e.*, things “of value” sought “for the purpose of influencing” the 2020 U.S.
2 presidential election — from Ukrainian nationals.¹⁰³

3 **A. The Act and Commission Regulations Prohibit the Solicitation of Foreign**
4 **National Contributions or Donations in Connection with a Federal Election**

5 The Act and Commission regulations prohibit any “foreign national” from directly or
6 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
7 independent expenditure, or disbursement, in connection with a federal, state, or local
8 election.¹⁰⁴ Moreover, the Act and Commission regulations prohibit any person from knowingly
9 soliciting, accepting, or receiving any such contribution or donation from a foreign national,¹⁰⁵
10 and Commission regulations further prohibit any person from knowingly providing substantial
11 assistance in soliciting, making, accepting, or receiving any such contribution or donation.¹⁰⁶
12 Under Commission regulations, “to solicit” means “to ask, request, or recommend, explicitly or
13 implicitly, that another person make a contribution, donation, transfer of funds, or otherwise
14 provide anything of value.”¹⁰⁷

¹⁰³ See 52 U.S.C. § 30101(8)(A)(i).

¹⁰⁴ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have upheld the provisions of the Act prohibiting foreign national contributions and independent expenditures on the ground that the government “has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American 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), *aff’d* 565 U.S. 1104 (2012); see *United States v. Singh*, 924 F.3d 1030, 1041–44 (9th Cir. 2019).

¹⁰⁵ 52 U.S.C. § 30121(a)(2); see also 11 C.F.R. § 110.20(g) (providing that “no person shall *knowingly* solicit” a foreign national contribution (emphasis added); 11 C.F.R. § 110.20(a)(4) (defining “knowingly” to include “actual knowledge” that the target of the solicitation is a foreign national).

¹⁰⁶ 11 C.F.R. § 110.20(h). In this context, the Commission has explained that “substantial assistance means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction[.]” and “does not include strictly ministerial activity undertaken pursuant to the instructions of an employer, manager or supervisor.” Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,945–46 (Nov. 19, 2002) (“Prohibitions E&J”).

¹⁰⁷ 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

1 The Act’s definition of “foreign national” includes an individual who is not a citizen or
2 national of the United States and who is not lawfully admitted for permanent residence,¹⁰⁸ as
3 well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a
4 government of a foreign country.”¹⁰⁹ A “contribution” includes “any gift, subscription, loan,
5 advance, or deposit of money or anything of value made by any person for the purpose of
6 influencing any election for Federal office.”¹¹⁰ Under Commission regulations, “anything of
7 value” includes all in-kind contributions, which include “the provision of any goods or services
8 without charge or at a charge that is less than the usual and normal charge for such goods or
9 services.”¹¹¹

10 Under the Act, soliciting, accepting, or receiving information in connection with an
11 election from a foreign national, as opposed to purchasing the information at the usual and
12 normal charge or hiring a foreign national in a bona fide commercial transaction to perform
13 services for the political committee, could potentially result in the receipt of a prohibited in-kind
14 contribution. Indeed, the Commission has recognized the “broad scope” of the foreign national
15 contribution prohibition and found that even where the value of a good “may be nominal or
16 difficult to ascertain,” such contributions are nevertheless prohibited.¹¹²

¹⁰⁸ 52 U.S.C. § 30121(b)(2).

¹⁰⁹ 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

¹¹⁰ 52 U.S.C. § 30101(8)(A).

¹¹¹ 11 C.F.R. § 100.52(d).

¹¹² Advisory Op. 2007-22 at 6 (Hurysz) (“Advisory Op. 2007-22”) (quoting 120 Cong. Rec. 8,782 (Mar. 28, 1974) (statement of Sen. Bentsen, author of the amendment prohibiting foreign national contributions) (“I am saying that contributions by foreigners are wrong, and they have no place in the American political system”)); Prohibitions E&J, 67 Fed. Reg. at 69,940 (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and *expand* the ban on contributions, donations, and other things of value by foreign nationals.” (emphasis added)); *see also* Gen. Counsel’s Rpt. at 24, MUR 4250 (Republican Nat’l Comm., *et al.*) (describing the legislative history of the foreign national prohibition, which,

1 **B. The Commission Finds Reason to Believe Parnas Knowingly Solicited**
2 **Contributions from a Foreign National**

3 1. Parnas Knowingly Solicited Zelensky to Publicly Announce and
4 Investigate Allegations Regarding Joe Biden and Burisma, and Foreign
5 Interference in the 2016 U.S. Presidential Election

6 The available record indicates that Parnas knowingly solicited a prohibited contribution
7 when he directly and indirectly asked, requested, or recommended that Zelensky issue a public
8 announcement and investigate allegations that Joe Biden pressured Ukraine to fire its Prosecutor
9 General in order to terminate an investigation of Burisma and thus protect his son, Hunter Biden,
10 and that foreign interference in the 2016 U.S. presidential election originated in Ukraine in
11 coordination with the DNC.¹¹³

12 Commission regulations specify:

13 A solicitation is an oral or written communication that, construed
14 as reasonably understood in the context in which it is made,
15 contains a clear message asking, requesting, or recommending that
16 another person make a contribution, donation, transfer of funds, or
17 otherwise provide anything of value. A solicitation may be made
18 directly or indirectly. The context includes the conduct of persons
19 involved in the communication. A solicitation does not include
20 mere statements of political support or mere guidance as to the
21 applicability of a particular law or regulation.¹¹⁴

22 Commission regulations also provide examples of statements that would constitute
23 solicitations, including but not limited to: “The candidate will be very pleased if we can count

“unlike other provisions of the Act, has its origins in, and essentially remains, a national security provision with broad application”).

¹¹³ See 11 C.F.R. § 300.2(m) (defining “solicit”).

¹¹⁴ *Id.*

1 on you for \$10,000;”¹¹⁵ “I will not forget those who contribute at this crucial stage;”¹¹⁶ and
 2 “Your contribution to this campaign would mean a great deal to the entire party and to me
 3 personally.”¹¹⁷ However, the Commission has “emphasize[d] that the definition . . . is not tied in
 4 any way to a candidate’s use of particular ‘magic words’ or specific phrases.”¹¹⁸ The
 5 Commission has also explained that communications must be reasonably construed in context,
 6 such that “the Commission’s objective standard hinges on whether the recipient should have
 7 reasonably understood that a solicitation was made.”¹¹⁹

8 Applying these provisions, the Commission has previously found that asking a foreign
 9 national to make a political contribution, while offering a potential benefit in return, results in a
 10 prohibited solicitation. In MUR 6528, the Commission found reason to believe that a federal
 11 candidate knowingly and willfully “solicited or played an active role in the solicitation” of
 12 foreign national contributions, including by offering to help obtain immigration status for a
 13 foreign national if he contributed to the candidate’s campaign, and telling the foreign national

¹¹⁵ *Id.* § 300.2(m)(2)(xii).

¹¹⁶ *Id.* § 300.2(m)(2)(xi).

¹¹⁷ *Id.* § 300.2(m)(2)(xiii).

¹¹⁸ Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13,926, 13,928 (Mar. 20, 2006) (“Solicitation E&J”). The Commission revised the definition of “to solicit” in 2006, specifically in response to *Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005), in which the U.S. Court of Appeals for the D.C. Circuit invalidated the Commission’s original definition because it covered only “explicit direct requests” and left open the possibility that candidates could evade the statutory restriction on soft money solicitations with “winks, nods, and circumlocutions to channel money in favored directions — anything that makes their intention clear without overtly ‘asking’ for money.” *Id.* at 106.

¹¹⁹ Solicitation E&J, 71 Fed. Reg. at 13,929 (“[I]t is necessary to reasonably construe the communication in context, rather than hinging the application of the law on subjective interpretations of the Federal candidate’s or officeholder’s communications or on the varied understandings of the listener. The revised definition reflects the need to account for the context of the communication and the necessity of doing so through an objective test.”); see Factual & Legal Analysis (“F&LA”) at 6, MUR 6939 (Mike Huckabee, *et al.*) (dismissing an allegation that a candidate solicited an excessive contribution by saying, in a speech announcing his candidacy, “[i]f you want to give a million dollars, please do it” because, in context, “an objective listener would not reasonably have understood” the statement to be a solicitation for “million-dollar contributions” as opposed to “a humorous aside in the course of his speech”).

1 that although he could not legally contribute to the candidate’s campaign, he could provide funds
2 to third parties to make such contributions.¹²⁰

3 Here, Parnas knowingly solicited Zelensky by asking, requesting, or recommending,
4 directly and through intermediaries,¹²¹ that Zelensky provide two deliverables: The Ukrainian
5 investigation of allegations regarding Burisma/Biden and 2016 election interference, and a public
6 announcement of that investigation. Parnas interacted with Zelensky (through his aides) after his
7 election as President of Ukraine and therefore had “actual knowledge” that Zelensky was a
8 foreign national and the head of a foreign government.¹²²

9 As discussed above, efforts to solicit Zelensky began with a May 12, 2019, meeting
10 between Parnas and Serhiy Shefir, Zelensky’s aide, in which Parnas expressed that he
11 represented Trump and Giuliani and told Shefir that Zelensky needed to announce an
12 investigation into the Bidens before Vice President Pence would attend Zelensky’s inauguration
13 as planned.¹²³ Parnas also told Shefir that if Zelensky did not comply, the two countries’
14 “relationships would be sour” and that the U.S. “would stop giving them any kind of aid.”¹²⁴

¹²⁰ Factual & Legal Analysis at 2–3, 6 MUR 6528 (Michael Grimm for Congress, *et al.*); *see also* 52 U.S.C. § 30122 (prohibiting making a contribution in the name of another).

¹²¹ That a solicitation is made through intermediaries does not change the analysis. Commission regulations specify that a “solicitation may be made directly or indirectly” and thus capture solicitations made through persons acting on behalf of the principal or principals. 11 C.F.R. § 300.2(m) (incorporated in foreign national prohibition at 11 C.F.R. § 110.20(a)(6)); *see* Factual & Legal Analysis at 5–6, MUR 7122 (Right to Rise USA, *et al.*) (Oct. 11, 2018) (finding that the agent of an independent-expenditure-only political committee (“IEOPC”) solicited foreign national contributions by having a conversation with a foreign national, the majority owner of a foreign company, about the foreign company’s U.S. subsidiary contributing to the IEOPC, and then emailing both the Chief Executive and a foreign national board member of the subsidiary to indicate that the foreign parent company’s majority owner “expressed interest” in making a contribution to the IEOPC); Conciliation Agreement, MUR 7122 (Right to Rise USA) (settling IEOPC’s violations of 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) arising from agent’s solicitation).

¹²² *See* 11 C.F.R. § 110.20(a)(3) (defining “foreign national”); *id.* § 110.20(a)(4) (defining “knowingly”).

¹²³ *Supra* note 22 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

¹²⁴ *Id.*

1 Interviews and testimony reflect that when Shefir did not respond to these overtures, Parnas
2 informed Giuliani of the apparent rejection and, the following day, Trump instructed Pence not
3 to attend Zelensky’s inauguration.¹²⁵

4 Parnas’s statements conveyed, on behalf of Trump and Giuliani, a clear request and
5 recommendation that Zelensky provide the desired announcement of the investigation —
6 particularly when those statements are reasonably construed in the context of Parnas’s comment
7 that refusal would “sour” the U.S.-Ukraine relationship and lead to the loss of future U.S. aid, as
8 well as the planned attendance of Vice President Pence at Zelensky’s inauguration. Giuliani also
9 directly told Zelensky’s aides, as well as Sondland and Volker, that Trump wanted Zelensky to
10 make a public announcement committing Ukraine to conducting the desired investigation.¹²⁶
11 Both personally and through his associate, Parnas, Giuliani conveyed a clear request that
12 Zelensky publicly announce and conduct the investigation.

13 Accordingly, the overall record establishes that Parnas knowingly solicited Zelensky to
14 provide the announcement and investigation of these allegations.

15 2. The Announcement and Investigation Were “Contributions” Under the Act

16 As set forth above, the record indicates that Parnas solicited Zelensky to provide an
17 official public announcement and investigation of allegations regarding Joe Biden and foreign
18 interference in the 2016 U.S. presidential election. In so doing, he solicited “contributions” from
19 a foreign national, in that the announcement and investigation were each a thing “of value”
20 sought “for the purpose of influencing” a federal election.¹²⁷

¹²⁵ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

¹²⁶ Sondland Hearing at 26–27; Taylor Dep. at 26.

¹²⁷ 52 U.S.C. § 30101(8)(A).

1 1. The Act Defines a “Contribution” to Include “Anything of Value”

2 In defining a “contribution,” the Act uses a broadly-encompassing phrase, “anything of
3 value,”¹²⁸ which, under the Commission’s regulation, includes “*all* in-kind contributions” and
4 “the provision of *any* goods or services” at no charge or at a reduced charge.¹²⁹ The regulation
5 also provides a non-exhaustive list of examples that satisfy various campaign needs and
6 represent a wide variety of electoral “value,” such as: places to operate (“facilities”), methods of
7 conveying a message (“advertising services”), and raw voter data (“mailing lists”), as well as
8 physical and human resources (“supplies” and “personnel,” respectively).¹³⁰ The list of
9 examples conveys that a wide variety of things that may confer a benefit to a campaign, and thus
10 potentially spare the campaign’s own resources, conceivably constitute things of value.

11 The phrase “anything of value” facially contemplates a broad, case-by-case application,
12 and in prior matters, the Commission has found that many tangible and intangible things fall
13 within the scope of the regulatory text.¹³¹ In prior matters, when evaluating whether something

¹²⁸ 52 U.S.C. § 30101(8)(A); *see also United States v. Girard*, 601 F.2d 69, 71 (2d Cir. 1979) (holding that law enforcement report disclosing the names of confidential informants is a “thing of value” under federal theft statute, 18 U.S.C. § 641) (“These words [‘thing of value’] are found in so many criminal statutes throughout the United States that they have in a sense become words of art. The word ‘thing’ notwithstanding, *the phrase is generally construed to cover intangibles as well as tangibles.* For example, amusement is held to be a thing of value under gambling statutes. Sexual intercourse, or the promise of sexual intercourse, is a thing of value under a bribery statute. So also are a promise to reinstate an employee, and an agreement not to run in a primary election. The testimony of a witness is a thing of value under 18 U.S.C. § 876, which prohibits threats made through the mails with the intent to extort money or any other ‘thing of value.’ Although the content of a writing is an intangible, it is nonetheless a thing of value. The existence of a property in the contents of unpublished writings was judicially recognized long before the advent of copyright laws.” (emphasis added, citations omitted)).

¹²⁹ 11 C.F.R. § 100.52(d)(1) (emphases added).

¹³⁰ *Id.* (“Examples of such goods or services *include, but are not limited to:* Securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.” (emphasis added)).

¹³¹ *See* Advisory Op. 2000-30 (pac.com) (stock); Advisory Op. 1980-125 (Cogswell for Senate Comm. 1980) (silver coins); Advisory Op. 1982-8 (Barter PAC) (barter credit units); Factual and Legal Analysis at 3,7-8, MUR 6725 (Ron Paul 2012) (finding reason to believe committee failed to disclose value of gold coin as in-kind contribution of commodity to be liquidated); Factual and Legal Analysis at 10-11, MUR 6040 (Rangel for Congress, et al.) (finding reason to believe that rent-controlled apartment occupied by political committees under terms and conditions that differed from other tenants was excessive in-kind contribution); First Gen. Counsel’s Report at 10,

1 is a thing “of value” under the Act, the Commission has considered questions such as the
 2 following: whether the thing may confer a benefit on the recipient campaign;¹³² whether
 3 political campaigns have previously used their own resources to procure the thing in question;¹³³
 4 whether the provision of the thing would “relieve” the campaign of an “expense it would
 5 otherwise incur”;¹³⁴ whether the provider of the thing or any third party “utilized its resources”
 6 to produce, organize, or collect the thing provided;¹³⁵ and whether the thing “may not have been
 7 publicly available” for the campaign’s use absent the provider’s actions.¹³⁶

MUR 5409 (Grover Norquist, et al.) (adopted as dispositive by Comm’n on Oct. 1, 2004) (finding reason to believe that master contact list of activists was something of value under Act even though it lacked commercial or market value and despite difficulty in quantifying its precise worth); Factual and Legal Analysis at 29-30, MUR 6718 (John Ensign, et al.) (finding reason to believe severance payment made by candidate’s parents to committee’s former treasurer for the loss of her job following extramarital affair was in-kind contribution); Gen. Counsel’s Brief at 7-8, MUR 5225 (New York Senate 2000) (probable cause finding by Comm’n on Oct. 20, 2005) (detailing approximately \$395,000 worth of in-kind contributions related to benefit concert production costs); *see also* Certification, MUR 5409 (Oct. 19, 2004) (approving recommendations in First General Counsel’s Report).

¹³² *See, e.g.*, Advisory Op. 1990-12 (Strub for Congress) at 2 (“Advisory Op. 1990-12”) (finding that the provision of poll results by a campaign volunteer who paid for the poll would result in an in-kind contribution); Advisory Op. 2007-22 at 6 (finding that the provision of printed foreign election materials, including “flyers, advertisements, door hangers, tri-folds, signs, and other printed material,” would result in an in-kind contribution); First Gen. Counsel’s Report at 10, MUR 5409 (Norquist) (adopted as dispositive) (finding that contact lists provided to a campaign without charge were “of value” because they “may at least point [the campaign] in the direction of persons who might help [its] election efforts”).

¹³³ *See, e.g.*, Advisory Op. 1990-12 at 2 (discussing Commission regulations addressing the making and acceptance of contributions in the form of poll results) (citing 11 C.F.R. § 106.4); *see also* First Gen. Counsel’s Report at 14, MUR 6651 (noting that campaigns often pay advance staff to generate crowds for campaign events).

¹³⁴ *See* Advisory Op. 2007-22 at 6 (noting that the provision of election materials to a campaign results in a contribution because it “would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials”); Advisory Op. 1990-12 at 2.

¹³⁵ *See, e.g.*, First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation “utilized its resources to obtain and compile”).

¹³⁶ *Compare* First Gen. Counsel’s Report at 9, MUR 5409 (adopted as dispositive) (observing that attendee lists provided to a campaign “may not have been publicly available”); *with* Factual & Legal Analysis at 4–5, MUR 6938 (Rand Paul for President) (“F&LA”) (finding it unclear that author’s private discussion of a forthcoming book has value for a candidate, particularly when the book information had also been publicly discussed).

1 In MUR 5409, the Commission found that a corporation made prohibited in-kind
2 contributions by providing a campaign with its private lists of organizations and individuals with
3 similar political views, which the corporation “utilized its resources to obtain and compile,” and
4 which “contain[ed] information that may be of value in connection with” a federal election.¹³⁷
5 Moreover, in the foreign national context, the Commission has previously explained that a
6 foreign national makes a prohibited contribution by providing anything to a campaign that
7 thereby “relieve[s the] campaign of the expense that it would otherwise incur,” even if the item’s
8 value “may be nominal or difficult to ascertain.”¹³⁸

9 2. The Official Public Announcement of an Investigation Is a Thing
10 “of Value” Under the Act

11 The information available in these matters indicates that the official public announcement
12 of investigations that Trump and Giuliani sought from Zelensky was a thing “of value” because
13 it was a unique, nonpublic “deliverable,”¹³⁹ the provision of which involved the use of the
14 Ukrainian government’s official resources to confer an electoral benefit on Trump’s 2020

¹³⁷ First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive); *cf.* F&LA at 4–5, MUR 6938 (finding that an author’s hour-long discussion with a U.S. Senator and potential presidential candidate regarding the author’s upcoming book — which purportedly contained negative information about another presidential candidate’s foreign business activities — did not result in an in-kind contribution because the allegations in the book were already being publicly discussed, the book had been provided to news outlets in advance of its publication, and the author averred, in a sworn affidavit, that he met with the Senator not to influence the upcoming presidential election but to discuss government officials’ conflicts of interest).

¹³⁸ Advisory Op. 2007-22 at 6 (noting that foreign nationals are prohibited from providing even “flyers, advertisements, door hangers, tri-folds, signs, and other printed material” to a campaign, “particularly in light of the broad scope of the prohibition on contributions from foreign nationals”) (citing 120 Cong. Rec. 8782 and Prohibitions E&J, 67 Fed. Reg. at 69,940).

¹³⁹ Sondland Dep. at 30 (“My recollection is that the statement was written primarily by the Ukrainians, with Ambassador Volker’s guidance, and I offered my assistance when asked. This was the, quote, “deliverable,” closed quote, referenced in some of my [text] messages. A deliverable public statement that President Trump wanted to see or hear before a White House meeting could occur.”); *id.* at 289-90 (“The deliverable, I believe, was the press statement.”); Volker Dep. at 184.

1 presidential reelection campaign, and would have relieved the campaign of expenses required to
2 procure the same benefit.

3 The desired announcement had a potential benefit for the Trump Committee: It was an
4 amplification of negative allegations about Trump’s potential election opponent — akin to
5 negative campaign advertising, or hiring a prominent public figure to criticize an electoral
6 opponent — by Zelensky, an ostensibly disinterested authority.¹⁴⁰ The announcement would
7 have benefited Trump’s reelection campaign, not by researching damaging information about a
8 political opponent — *i.e.*, conducting “opposition research” — but instead by publicizing that
9 damaging information, *i.e.*, magnifying corruption allegations against one of Trump’s potential
10 2020 election opponents, Biden, and Biden’s political party, the DNC, much like a damaging
11 narrative about an opponent propagated through paid electioneering activity.¹⁴¹ However, unlike
12 using campaign advertisements and other paid efforts to disseminate the damaging narrative,
13 which would have involved spending campaign funds and reporting the expenditures in
14 disclosure reports,¹⁴² Trump and Giuliani asked that Zelensky use the resources and authority of

¹⁴⁰ See Advisory Op. 1990-12 at 2; First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

¹⁴¹ See 11 C.F.R. § 100.52(d)(1) (including “advertising services” among examples of “goods or services” which, if provided without charge or at a reduced charge, would result in a contribution). Third parties have spent considerable amounts to amplify damaging allegations or propagate a damaging narrative about a candidate. See, *e.g.*, Conciliation Agreement ¶ IV.15, MURs 5511 and 5525 (Swiftboat Veterans and POWs for Truth) (Dec. 11, 2006) (“During the 2004 cycle, [Swiftboat Veterans and POWs for Truth] spent \$19,304,642 for 12 television advertisements that were broadcast in the Presidential election battleground states . . . and on national cable television stations . . . [and a]ll of these advertisements attacked the character, qualifications, and fitness for office of Senator John Kerry, the Democratic Presidential nominee.”). Even if a third party is not a foreign national and is otherwise permitted to make such expenditures under the Act, if those expenditures are “coordinated” with a candidate, authorized campaign committee, or an agent thereof, the result is either a “coordinated expenditure” or a “coordinated communication,” either of which results in an in-kind contribution from the third party to the candidate. See 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b) (coordinated expenditures for activity that does not include communications); 11 C.F.R. § 109.21 (coordinated communications).

¹⁴² See 52 U.S.C. § 30101(9)(A) (defining “expenditure”); *id.* § 30104(b) (mandating periodic disclosure of all expenditures).

1 his office to do so, thus seeking the same electoral benefit at no cost to the Trump Committee
2 and with no public disclosure of the thing that Zelensky was asked to provide as a “favor.”¹⁴³

3 As an official statement by the Ukrainian government, the announcement was a unique
4 deliverable that only Zelensky (or another Ukrainian government official with the requisite
5 authority) could provide; it was not readily or publicly available for Trump or his campaign to
6 obtain, absent its provision by Zelensky.¹⁴⁴ Although Trump, and perhaps to an even greater
7 extent Giuliani, publicly aired these allegations about Biden and the DNC, only Zelensky could
8 announce an official investigation of the allegations as president of Ukraine, lending them the
9 authority that would be at the root of the potential electoral benefit.¹⁴⁵ As such, the
10 announcement required the use of Zelensky’s official authority, and the Ukrainian government’s

¹⁴³ July 25 Call Memo at 3 (“The President: I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it.”).

¹⁴⁴ See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive) (recommending Commission find reason to believe corporation and corporate officer made an impermissible contribution to a committee by utilizing resources to obtain nonpublic materials, which were provided to the committee).

¹⁴⁵ Because the facts in these matters do not suggest that the desired announcement involved Zelensky making a voluntary public statement in his personal capacity, or voluntarily offering a personal opinion or assessment of a federal candidate — akin to an endorsement or public critique — it appears unnecessary to evaluate whether a foreign national provides “anything of value” under the Act merely by making a voluntary public statement relating to a federal election. See, e.g., 52 U.S.C. § 30101(8)(B)(i) (a “contribution” excludes “the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee”); Advisory Op. 2014-20 (Make Your Laws PAC) at 3–4 (foreign nationals may voluntarily provide a campaign with personal services to help design website code, logos, and trademarks, and may provide the intellectual property rights resulting “directly and exclusively” from those services, without making a prohibited contribution); Advisory Op. 2007-22 at 3 (foreign nationals may engage in uncompensated campaign activity, including canvassing and phone banking, without making a prohibited contribution); Advisory Op. 2004-26 (Weller) at 3 (the foreign national spouse of a candidate may, as an uncompensated volunteer, attend campaign events, give speeches, and solicit campaign contributions); Advisory Op. 1987-25 (Otaola) at 2 (uncompensated services by foreign national student would not result in prohibited contributions); Factual & Legal Analysis at 6–9, MURs 5987, 5995, and 6015 (Sir Elton John) (finding no reason to believe a foreign national made a prohibited contribution by volunteering his services to perform at a campaign fundraiser and agreeing to let the campaign use his name and likeness in its emails promoting the concert and soliciting support); *but see* Advisory Op. 2007-08 at 4 n.2 (King) (clarifying that the volunteer services exception from the definition of contribution “is restricted to donations of the volunteer’s own time and services and does not generally exempt actual costs incurred on behalf of a Federal candidate”).

1 resources, to support the Trump Committee.¹⁴⁶ Because of Trump’s demand, Zelensky and his
2 aides were involved in multiple, weeks-long negotiations with Department of State officials
3 regarding the requested announcement, including the specific language that it would need to
4 include.¹⁴⁷ This activity required Ukraine to direct human and logistical resources to this end,¹⁴⁸
5 akin to the type of resources necessary for the provision of a “service” at no charge, which
6 Commission regulations include in the definition of a “contribution.”¹⁴⁹ Thus, in requesting an
7 announcement of an investigation from the Ukrainian President, to be delivered in a public
8 setting and with the assistance of other Ukrainian government personnel, Trump requested a
9 deliverable that necessarily would have involved expending Ukrainian resources.

10 Although there appears to be no record of any political committee previously purchasing
11 this type of deliverable, *i.e.*, an official announcement regarding a law enforcement investigation,
12 and there does not appear to be an identifiable commercial market for it, this does not disqualify
13 the announcement from being a thing “of value” for purposes of the Act.¹⁵⁰ A unique or unusual
14 deliverable, such as an official announcement of an investigation, may be a thing of value —
15 even if there is no apparent record of a political campaign previously purchasing such an item, or

¹⁴⁶ See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

¹⁴⁷ See Sondland Dep. at 84; 169 (“What I understood was that breaking the logjam with getting the President to finally approve a White House visit was a public utterance by Zelensky, either through the press statement or through an interview or some other public means, that he was going to pursue transparency, corruption, and so on.”); 240 (“[T]he first time I recall hearing about 2016 and Burisma was during the negotiations of the press statement.”); 347; Volker Dep. at 71–72 (discussing negotiating the text of the statement).

¹⁴⁸ See Taylor Dep. at 135–36.

¹⁴⁹ 11 C.F.R. § 100.52(d)(1); *see id.* § 100.111(e)(1).

¹⁵⁰ See First Gen. Counsel’s Report at 8 n.12, MUR 5409 (adopted as dispositive) (“It is difficult to ascertain a market value for unique goods such as the materials [respondent] provided to the Committee. *The lack of a market, and thus the lack of a ‘usual and normal charge,’ however, does not necessarily equate to a lack of value.*” (emphasis added)).

1 any commercial market for doing so, and even if it is difficult to ascribe a monetary value to it —
2 since the Commission has made clear that even contributions whose value “may be nominal or
3 difficult to ascertain” are prohibited when provided by a foreign national.¹⁵¹

4 Trump and Giuliani demanded that Zelensky make an official announcement raising the
5 public profile of politically damaging allegations about Biden and the DNC, using the authority
6 of Zelensky’s office and the Ukrainian government’s resources. In so doing, they pursued a
7 deliverable that Zelensky was uniquely situated to provide, and which supplied an electoral
8 benefit to the Trump Committee: Amplifying a narrative casting Trump’s potential election
9 opponent in a negative light, thereby sparing Trump’s reelection campaign the cost and public
10 disclosure involved in disseminating that narrative itself. As such, the announcement was a thing
11 “of value” under the Act.

12 3. The Official Investigation of a Potential Election Opponent and that
13 Opponent’s Political Party Is a Thing “of Value” Under the Act

14 In addition to seeking a public announcement that Ukraine was investigating the
15 allegations that Joe Biden improperly coerced Ukraine to shut down an anticorruption
16 investigation of Burisma to protect his son, Hunter Biden, and that the DNC coordinated with
17 Ukraine’s efforts to interfere in the 2016 presidential election, Trump and Giuliani also sought
18 the actual investigation of these allegations. The requested investigation of these allegations is
19 likewise a thing “of value” under the Act, because it would have involved Ukraine using its
20 resources to confer a potential benefit on Trump’s 2020 reelection campaign.

21 The Ukrainian investigation sought by Trump and Giuliani was akin to a service that
22 campaigns commonly expend resources on — opposition research, or research into potentially

¹⁵¹ *E.g.* Advisory Op. 2007-22 at 6.

1 damaging information about political opponents.¹⁵² The requested investigation would have
2 required a third party, the Ukrainian government, to use its resources to provide a benefit to the
3 Trump Committee — *i.e.*, researching negative information about Trump’s potential election
4 opponent, Biden, and Biden’s party, the DNC — thereby relieving the Trump Committee of the
5 attendant expense of that investigative effort.

6 Further, the requested investigation was a thing “of value” irrespective of whether it
7 ultimately produced any useful information for the Trump Committee. Like an opposition
8 research service paid for by any campaign, the “value” of the requested Ukraine investigation in
9 this context, for the Act’s purposes, derives from the cost of the investigative *effort*, without
10 regard to the perceived value of the resulting *information*, just as the value of a campaign ad, for
11 the Act’s purposes, generally derives from the production and distribution costs without regard to
12 its effectiveness in persuading voters. The requested investigation would have required that
13 Ukraine deploy its official law enforcement infrastructure to pursue information regarding
14 Biden’s alleged conduct with respect to Burisma, and the DNC’s alleged conduct with respect to
15 alleged Ukrainian election interference, which would incur a cost even if the Ukrainian
16 investigation failed to produce any information supporting these allegations. Accordingly,
17 because Ukraine’s government would have had to use its resources to investigate the allegations,
18 thus sparing the Trump Committee the expense of doing so and potentially allowing the
19 campaign to otherwise direct its resources, the requested investigation was a thing “of value.”

¹⁵² See FEC, *2017-2018 Disbursement Data*, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&disbursement_description=research (including 7,599 disbursement entries including the description “research”).

- 1 fulfill the obligations of holding federal office,¹⁵⁷ or engage in legal or policy advocacy¹⁵⁸ —
 2 does not result in a “contribution” or “expenditure,” even if it confers a benefit on a candidate or
 3 otherwise affects a federal election. The electoral purpose may be clear on its face, as in a third
 4 party’s payments for a coordinated communication, or inferred from the surrounding
 5 circumstances.¹⁵⁹

Advisory Op. 2004-06 (Meetup) at 4 (commercial web service provider that can be used to arrange meetings and events based on shared interests did not make contributions by featuring federal candidates in its list of “event topics” or by offering its services to federal candidates and committees because “any similarly situated member of the general public” could use these services); *see* First Gen. Counsel’s Report at 13–17, MURs 5474 and 5539 (Dog Eat Dog Films) (recommending finding no reason to believe with respect to allegation that producers and distributors of a film criticizing a federal candidate made “contributions” or “expenditures,” because the record established that the film was made and distributed “for genuinely commercial purposes rather than to influence a federal election”) and Certification ¶¶ A.1–2, B.1, MURs 5474 and 5539 (June 8, 2005) (approving recommendations); Advisory Op. 1994-30 (Conservative Concepts/Pence) (identifying factors used to determine whether “entrepreneurial activity” referencing a federal candidate will result in a “contribution,” including “whether the activity” is “for genuinely commercial purposes”).

¹⁵⁷ *E.g.*, Advisory Op. 1981-37 (Gephardt) at 2 (federal candidate did not receive a contribution by appearing at a series of “public affairs forums” paid for by a corporation because “the purpose of the activity is not to influence the nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder” and although “involvement in the public affairs programs may indirectly benefit future campaigns, . . . the major purpose of the activity contemplated . . . would not be the nomination or election of you or any other candidate to Federal office”).

¹⁵⁸ *E.g.*, F&LA at 8, MUR 7024 (free legal services provided to a federal candidate challenging FEC disclosure regulations were not contributions because the services were provided “for the purpose of challenging a rule of general application, not to influence a particular election”); Advisory Op. 2010-03 (National Democratic Redistricting Trust) at 4 (federal candidates can solicit funds outside of the Act’s limitations and prohibitions for redistricting litigation costs, because “[a]lthough the outcome of redistricting litigation often has political consequences, . . . such activity is sufficiently removed that it is not ‘in connection with’ the elections themselves”); Advisory Op. 1982-35 (Hopfman) at 2 (funds collected by federal candidate to challenge state party’s ballot access rule precluding him from the ballot were not “contributions” because “the candidate is not attempting to influence a Federal election by preventing the electorate from voting for a particular opponent [but instead] proposes to use the judicial system to test the constitutionality of the application of a party rule to his candidacy”); Advisory Op. 1996-39 (Heintz for Congress) (same); *cf.* Advisory Op. 1980-57 (Bexar County Democratic Party) at 3 (funds raised for federal candidate’s lawsuit seeking removal of a potential opponent from the ballot *were* contributions because litigation “to force an election opponent off the ballot . . . is as much an effort to influence an election as is a campaign advertisement derogating that opponent”).

¹⁵⁹ *E.g.* Advisory Op. 1988-22 at 5 (San Joaquin Valley Republican Associates) (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions); *see* Factual & Legal Analysis at 17–20, MURs 4568, 4633, and 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with “uncompensated fundraising and campaign management assistance” and “advertising assistance[.]” including spending “several million dollars” on coordinated advertisements); Advisory

1 The overall record in these matters supports the conclusion that Trump sought the
2 announcement and investigation from Zelensky and Ukraine for the purpose of influencing the
3 2020 U.S. presidential election.¹⁶⁰ During their July 25, 2019, call, Trump asked Zelensky to
4 investigate the Biden/Burisma and 2016 election interference allegations, requesting that
5 Zelensky and his team discuss the matter with Giuliani and Attorney General Barr.¹⁶¹ Trump’s
6 statements, viewed in light of his later comments regarding the call and ongoing support for
7 Giuliani’s investigation of these allegations, reflect the electoral purpose behind these requests.

8 In particular, Trump’s statements after his call with Zelensky indicate that his purpose for
9 seeking the investigation was to advance his own campaign for reelection by harming a potential
10 opponent. The day after the call, on July 26, 2019, Trump called and asked Sondland whether
11 Zelensky was “going to do the investigation,” to which Sondland responded that Zelensky would
12 do it and, in fact, would “[d]o anything you ask him to.”¹⁶² Sondland then told Holmes, a U.S.
13 Embassy official who overheard Sondland’s exchange with Trump, that he believed Trump “did
14 not give a shit about Ukraine” and cared only about ““big stuff” that benefits the President, like
15 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”¹⁶³ In response to

Op. 2000-08 (Harvey) at 1, 3 (concluding private individual’s \$10,000 “gift” to a federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”).

¹⁶⁰ Having undertaken these actions for the purpose of influencing an election, rather than some official governmental purpose, Trump was not acting in his capacity as president, or on behalf of the federal government. Thus, Trump was a “person” under the Act and subject to the foreign national prohibition in 52 U.S.C. § 30121. *See* 52 U.S.C. § 30101(11) (defining “person” to exclude “the Federal Government or any authority of the Federal Government”).

¹⁶¹ July 25 Call Memo at 3–4; *see* October 3 Trump Remarks.

¹⁶² Holmes Dep. at 24.

¹⁶³ *Id.* at 25; *see also* Bolton Book at 462 (“‘I don’t want to have any [] thing to do with Ukraine,’ said Trump, per Kupperman. . . . ‘They [] attacked me. I can’t understand why. . . .’ All this, he said, pertained to the Clinton campaign’s efforts, aided by Hunter Biden, to harm Trump in 2016 and 2020.”).

1 reporters' questions about his reasons for asking Zelensky to investigate Biden, Trump
2 acknowledged that he believed Biden was "crooked" and should be investigated,¹⁶⁴ and he later
3 said, in a televised interview, that he would make Biden's alleged corruption "a major issue in
4 the campaign."¹⁶⁵ These candid statements show that Trump had an electoral purpose in seeking
5 the investigation.

6 Trump's funneling of Ukraine policy through his personal attorney, Giuliani, further
7 accords with that conclusion. When the U.S. delegation, including Perry, Sondland, and Volker,
8 returned from Zelensky's inauguration urging Trump to show support for the new Ukrainian
9 President by scheduling a White House meeting with Zelensky, rather than engaging with
10 officials at the Department of State, Department of Defense, or National Security Council,
11 Trump directed that any discussion about meeting with Zelensky be channeled through Giuliani,
12 who held no government position and was acting as Trump's personal attorney.¹⁶⁶ For example,
13 Trump directed Bolton, his National Security Advisor, to ask Zelensky to meet with Giuliani, not
14 to discuss corruption generally, but the Biden/Burisma and 2016 election interference allegations
15 specifically.¹⁶⁷ Finally, in his July 25, 2019, call with Zelensky, Trump requested that Zelensky
16 consult with Giuliani and Attorney General Barr, rather than going through traditional diplomatic

¹⁶⁴ Trump-Niinistö Press Conference ("Q: What did you want about Biden? What did you want [President Zelensky] to look into on Biden? PRESIDENT TRUMP: . . . Look, Biden and his son are stone-cold crooked."); October 3 Trump Remarks ("So, I would say that President Zelensky — if it were me, I would recommend that they start an investigation into the Bidens. Because nobody has any doubt that they weren't crooked.").

¹⁶⁵ Hannity Interview.

¹⁶⁶ Volker Dep. at 305; Sondland Dep. at 25; *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

¹⁶⁷ Bolton Book at 459.

1 channels, about investigating the Biden/Burisma and 2016 election interference allegations.¹⁶⁸
2 Trump’s use of his personal attorney, rather than the usual and official actors in U.S. foreign
3 policy, suggests that Trump himself viewed Giuliani’s effort to discredit Biden and the DNC as a
4 personal matter, namely, that it was for the purpose of influencing the 2020 presidential election.

5 Likewise, the record makes clear that Giuliani also pursued these allegations for the
6 purpose of benefitting Trump’s candidacy, *i.e.*, influencing the 2020 presidential election.
7 Giuliani acknowledged in May 2019 that he was planning a trip to Ukraine for the specific
8 purpose of what he described as “meddling in an investigation” — *i.e.*, to urge the newly-elected
9 Ukrainian president, Zelensky, to pursue the Biden/Burisma and 2016 election interference
10 allegations. Giuliani, as Trump’s personal counsel, expressed his belief that Ukraine’s
11 investigation of these allegations would uncover “information [that] will be very, very helpful to
12 my client.”¹⁶⁹ Viewed in the context of his broader effort to develop and disseminate these
13 allegations — including by pushing for the removal of Ambassador Yovanovitch, who Giuliani
14 viewed as an impediment to the desired investigation,¹⁷⁰ and meeting with Shokin, the former
15 Ukrainian prosecutor who had allegedly tried to investigate Burisma before being removed at
16 Biden’s behest, as well as Shokin’s successor Lutsenko — Giuliani’s comments indicate
17 recognition that the Ukrainian investigation would likely benefit Trump personally because of
18 the influence such actions would have on the election in his non-official capacity, *i.e.*, in his
19 campaign.

¹⁶⁸ July 25 Call Memo.

¹⁶⁹ May 9 NY Times Article.

¹⁷⁰ *See supra* notes 8–11 and accompanying text (discussing Giuliani’s effort to have Yovanovitch removed).

1 Giuliani later publicly claimed that his purpose in investigating “2016 Ukrainian
2 collusion and corruption” was “solely” to defend Trump “against false charges[,]”¹⁷¹ a claim that
3 Giuliani also raises in his response filed with the Commission.¹⁷² Even if one were to accept,
4 *arguendo*, that Giuliani’s reason for urging Ukraine to investigate the 2016 election interference
5 allegation was to defend his client, Trump, in connection with Special Counsel Robert Mueller’s
6 investigation of Russian electoral interference in the 2016 presidential election, that reasoning
7 could plausibly provide a non-electoral purpose for Giuliani’s actions only until the Special
8 Counsel’s Report was confidentially submitted to the Attorney General, ending the investigation,
9 on March 22, 2019 — *i.e.*, weeks before Giuliani’s planned trip to Ukraine for the purpose of
10 “meddling in investigations,” and months before the July 25, 2019, Trump-Zelensky phone call
11 that is the focus of the complaints at issue in these matters.¹⁷³ Giuliani’s claim that he was acting
12 solely to defend Trump is therefore inconsistent with his continued pursuit of a Ukrainian
13 investigation into the 2016 election interference allegation well after the Special Counsel’s
14 investigation had ended.

15 Moreover, Giuliani’s pursuit of the announcement of the Burisma/Biden allegation —
16 which his associate, Parnas, characterized in a television interview as “the most important” of the

¹⁷¹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), https://twitter.com/RudyGiuliani/status/1192180680391843841?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1192193760681242624&ref_url=https%3A%2F%2Fthehill.com%2Fhomenews%2Fadministration%2F469324-george-conway-giuliani-tweet-by-itself-establishes-that-trump.

¹⁷² Giuliani Resp. at 2.

¹⁷³ Devlin Barrett, *et al.*, *Mueller Report Sent to Attorney General, Signaling His Russia Investigation Has Ended*, WASH. POST (Mar. 22, 2019), https://www.washingtonpost.com/world/national-security/mueller-report-sent-to-attorney-general-signaling-his-russia-investigation-has-ended/2019/03/22/b061d8fa-323e-11e9-813a-0ab2f17e305b_story.html; *see also*, Compl. ¶¶ 27, 40.

1 demands of Zelensky¹⁷⁴ — has no cognizable connection with the Special Counsel’s
2 investigation. As such, Giuliani’s efforts to pressure Zelensky to announce and investigate the
3 Biden/Burisma allegation cannot reasonably be viewed as an attempt to defend Trump in specific
4 connection with that inquiry. Giuliani’s efforts, and the timing of them, further undermine
5 Giuliani’s argument as to his purpose and instead support the conclusion that Giuliani acted to
6 benefit Trump politically with regard to his 2020 presidential reelection campaign.¹⁷⁵

7 Parnas’s statements indicate that he shared Giuliani’s purpose when he pursued the
8 announcement of the Biden investigation in a May 12, 2019, meeting with Zelensky’s aide
9 Serhiy Shefir. At that meeting, Parnas told Shefir that the announcement was a prerequisite for
10 Vice President Pence to attend Zelensky’s inauguration¹⁷⁶ and, after Shefir demurred, Parnas
11 informed Giuliani, and Trump directed Pence not to attend Zelensky’s inauguration.¹⁷⁷ Viewed
12 in light of Parnas’s later acknowledgement that among the “several demands” that he conveyed
13 to Shefir, the “most important one was the announcement of the Biden investigation,”¹⁷⁸
14 Giuliani’s response when that demand was not satisfied — “OK, they’ll see”¹⁷⁹ — and Trump’s
15 subsequent directive that Pence not attend Zelensky’s inauguration, Parnas’s statements evince
16 an electoral purpose since Parnas acknowledged which demand was “the most important” and
17 attempted to pressure Zelensky into providing it to benefit Trump’s campaign.

¹⁷⁴ Maddow Interview Pt. 1 at 13:43–16:12.

¹⁷⁵ See F&LA at 6, MUR 7024 (quoting 52 U.S.C. § 30101(8)(A)(i)).

¹⁷⁶ Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

¹⁷⁷ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

¹⁷⁸ Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

¹⁷⁹ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

1 Further, numerous U.S. officials expressed concern regarding the requests that Zelensky
2 announce and investigate these allegations, stemming from the fact that the announcement and
3 investigation were pursued through an improper, irregular channel — namely, through Giuliani,
4 a private citizen acting as Trump’s personal attorney¹⁸⁰ — rather than through an official
5 channel, such as a request for intergovernmental law enforcement cooperation, and were sought
6 for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or
7 policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted
8 negatively to Sondland’s statement to the Ukrainians that the White House would agree to
9 schedule an official meeting for Zelensky after Ukraine initiated the investigations; Bolton
10 swiftly ended the meeting and afterward instructed his associate, Hill, to inform the National
11 Security Council’s legal counsel about Sondland’s statement and that he, Bolton, was not party
12 to the offer.¹⁸¹

13 Bolton later asserted that he did not agree with Sondland’s persistent effort to get
14 approval for a face-to-face meeting between Zelensky and Trump, and did not think that such a
15 meeting should be used to discuss the allegations that Giuliani wanted Zelensky to investigate.¹⁸²
16 At a follow-up meeting without Bolton, Sondland again told the Ukrainians that a White House
17 visit for Zelensky would happen only after the announcement of the Burisma/Biden and 2016
18 election interference investigations, after which Hill and Vindman confronted Sondland to

¹⁸⁰ See *supra* notes 19–20 and accompanying text.

¹⁸¹ Vindman Dep. at 17; Hill Dep. at 65–67, 70–71; see also Bolton Book at 465 (“I told [Hill] to take this whole matter to the White House Counsel’s office; she quoted me accurately as saying, ‘I am not part of whatever drug deal Sondland and Mulvaney are cooking up.’ I thought the whole affair was bad policy, questionable legally, and unacceptable as presidential behavior.”).

¹⁸² Bolton Book at 465 (“I was stunned at the simpleminded-ness of pressing for a face-to-face Trump-Zelensky meeting where the ‘Giuliani issues’ could be resolved, an approach it appeared Mulvaney shared from his frequent meetings with Sondland.”).

1 express their view that Sondland’s statement was inappropriate.¹⁸³ The fact that Bolton, Hill,
2 and Vindman all expressed immediate concern with the requests to the Ukrainian delegation
3 indicates that they perceived — and objected to — the linkage between an important diplomatic
4 goal and the announcement of an investigation into Trump’s potential electoral opponent.

5 Zelensky’s representatives, Andrey Yermak and Oleksandr Danyliuk, also understood the
6 purpose of the request to be political, expressing concern about Ukraine being improperly drawn
7 into a U.S. domestic political matter. On July 20, 2019, ten days after his meeting with Bolton,
8 Danyliuk told Bill Taylor that Zelensky “did not want to be used as a pawn” in U.S. election
9 matters.¹⁸⁴ Yermak, Zelensky’s closest advisor, also expressed concern that Ukraine could get
10 drawn into a U.S. domestic political issue by satisfying Trump’s and Giuliani’s wishes. After the
11 Trump-Zelensky phone call, and after Yermak met with Giuliani on August 2, 2019, where they
12 discussed the White House visit and a public announcement of the investigations, Yermak sent
13 Volker a draft of a potential announcement on August 12, 2019, which generally discussed
14 Ukraine’s commitment to combating corruption but lacked specific mention of the
15 Biden/Burisma and 2016 election-interference allegations.¹⁸⁵ Upon considering Yermak’s
16 proposed statement, however, Giuliani reportedly rejected it because it did not contain specific
17 references to the allegations, telling Volker that if the announcement “doesn’t say Burisma and
18 2016, it’s not credible.”¹⁸⁶

¹⁸³ Vindman Dep. at 29–31; Hill Dep. at 69–70.

¹⁸⁴ Taylor Dep. at 30; Bolton Book at 472.

¹⁸⁵ First Volker Text Excerpts at 3; Volker Dep. at 113.

¹⁸⁶ Volker Dep. at 71–72, 113; *see also* Maddow Interview Pt. 2 at 16:17–17:02 (“They [Zelensky’s administration] announced something about corruption, that he’s going to be on corruption, but Giuliani blew his lid on that saying, ‘That’s not what we discussed.’ That it wasn’t supposed to be a corruption announcement, it has to be about Joe Biden and Hunter Biden and Burisma.”). Giuliani contends, in his response, that “[n]either [Volker nor Sondland] shared with Mr. Giuliani a copy of the letter nor did they read a draft to him.” Giuliani Resp. at 3. This

1 Giuliani’s reported insistence on these specific references belies the argument that the
2 announcement’s purpose was non-electoral — *e.g.*, that it was sought to publicly ensure
3 Ukrainian commitment to investigating corruption — and instead supports the inference that the
4 announcement’s purpose was to amplify allegations that would harm the reputations of Biden
5 and the DNC, as well as publicly commit Ukraine to investigating those allegations.¹⁸⁷ Volker
6 testified that to implement Giuliani’s instructions and advance the negotiations, he incorporated
7 the desired references and sent a revised draft statement to Yermak, although Volker also
8 advised Yermak that announcing an investigation with specific references to these two
9 allegations was “not a good idea” and that a “generic statement about fighting corruption” would
10 be better.¹⁸⁸ These sentiments appear to reflect contemporaneous recognition by the officials
11 involved that conditioning a White House visit — seen by officials on both sides as critical to the
12 diplomatic relationship¹⁸⁹ — on the public announcement and investigation of these specific
13 allegations was improper, because it placed pressure on Zelensky to provide deliverables that
14 could draw him and Ukraine into the 2020 U.S. presidential election.

15 Trump’s refusal to release the Congressionally-approved security aid to Ukraine, despite
16 many requests to do so, also underscores the personal, electoral motive driving the demand for
17 the announcement and investigation. Former National Security Advisor Bolton recounts that he

representation does not contradict the representations of Volker and Parnas, as Giuliani’s response does not dispute that he was made aware of the statement’s general content.

¹⁸⁷ See Taylor Dep. at 36 (“Ambassador Sondland told me that President Trump had told him that he wants President Zelensky to state publicly that Ukraine will investigate Burisma and alleged Ukrainian interference in the 2016 election. . . . He said that President Trump wanted President Zelensky in a box, by making [a] public statement about ordering such investigations.”).

¹⁸⁸ Volker Dep. at 44.

¹⁸⁹ Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

1 and the Secretaries of Defense and State repeatedly lobbied Trump to release the aid, to no
2 avail.¹⁹⁰ Officials at their respective agencies uniformly agreed, and represented vocally, that the
3 aid to Ukraine was vital and effective, a perspective mirrored in bipartisan Congressional support
4 for the aid appropriation.¹⁹¹ The Department of Defense raised a further concern that the OMB
5 hold on appropriated funds presented a potential violation of federal appropriations law, a
6 concern later validated by the U.S. Government Accountability Office.¹⁹² Taylor expressed his
7 concern about the apparent reason for the hold on security funds to Ukraine, writing in a text
8 message to Volker and Sondland, “I think it’s crazy to withhold security assistance for help with
9 a political campaign.”¹⁹³

10 Nevertheless, Trump continued to refuse to release the aid, reportedly telling Bolton on
11 August 20, 2019, that “he wasn’t in favor” of releasing the aid until all of the materials related to
12 the Biden and 2016 election interference investigations had been turned over.¹⁹⁴ Testimony
13 reflects that Trump also told Sondland that Zelensky would have to announce the investigation
14 for the aid to be released.¹⁹⁵ Trump’s refusal to release the aid, viewed in context with his
15 explanatory statements to Bolton and Sondland, indicate an electoral motivation driving his
16 demands of Zelensky, namely, influencing the 2020 presidential election through the
17 announcement and investigation of his potential opponent and the opposing political party.

¹⁹⁰ Bolton Book at 468–69.

¹⁹¹ Taylor Dep. at 28 and 132; Cooper Dep. at 16.

¹⁹² Morrison Dep. at 163; GAO Decision at 1, 8.

¹⁹³ First Volker Text Excerpts at 9.

¹⁹⁴ Bolton Book at 471.

¹⁹⁵ Morrison Dep. at 190–91; Taylor Dep. at 39.

1 In public statements regarding his actions, Trump has claimed that he withheld the
2 Ukraine aid because of concern about corruption in Ukraine and his view that the U.S. provides a
3 disproportionately high amount of aid to Ukraine, relative to countries in the European Union.¹⁹⁶
4 These subsequent explanations, however, do not sufficiently account for Trump’s actions and
5 above-described statements. Trump’s statements to Bolton and Sondland directly tied the aid to
6 the investigation of the Biden/Burisma and 2016 election interference allegations, neither of
7 which had, according to Trump’s advisors, a discernable connection to a concern with the U.S.
8 giving more aid to Ukraine than the countries of the European Union, but had a clear connection
9 with the 2020 presidential election.¹⁹⁷

10 Trump’s other contention — that concern with Ukrainian corruption animated the
11 decision to withhold the aid — is inconsistent with Giuliani’s rejection of a general public
12 statement committing Ukraine to combating corruption, which Yermak had proposed after
13 discussions with Volker and Sondland.¹⁹⁸ Moreover, Parnas stated publicly that the pursuit of
14 the Burisma allegation was never about combating corruption, but rather about Joe and Hunter
15 Biden.¹⁹⁹ The insistence on a public announcement committing Ukraine to investigating these
16 *particular* allegations connected to a potential candidate in the next presidential election supports
17 a reasonable inference that the true purpose for withholding the aid was not to ensure Ukraine’s
18 commitment to fighting corruption — a general commitment that Zelensky had campaigned on

¹⁹⁶ Sep. 24 Trump Press Conference at 0:04–0:42; Trump- Niinistö Press Conference.

¹⁹⁷ See First Volker Text Excerpts at 9 (“[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it’s crazy to withhold security assistance for help with a political campaign.”).

¹⁹⁸ Volker Dep. at 113.

¹⁹⁹ Maddow Interview Pt. 1 at 8:58–9:37.

1 and had, indeed, offered to announce publicly²⁰⁰ — but rather to influence the 2020 presidential
2 election.

3 3. Neither DOJ’s Decision Not to Pursue Criminal Charges, Nor the Special
4 Counsel’s Report, Forecloses Civil Enforcement of the Act in this Matter

5 Neither the DOJ’s decision not to criminally investigate nor the Special Counsel’s
6 Report’s analysis bears on the Commission’s civil enforcement of the Act in these matters. The
7 Special Counsel’s Report reasoned that the terms “anything of value” or “thing of value” are
8 broad in scope and could include valuable information, such as opposition research.²⁰¹
9 Consistent with the analysis presented in this report, the Special Counsel’s Report stated that
10 Commission regulations and precedent “would support the view that candidate-related
11 opposition research given to a campaign for the purpose of influencing an election could
12 constitute a contribution,” while observing that “no judicial decision has treated the *voluntary*
13 provision of uncompensated opposition research or similar information as a thing of value that
14 could amount to a contribution under campaign-finance law[.]” and that “[s]uch an interpretation
15 could have implications beyond the foreign-source ban . . . and raise First Amendment
16 questions.”²⁰²

17 The Special Counsel’s Report’s points are legally and factually inapposite, however. As
18 noted above, the Act and Commission regulations specifically exempt voluntary activity,
19 including activity by foreign nationals, from the Act’s definitions of “contribution” and

²⁰⁰ Taylor Dep. at 198-99; Volker Dep. at 29–30.

²⁰¹ Special Counsel’s Report at 186–187 (“[t]he phrases ‘thing of value’ and ‘anything of value’ are broad and inclusive enough to encompass at least some forms of valuable information.”); *see also id.* at 187 (“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”).

²⁰² *Id.* at 187 (emphasis added).

1 “expenditure,”²⁰³ while the facts in these matters concern soliciting a foreign national, Zelensky,
2 to use Ukrainian resources to provide the Trump Committee, at no cost, with things of value —
3 an announcement akin to paid campaign communications disseminating a disparaging narrative
4 about Biden, and an investigation of Biden akin to an opposition research project — and not, as
5 the Special Counsel’s Report discusses, the voluntary provision of information by a foreign
6 national. Moreover, the Commission has explained that the “exception for volunteer activities is
7 restricted to donations of the volunteer’s own time and services and does not generally exempt
8 actual costs incurred on behalf of a Federal candidate or political party committee.”²⁰⁴ Thus, any
9 costs incurred by such individuals in the course of performing their voluntary services “must be
10 within the donor’s limits and may not be contributed by any corporation or labor union or other
11 person who is prohibited by the Act from making a contribution.”²⁰⁵ Where, as here, the
12 purported volunteer who would contribute resources, such as the costs of an investigation, in
13 addition to time and services is a foreign national, such costs are a prohibited contribution.

14 In addition, the Special Counsel’s decision not to prosecute any campaign finance
15 violations, and DOJ’s decision to not criminally prosecute anyone in connection with the
16 Zelensky call, are based on considerations that are materially distinct from the Commission’s
17 consideration of these matters in an administrative and civil context. While a criminal
18 prosecution for a violation of the Act would need to prove beyond a reasonable doubt that the
19 violation was knowing and willful, the Commission in a civil proceeding would only have to

²⁰³ See *supra* note 145 (discussing the volunteer exemption as applied to foreign nationals).

²⁰⁴ Advisory Op. 2007-08 at 4 n.2 (King).

²⁰⁵ Advisory Op. 1982-04 at 3 (Apodaca).

1 establish a violation of the Act based upon the preponderance of the evidence²⁰⁶ — irrespective
2 of whether the violation was knowing and willful.²⁰⁷ Moreover, at this initial stage of the
3 administrative proceedings, the information before the Commission need only raise a reasonable
4 inference, *i.e.*, credibly allege, that a violation occurred to support a “reason to believe”
5 finding.²⁰⁸ With regard to valuation, the Special Counsel’s Office noted that it would be difficult
6 to determine that the opposition research at issue had at least \$25,000 in value, the threshold
7 amount necessary to establish a felony criminal charge, partly because no actual valuable
8 information was provided.²⁰⁹ This difficulty, however, would not be a barrier to Commission
9 action in the civil context, since even contributions that are “nominal” or “difficult to ascertain”
10 are still prohibited under the Act, which provides statutory civil penalties that are well suited for
11 solicitation violations like the ones at issue.²¹⁰

12 Finally, the Commission is entrusted with “exclusive jurisdiction with respect to the civil
13 enforcement” of the Act.²¹¹ As a civil administrative agency charged with preventing the foreign

²⁰⁶ See *Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983) (“In a typical civil suit for money damages, plaintiffs must prove their case by a preponderance of the evidence.”).

²⁰⁷ See *FEC v. Novacek*, 739 F. Supp. 2d 957, 966 (N.D. Tex. 2010) (finding that Commission need not establish intent where Commission seeks civil penalties on a non-knowing and willful basis); see also *FEC v. Malenick*, 301 F. Supp. 2d 230, 237 (D.D.C. 2004) (holding that a “knowing” violation of the Act “as opposed to a ‘knowing and willful’ one, does not require knowledge that one is violating the law, but merely requires an intent to act.”) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J.1986)).

²⁰⁸ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,545 (Mar. 16, 2007) (explaining also that “reason to believe” findings “indicate only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred”).

²⁰⁹ Special Counsel’s Report at 188.

²¹⁰ Advisory Op. 2007-22 at 6; *cf.* MUR 7048 (Cruz) (applying statutory penalty to conciliation of soft money solicitation violation).

²¹¹ 52 U.S.C. § 30106(b)(1).

1 influence over the U.S. political process,²¹² the Commission pursues civil enforcement of the
2 foreign national prohibition to fully vindicate the Act's interests. Indeed, in cases where DOJ
3 was unable to secure criminal convictions for a violation of the Act, the Commission
4 successfully conciliated with respondents on a non-knowing and willful basis to ensure that the
5 Act's interests were served.²¹³ Consequently, the Special Counsel's decision to not file suit is
6 not a bar to civil enforcement of the Act in these matters.

7 * * *

8 The available information, viewed as a whole, supports the conclusion that the
9 announcement and investigation sought by Trump, Giuliani, and Parnas would have been in-kind
10 contributions if provided to the Trump Committee because they are things of value that were
11 sought for the purpose of influencing a federal election. Had Zelensky acceded to the demands
12 to provide these two deliverables, the announcement would have amplified negative allegations,
13 akin to negative paid advertising, regarding Biden and the DNC in advance of the 2020
14 presidential election, and the investigation would have provided a service akin to opposition
15 research. Both deliverables would have incurred the use of Ukraine's official resources, at no
16 cost to the Trump Committee, providing a campaign benefit to Trump's campaign while
17 relieving it of the attendant costs. The overall record also supports the conclusion that Parnas
18 pursued these deliverables to improve Trump's electoral prospects in the 2020 presidential
19 election — *i.e.*, for the purpose of influencing a federal election.

²¹² See *Bluman*, 800 F. Supp. 2d at 288.

²¹³ See Conciliation Agreement, MUR 7221 (James Laurita) (respondent admitted to non-knowing and willful violations of 52 U.S.C. §§ 30116 and 30122 after his criminal trial ended in a hung jury); Conciliation Agreement, MUR 5818 (Feiger, Feiger, Kenney, Johnson, & Giroux, P.C.) (corporate respondent entered into conciliation agreement on non-knowing and willful basis for violations of sections 30118 and 30122 after criminal trial of individual defendants resulted in acquittal).

THIS PROPOSED DRAFT WAS VOTED ON BUT
NOT APPROVED BY THE COMMISSION.

1 Because Parnas knowingly solicited these contributions from Zelensky, a foreign
2 national, the Commission finds reason to believe that he violated 52 U.S.C. § 30121(a)(2) and
3 11 C.F.R. § 110.20(g) by knowingly soliciting prohibited foreign national contributions [OR
4 knowingly providing substantial assistance in soliciting a prohibited foreign national contribution
5 under 11 C.F.R. § 110.20(h)].

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Igor Fruman MUR 7645

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), relating to President Donald J. Trump’s July 25, 2019, telephone call with the President of Ukraine, Volodymyr Zelensky. The complaint alleges that during that phone call, and in a months-long series of communications, Trump and his personal attorney, Rudolph “Rudy” Giuliani, requested, recommended, and pressured Zelensky to investigate two allegations: First, that 2020 presidential candidate and current President Joseph R. Biden, while previously serving as Vice President, improperly coerced the Ukrainian government to remove its chief prosecutor for allegedly investigating a Ukrainian company, Burisma, in order to protect Biden’s son, Hunter Biden, who served on the Burisma board of directors; and second, that Ukraine coordinated with the Democratic National Committee (“DNC”) to interfere in the 2016 U.S. presidential election and to support Trump’s general-election opponent, Hillary Clinton.

The complaint in this matter alleges that Trump sought the investigation of these allegations to advance his personal political goals — *i.e.*, to support his presidential candidacy and his authorized campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crute in his official capacity as treasurer (the “Trump Committee”). The complaint also alleges that as part of that effort, Igor Fruman, as an associate of Giuliani, solicited, or provided substantial assistance in the solicitation of, contributions from Ukraine. Fruman requested a stay of the Commission’s proceedings pending resolution of a criminal case in which Fruman had been indicted.

1 For the reasons set forth below, the Commission dismisses the allegations that Fruman
2 violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or (h) by knowingly soliciting, or
3 providing substantial assistance in the solicitation of, prohibited foreign national contributions.

4 **I. FACTUAL BACKGROUND**

5 **A. Overview**

6 The available information indicates that President Trump and his personal attorney, Rudy
7 Giuliani, engaged in a sustained, coordinated effort to request, recommend, and pressure
8 Ukrainian President Volodymyr Zelensky to publicly announce, and thereafter conduct, an
9 investigation into whether, when he was Vice President, Joe Biden¹ acted to protect his son,
10 Hunter Biden, by pressuring the Ukrainian government to end an anticorruption investigation
11 into a Ukrainian energy company, Burisma, of which Hunter was a board member; and an
12 investigation into whether, during the 2016 presidential election, the DNC coordinated with
13 Ukraine to support Hillary Clinton, Trump's opponent in that election. Fruman, as an associate
14 of Giuliani, appears to have played a minor role in those activities.

15 **B. Early Efforts to Develop Allegations Regarding Burisma**

16 According to news reports and testimony, in 2018 and early 2019, Giuliani, along with
17 his associates Parnas and Fruman, engaged in a concerted effort to develop evidence supporting
18 the allegation that in 2016, while serving as Vice President, Biden had acted improperly by
19 pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin, to prevent an
20 investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-time board

¹ Biden officially declared his candidacy for the 2020 presidential election on April 25, 2019. Statement of Candidacy, Joseph R. Biden Jr. (Apr. 25, 2019).

1 member of Burisma.² Giuliani made several attempts to meet with Shokin — including by
2 seeking to obtain a U.S. visa for Shokin in exchange for a meeting to discuss the Bidens³ — and
3 Shokin’s successor, Yuriy Lutsenko — who had also made allegations underlying Giuliani’s
4 claims — to further this effort.⁴ Giuliani and Parnas were also in contact with Victoria

² Compl. ¶ 20 (Sept. 23, 2019) (citing Michael Sallah, *et al.*, *Two Unofficial US Operatives Reporting to Trump’s Lawyer Privately Lobbied a Foreign Government in a Bid to Help the President Win in 2020*, BUZZFEEDNEWS (July 22, 2019), <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman> (“BuzzfeedNews Article”)); Ben Protess, *et al.*, *Giuliani Pursued Business in Ukraine While Pushing for Inquiries for Trump*, N.Y. TIMES (Nov. 27, 2019), www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html; *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS (May 11, 2019), <https://video.foxnews.com/v/6035385372001#sp=show-clips>. Specifically, Biden stated that he, as part of a broader effort to remove Shokin due to corruption concerns, had threatened to withhold loan guarantees unless the Ukrainian government removed Shokin. Council on Foreign Relations, *Foreign Affairs Issue Launch with Joe Biden*, YOUTUBE, at 51:58–53:20, https://www.youtube.com/watch?v=Q0_AqpdwqK4. Giuliani alleged that Biden acted to protect his son, Hunter, who at the time sat on the board of a Ukrainian oil company, Burisma, whose owner had at one time been investigated for corruption in Ukraine. *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS at 4:18–5:02; *see also, e.g.*, Deposition of Deputy Assistant Secretary George Kent before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 79–86 (Oct. 15, 2019) (“Kent Dep.”) (describing 2014 investigation of Burisma’s beneficial owner, Mykola Zlochevsky, and subsequent hiring of Hunter Biden to Burisma board).

³ BuzzfeedNews Article; Kent Dep. at 44 (“The next time I heard Mr. Giuliani’s name mentioned was on the 9th of January this year, 2019, when I was copied on an email that Giuliani was calling the State Department regarding the inability of the previous prosecutor general Viktor Shokin to get a visa to come to the United States.”).

⁴ BuzzfeedNews Article; Kent Dep. at 43; Deposition of Special Representative for Ukraine Negotiations Kurt Volker before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 104–5 (Oct. 3, 2019) (“Volker Dep.”).

1 Toensing, who appears to have served as counsel to both Shokin and Lutsenko,⁵ and Toensing
2 may have relayed information regarding the allegations to them from her clients.⁶

3 In early 2019, Giuliani, Parnas, and Fruman reportedly endeavored to have the U.S.
4 Ambassador to Ukraine, Marie Yovanovitch, removed from her post, primarily because they
5 viewed Yovanovitch, a holdover from the administration of President Barack Obama, as an
6 impediment to their investigation of the Biden/Burisma allegation.⁷ In a March 22, 2019,
7 communication to Parnas, Lutsenko suggested that he would withdraw his allegations regarding
8 Joe Biden and Burisma if Yovanovitch was not removed.⁸ Giuliani later wrote in a Twitter post

⁵ Shokin appears to have retained Victoria Toensing, an attorney barred in the District of Columbia, “for the purpose of collecting evidence regarding his March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing, and presenting such evidence to U.S. and foreign authorities.” Letter from diGenova & Toensing, LLP to Viktor Shokin at 1 (Apr. 15, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD926.pdf> (“Shokin Retainer Agreement”). Lutsenko also appears to have retained Toensing for, among other things, “assistance to meet and discuss with United States government officials the evidence of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016 U.S. elections[.]” Letter from diGenova & Toensing, LLP to Yurii Lutsenko at 1 (Apr. 12, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD927.pdf> (“Lutsenko Retainer Agreement”). Toensing had briefly served as counsel to President Trump in connection with Special Counsel Robert Mueller’s investigation on Russian interference in the 2016 presidential election before she stepped down because of a conflict of interest. See Kenneth P. Vogel, *Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump*, N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html> (“May 9 NY Times Article”) (cited by Compl.).

⁶ See, e.g., MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 1*, YOUTUBE, at 21:15-22 (Jan. 15, 2020), <https://www.youtube.com/watch?v=DVnZVuhOyycs> (“Maddow Interview Pt. 1”) (statement by Parnas that Toensing was part of the “team”).

⁷ BuzzFeedNews Article; Kent Dep. at 58 (“Mr. Giuliani was almost unmissable starting in mid-March. As the news campaign, or campaign of slander against, not only Ambassador Yovanovitch unfolded, he had a very high — a media promise, so he was on TV, his Twitter feed ramped up and it was all focused on Ukraine, and it was focused on the four story lines that unfolded in those days between March 20 and 23rd.”); Maddow Interview Pt. 1 at 26:58–27:14 (“Maddow: Do you believe that part of a motivation to get rid of Ambassador Yovanovitch, to get her out of post, was because she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden? Parnas: That was the only motivation. There was no other motivation.”).

⁸ Text from Yuriy Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), https://intelligence.house.gov/uploaded_files/20200114_-_parnas_excerpts_translated_slide_deck.pdf (“It’s just that if you don’t make a decision about Madam—you are bringing into question all my allegations. Including about B.” (rough translation)); see MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 2*, YOUTUBE (Jan. 15, 2020), <https://www.youtube.com/watch?v=Xj-4V5ui8H4> (“Maddow Interview Pt. 2”) at 7:55–8:48 (“Maddow: Is Mr. Lutsenko saying in effect ‘listen if you want me to make these Biden allegations you’re gonna have to get rid of this ambassador?’ Parnas: Oh absolutely.”).

1 that Yovanovitch “needed to be removed” because she had impeded his efforts to push for the
2 investigations, including by “denying visas to Ukrainians who wanted to come to US and explain
3 Dem corruption in Ukraine.”⁹ In May, 2019, President Trump recalled Yovanovitch, who was
4 eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S.
5 Ambassador to Ukraine.¹⁰

6 Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to
7 arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a
8 meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.¹¹ Parnas
9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,
10 but Kolomoisky declined to do so.¹² According to U.S. National Security Advisor John Bolton’s
11 published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a
12 “desire to meet with President-Elect Zelensky to discuss his country’s investigation” of the 2016

⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 17, 2019, 7:07AM), <https://twitter.com/RudyGiuliani/status/120690888320221186> (“Yovanovitch needed to be removed for many reasons most critical she was denying visas to Ukrainians who wanted to come to US and explain Dem corruption in Ukraine. She was OBSTRUCTING JUSTICE and that’s not the only thing she was doing. She at minimum enabled Ukrainian collusion.”) (emphasis in original). See John Bolton, *THE ROOM WHERE IT HAPPENED* at 454 (Simon & Schuster, 1st ed. 2020) (“Bolton Book”) (“Trump had complained about our Ambassador Yovanovitch, for some time, noting to me on March 21[, 2019] during a telephone call covering a number of subjects that she was ‘bad-mouthing us like crazy’ and . . . saying he wanted her fired ‘today.’ . . . A few days later, on March 25[,] . . . I learned Giuliani was the source of the stories about Yovanovitch”; *id.* at 456 (“[On] April 23[, 2019,] I was called to the Oval to find Trump and [then-Acting White House Chief of Staff] Mulvaney on the phone, discussing Yovanovitch again with Giuliani, who was still pressing for her removal. . . . In Giuliani’s mind, Yovanovitch was protecting Hillary Clinton, whose campaign was purportedly the subject of Ukrainian criminal investigations, and there was some connection with Joe Biden’s son Hunter in there as well.”).

¹⁰ BuzzFeedNews Article; Deposition of Ambassador William B. Taylor before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 22 (Oct. 22, 2019) (“Taylor Dep.”).

¹¹ BuzzFeedNews Article.

¹² *Id.*

1 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky
2 and “make sure Giuliani got his meeting in Kiev next week.”¹³

3 As reported in a New York Times interview published the following day, May 9, 2019,
4 Giuliani stated that he intended to travel to Ukraine for the purpose of “meddling” in Ukrainian
5 investigations, specifying that “this isn’t [about] foreign policy” and that the investigations
6 would uncover “information [that] will be very, very helpful to my client, and may turn out to be
7 helpful to my government.”¹⁴ Giuliani wrote to Zelensky on May 10, 2019, in an effort to set up
8 a meeting while on this trip, in which he stated: “I am private counsel to President Donald J.
9 Trump. Just to be precise, I represent him as a private citizen, not as President of the United
10 States.”¹⁵ Amid backlash following the publication of the New York Times article, however,

¹³ Bolton Book at 459 (“On May 8, [2019,] . . . Trump called me to the Oval, where he was meeting with Giuliani, Mulvaney, Cipollone, and perhaps others. The subject was Ukraine, and Giuliani’s desire to meet with President-Elect Zelensky to discuss his country’s investigation of either Hillary Clinton’s efforts to influence the 2016 campaign or something having to do with Hunter Biden and the 2020 election, or maybe both. . . . Trump was clear I was to call Zelensky and make sure Giuliani got his meeting in Kiev next week.”); *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“In my capacity as personal counsel to President Trump and with his knowledge and consent, I request a meeting with you on this upcoming Monday, May 13th or Tuesday, May 14th. I will need no more than a half-hour of your time and I will be accompanied by my colleague Victoria Toensing, a distinguished American attorney who is very familiar with this matter.”).

¹⁴ May 9 NY Times Article (“We’re not meddling in an election, we’re meddling in an investigation, which we have a right to do,” Mr. Giuliani said in an interview on Thursday when asked about the parallel to the special counsel’s inquiry. ‘There’s nothing illegal about it,’ he said. ‘Somebody could say it’s improper. And this isn’t foreign policy — I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop. And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.”); *see* Text from Rudy Giuliani to Lev Parnas [5/11/2019 8:07:39 AM(UTC-4)], https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“My purpose was to share information to assist their on-going investigation of Ukrainian officials being used by Americans to gather information to assist Clinton in last election. It was also to alert them to the very real dangers that their [sic] are people involved in the investigation as targets who are attempting to shut it down before it reaches a conclusion.”).

¹⁵ Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

1 Giuliani canceled the trip.¹⁶ He later sought to clarify his intentions in a November 6, 2019,
 2 Twitter post: “The investigation I conducted concerning 2016 Ukrainian collusion and
 3 corruption, was done solely as a defense attorney to defend my client against false charges.”¹⁷
 4 On October 2, 2019, Trump stated during a press conference: “And just so you know, we’ve
 5 been investigating, on a personal basis — through Rudy and others, lawyers — corruption in the
 6 2016 election.”¹⁸

7 C. Zelensky’s Inauguration

8 On April 21, 2019, President Trump called Ukrainian President-Elect Zelensky to
 9 congratulate him on his recent election victory and extended him an invitation to visit the White
 10 House.¹⁹ According to official records and testimony, Zelensky’s aides and U.S. experts sought
 11 to schedule a White House meeting, which they viewed as crucial to the public perception that
 12 the U.S. supported Ukraine and the new Zelensky administration.²⁰

¹⁶ See Bolton Book at 461 (noting that after the publication of the New York Times piece, Bolton, John Eisenberg, and Pat Cipollone met and “agreed Giuliani couldn’t be allowed to go to Ukraine”).

¹⁷ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), <https://twitter.com/RudyGiuliani/status/1192180680391843841>.

¹⁸ Remarks by President Trump and President Niinistö of the Republic of Finland in Joint Press Conference, The White House (Oct. 2, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-joint-press-conference/> (“Trump-Niinistö Press Conference”); *but see* Maddow Interview Pt. 1 at 8:58–9:37 (“Maddow: When you say that the President knew about your movements and knew what you were doing. Are you saying specifically . . . that the President was aware that you and Mr. Giuliani were working on this effort in Ukraine to basically try to hurt Joe Biden’s political career, he knew about that? Parnas: Basically. It was all about Joe Biden, Hunter Biden. . . . It was never about corruption. It was never — it was strictly about the Burisma which included Hunter Biden and Joe Biden.”).

¹⁹ The White House, Memorandum of Telephone Conversation (“April 21 Call Memo”) at 2 (Apr. 21, 2019), <https://assets.documentcloud.org/documents/6550349/First-Trump-Ukraine-Call.pdf>; Deposition of Lieutenant Colonel Alexander S. Vindman before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 16–17 (Oct. 29, 2019) (“Vindman Dep.”).

²⁰ See, e.g., April 21 Call Memo at 2; Deposition of Christopher Anderson before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 50 (Oct. 30, 2019) (“But, you know, in sort of the scale of meetings, the best would be an Oval Office visit for President Zelensky. Q: And why is that? A: Because it is the best show of support and it has the greatest pomp and circumstance, and so that has the most impact, both in Ukraine but also in Moscow.”); Deposition of David A. Holmes before the Permanent Select

1 Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to
2 attend Zelensky’s inauguration.²¹ After Giuliani canceled his aforementioned trip to meet
3 Zelensky in Ukraine, however, Lev Parnas met with Zelensky’s aide, Serhiy Shefir, in Kyiv on
4 May 12, 2019; Parnas stated in subsequent interviews that he told Shefir that “Zelensky needed
5 to immediately make an announcement, . . . that they were opening up an investigation on
6 Biden,” otherwise Vice President Pence would not attend the inauguration and that the two
7 countries’ “relationships would be sour — that we would stop giving them any kind of aid.”²²

Committee on Intelligence for the U.S. House of Representatives at 40–41 (Nov. 15, 2019) (“Holmes Dep.”) (“THE CHAIRMAN: Why was this White House meeting so important to Zelensky? Mr. Holmes: . . . [T]he Zelensky team were adamant that it was important. So we heard that from them in every interaction that it absolutely was critical for them for Zelensky to get the imprimatur of the U.S. President to indicate that the United States would continue to support Ukraine and his administration”); Taylor Dep. at 76–77 (“So a meeting with President Trump or any President for that matter, but President Trump in the Oval Office doesn’t happen regularly doesn’t happen to very many heads of state. And if you get that, you can be sure or you can think or people might be able to believe that you’ve got a good relationship between the two countries and I think that’s what they were looking for.”); Volker Dep. at 38 (“It was important to show support for the new Ukrainian President. He was taking on an effort to reform Ukraine, fight corruption, a big sea change in everything that had happened in Ukraine before, and demonstrating strong U.S. support for him would have been very important.”).

²¹ Deposition of Jennifer Williams before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 36–37 (Nov. 7, 2019) (“Williams Dep.”). During the period at issue, Williams was detailed from the Department of State to the Office of the Vice President, where she served as Special Adviser on National Security Affairs; her role was to “keep the Vice President [Pence] aware and abreast of all foreign policy issues going on in that region [Europe and Russia], [and] prepare him for his foreign policy and foreign leader engagements.” *Id.* at 11–12.

²² Maddow Interview Pt. 1 at 13:43–16:12 (Parnas: “The message that I was supposed to — that I gave Sergey Shefir was a very harsh message that was told to me to give it to him in a very harsh way, not in a pleasant way. Maddow: Who told you to give it to him in a harsh way? Parnas: Mayor Giuliani. Rudy told me after, you know, meeting at the White House; he called me . . . the message was, it wasn’t just military aid, it was all aid basically their relationships would be sour, that we would stop giving them any kind of aid, that — Maddow: unless — Parnas: Unless there was an announcement — well several things, several demands at that point. *The most important one was the announcement of the Biden investigation* . . . In the conversation I told him that if he doesn’t — the announcement was the key at that time because of the inauguration — that Pence would not show up, nobody would show up to his inauguration. Maddow: Unless he announced an investigation into Joe Biden, no U.S. officials, particularly Vice President Mike Pence, would not come to the inauguration? Parnas: It was particularly Mike Pence.”) (emphasis added); CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 1)*, YOUTUBE, at 2:32–3:33 (Jan. 16, 2020), https://www.youtube.com/watch?v=9JKraI_Rh6g (“Cooper Interview Pt. 1”) (“Parnas: I basically told him very strict and very stern that . . . Zelensky needed to immediately make an announcement, literally that night or tomorrow, within the next 24 hours, that they were opening up an investigation on Biden. . . . If they didn’t make the announcement, basically, there would be no relationship. . . . there was gonna be no inauguration, Pence wouldn’t be at the inauguration, there would be no visit to the White House, there would be, basically, they would have no communication. Cooper: You told the top official in the Zelensky inner circle that if they did not announce an investigation of the Bidens immediately and get rid of some folks around Zelensky who

1 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and
2 Trump.²³ After their meeting, Parnas sent Shefir a follow-up message, and Shefir disconnected
3 from the messenger app without response and blocked further messages from Parnas.²⁴ Parnas
4 took this to mean that Zelensky would not make the requested announcement and passed that
5 information along to Giuliani, who responded, “OK, they’ll see.”²⁵ The following day, Trump
6 instructed Pence not to attend the inauguration.²⁶

7 In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended
8 Zelensky’s inauguration in Ukraine on May 20, 2019.

9 Fruman does not appear, based on information presently before the Commission, to have
10 had any further involvement in the effort to request that Zelensky publicly announce and
11 investigate the allegations regarding Burisma and the 2016 election interference.

they believed were opposed to President Trump that there wouldn’t be any aid and Vice President Pence would not even come to the inauguration? Parnas: Correct.”); Parnas stated that it was through Fruman’s contacts that he was able to meet with Shefir. CNN, *Lev Parnas’ Entire Interview with Anderson Cooper (part 2)*, YOUTUBE, at 2:04–2:20 (Jan 16, 2020), https://www.youtube.com/watch?v=QUXht__f3Rk (“Cooper Interview Pt. 2”).

²³ Maddow Interview Pt. 1 at 10:15–11:22 (“Maddow: And so did anybody in the U.S. Government or Mr. Giuliani actually convey to officials in Ukraine that you were there as a representative of President Trump? Parnas: Absolutely. To each one of those officials . . . I put Rudy on the phone The first thing I did is introduce myself and tell them: ‘I’m here on behalf of Rudy Giuliani and the President of the United States, and I’d like to put you on speaker phone,’ you know, to confirm him, which we did, we put Rudy on the phone. Rudy relayed to him basically that we were there on behalf of the President of the United States. Maddow: That you were there to speak on President Trump’s behalf? Parnas: Correct, exactly. Those exact words.”); *see also* Cooper Interview Pt. 1 at 4:21–4:35 (Cooper: How did you have the authority to say ‘the Vice President of the United States will not attend the inauguration’ if you don’t do what I say? Parnas: I mean that’s what I was told to do. Cooper: Who told you to do that? Parnas: Rudy Giuliani.”). Parnas stated that “President Trump knew exactly what was going on” with respect to his and Giuliani’s activities in Ukraine. Maddow Interview Pt. 1 at 6:30–6:44; *accord* Cooper Interview Pt. 2 at 3:20–3:34.

²⁴ Maddow Interview Pt. 1 at 16:40–16:55 (“Parnas: Then around eight o’clock or nine o’clock I text him back again saying: ‘Any word? What’s the situation?’ And at that point — because on WhatsApp you can see when a person, like, disconnects you, and he disconnected me. Maddow: He blocked, you? Parnas: He blocked me.”); Cooper Interview Pt. 1 at 3:37–3:43.

²⁵ Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

²⁶ Williams Dep. at 37.

1 **D. The Complaint and Response**

2 The complaint, which was filed on September 23, 2019, alleged that Fruman “solicited,
3 or provided substantial assistance in the solicitation of, a contribution from foreign nationals” in
4 connection with Trump’s request to Zelensky that Ukraine investigate Joe Biden and 2016
5 election interference.²⁷ It further alleges that “President Trump solicited a ‘contribution’ as
6 defined [in the Act] from Ukraine President Zelensky in connection with the 2020 U.S.
7 presidential election and for the purpose of influencing the 2020 presidential election candidacy
8 of Joe Biden” and that Fruman did the same “[i]n multiple meetings with Ukraine prosecutors
9 and other Ukraine officials.”²⁸

10 Fruman did not file a substantive response to the complaint but filed a letter on October
11 23, 2019, requesting a stay in the Commission’s enforcement proceedings because he had been
12 indicted by federal prosecutors in the Southern District of New York on alleged campaign
13 finance violations that he claims have “substantial overlap” with the allegations in these
14 matters.²⁹

²⁷ Compl. ¶¶ 1, 41, 45.

²⁸ *Id.* ¶¶ 41, 44.

²⁹ Letter to CELA, FEC, from John M. Dowd, Counsel to Igor Fruman (Oct. 25, 2019). *See Lev Parnas And Igor Fruman Charged With Conspiring To Violate Straw And Foreign Donor Bans*, Press Release, U.S. Dep’t of Justice, U.S. Attorney’s Office, S.D.N.Y. (Oct. 10, 2019), <https://www.justice.gov/usao-sdny/pr/lev-parnas-and-igor-fruman-charged-conspiring-violate-straw-and-foreign-donor-bans> (“In or about May 2018, to obtain access to exclusive political events and gain influence with politicians, PARNAS and FRUMAN made a \$325,000 contribution to an independent expenditure committee (‘Committee-1’) and a \$15,000 contribution to a second independent expenditure committee (‘Committee-2’). Despite the fact that the FEC forms for these contributions required PARNAS and FRUMAN to disclose the true donor of the funds, they falsely reported that the contributions came from Global Energy Producers (‘GEP’), a purported liquefied natural gas (‘LNG’) import-export business that was incorporated by FRUMAN and PARNAS around the time the contributions were made. In truth and in fact, the donations to Committee-1 and Committee-2 did not come from GEP funds. Rather, the donations came from a private lending transaction between FRUMAN and third parties, and never passed through a GEP account”).

1 **II. LEGAL ANALYSIS**

2 The available information does not support a finding that Fruman violated the Act and
3 Commission regulations by knowingly soliciting or providing substantial assistance in soliciting
4 Zelensky to make a prohibited contribution, as alleged.³⁰ The Commission has explained that
5 “substantial assistance means active involvement in the solicitation, making, receipt or
6 acceptance of a foreign national contribution or donation with an intent to facilitate successful
7 completion of the transaction[,]” and “does not include strictly ministerial activity undertaken
8 pursuant to the instructions of an employer, manager or supervisor.”³¹

9 The record indicates that Fruman, along with Parnas, went to Israel at Giuliani’s direction
10 and met with Igor Kolomoisky, a Ukrainian with ties to President Zelensky, to request that
11 Kolomoisky arrange a future meeting between Zelensky and Giuliani.³² Parnas also asserts that
12 he was later able to meet with Zelensky’s aide Serhiy Shefir “through Fruman’s contacts,”
13 suggesting that Fruman may have facilitated that meeting, where Parnas conveyed the demand
14 that Zelensky publicly announce an investigation.³³ However, Fruman does not appear to have
15 solicited Zelensky or had “active involvement in the solicitation . . . with an intent to facilitate
16 successful completion of the transaction.”³⁴ Fruman appears to have been only tangentially
17 involved in soliciting Zelensky, by taking steps to procure a meeting with Zelensky for Giuliani,
18 and by possibly connecting Parnas to Shefir. The record provides no indication that, in either

³⁰ See 11 C.F.R. § 110.20(h).

³¹ Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

³² BuzzFeedNews Article.

³³ Cooper Interview Pt. 2 at 2:04–2:20.

³⁴ Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

1 event, Fruman acted with the requisite intent to solicit a prohibited contribution from Zelensky.

2 Accordingly, based on the available information, Fruman's conduct does not amount to

3 knowingly providing substantial assistance in soliciting a foreign national contribution.

4 Accordingly, the Commission dismisses the allegation that Fruman violated 52 U.S.C.

5 § 30121(a)(2) and 11 C.F.R. § 110.20(g) or 11 C.F.R. § 110.20(h) by knowingly soliciting or

6 providing substantial assistance in soliciting a prohibited foreign national contribution.

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Victoria Toensing

MUR 7645

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), relating to President Donald J. Trump’s July 25, 2019, telephone call with the President of Ukraine, Volodymyr Zelensky. The complaint alleges that during that phone call, and in a months-long series of communications, Trump and his personal attorney, Rudolph “Rudy” Giuliani, requested, recommended, and pressured Zelensky to investigate two allegations: First, that 2020 presidential candidate and current President Joseph R. Biden, while previously serving as Vice President, improperly coerced the Ukrainian government to remove its chief prosecutor for allegedly investigating a Ukrainian company, Burisma, in order to protect Biden’s son, Hunter Biden, who served on the Burisma board of directors; and second, that Ukraine coordinated with the Democratic National Committee (“DNC”) to interfere in the 2016 U.S. presidential election and to support Trump’s general-election opponent, Hillary Clinton.

The complaint in this matter alleges that Trump sought the investigation of these allegations to advance his personal political goals — *i.e.*, to support his presidential candidacy and his authorized campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crute in his official capacity as treasurer (the “Trump Committee”). The complaint also alleges that as part of that effort, Victoria Toensing solicited, or provided substantial assistance in the solicitation of, contributions from Ukraine. Toensing filed a response denying these allegations.

1 For the reasons set forth below, the Commission dismisses the allegations that Toensing
2 violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or (h) by knowingly soliciting, or
3 providing substantial assistance in the solicitation of, prohibited foreign national contributions.

4 **I. FACTUAL BACKGROUND**

5 **A. Overview**

6 The available information indicates that between April and September of 2019, President
7 Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to
8 request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly
9 announce, and thereafter conduct, an investigation into whether, when he was Vice President,
10 Joe Biden¹ acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to
11 end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter
12 was a board member; and an investigation into whether, during the 2016 presidential election,
13 the DNC coordinated with Ukraine to support Hillary Clinton, Trump's opponent in that
14 election. The information presently before the Commission indicates that Toensing may have
15 played a minor role in these activities, through her reported representation of two Ukrainian
16 nationals of interest to Giuliani.

17 **B. Efforts to Develop Allegations Regarding Burisma**

18 According to news reports and testimony, in 2018 and early 2019, Giuliani, along with
19 his associates Lev Parnas and Igor Fruman, engaged in a concerted effort to develop evidence
20 supporting the allegation that in 2016, while serving as Vice President, Biden had acted
21 improperly by pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin,

¹ Biden officially declared his candidacy for the 2020 presidential election on April 25, 2019. Statement of Candidacy, Joseph R. Biden Jr. (Apr. 25, 2019).

1 to prevent an investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-
2 time board member of Burisma.² Giuliani made several attempts to meet with Shokin —
3 including by seeking to obtain a U.S. visa for Shokin in exchange for a meeting to discuss the
4 Bidens³ — and Shokin’s successor, Yuriy Lutsenko — who had also made allegations
5 underlying Giuliani’s claims — to further this effort.⁴ Giuliani and Parnas were also in contact

² Compl. ¶ 20 (Sept. 23, 2019) (citing Michael Sallah, *et al.*, *Two Unofficial US Operatives Reporting to Trump’s Lawyer Privately Lobbied a Foreign Government in a Bid to Help the President Win in 2020*, BUZZFEEDNEWS (July 22, 2019), <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman> (“BuzzfeedNews Article”)); Ben Protess, *et al.*, *Giuliani Pursued Business in Ukraine While Pushing for Inquiries for Trump*, N.Y. TIMES (Nov. 27, 2019), www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html; *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS (May 11, 2019), <https://video.foxnews.com/v/6035385372001#sp=show-clips>. Specifically, Biden stated that he, as part of a broader effort to remove Shokin due to corruption concerns, had threatened to withhold loan guarantees unless the Ukrainian government removed Shokin. Council on Foreign Relations, *Foreign Affairs Issue Launch with Joe Biden*, YOUTUBE, at 51:58–53:20, https://www.youtube.com/watch?v=Q0_AqpdwqK4. Giuliani alleged that Biden acted to protect his son, Hunter, who at the time sat on the board of a Ukrainian oil company, Burisma, whose owner had at one time been investigated for corruption in Ukraine. *Giuliani: I didn’t go to Ukraine to start an investigation, there already was one*, FOX NEWS at 4:18–5:02; *see also, e.g.*, Deposition of Deputy Assistant Secretary George Kent before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 79–86 (Oct. 15, 2019) (“Kent Dep.”) (describing 2014 investigation of Burisma’s beneficial owner, Mykola Zlochevsky, and subsequent hiring of Hunter Biden to Burisma board).

³ BuzzfeedNews Article; Kent Dep. at 44 (“The next time I heard Mr. Giuliani’s name mentioned was on the 9th of January this year, 2019, when I was copied on an email that Giuliani was calling the State Department regarding the inability of the previous prosecutor general Viktor Shokin to get a visa to come to the United States.”).

⁴ BuzzfeedNews Article; Kent Dep. at 43; Deposition of Special Representative for Ukraine Negotiations Kurt Volker before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 104–5 (Oct. 3, 2019) (“Volker Dep.”).

1 with Toensing, who appears to have served as counsel to both Shokin and Lutsenko,⁵ and
 2 Toensing may have relayed information regarding the allegations to them from her clients.⁶

3 In early 2019, Giuliani, Parnas, and Fruman reportedly endeavored to have the U.S.
 4 Ambassador to Ukraine, Marie Yovanovitch, removed from her post, primarily because they
 5 viewed Yovanovitch, a holdover from the administration of President Barack Obama, as an
 6 impediment to their investigation of the Biden/Burisma allegation.⁷ In a March 22, 2019,
 7 communication to Parnas, Lutsenko suggested that he would withdraw his allegations regarding
 8 Joe Biden and Burisma if Yovanovitch was not removed.⁸ Giuliani later wrote in a Twitter post

⁵ Shokin appears to have retained Toensing, an attorney barred in the District of Columbia, “for the purpose of collecting evidence regarding his March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing, and presenting such evidence to U.S. and foreign authorities.” Letter from diGenova & Toensing, LLP to Viktor Shokin at 1 (Apr. 15, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD926.pdf> (“Shokin Retainer Agreement”). *But see* Resp. of Victoria Toensing at 2, MUR 7645 (Oct. 28, 2019) (denying that representation took place). Lutsenko also appears to have retained Toensing for, among other things, “assistance to meet and discuss with United States government officials the evidence of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016 U.S. elections[.]” Letter from diGenova & Toensing, LLP to Yurii Lutsenko at 1 (Apr. 12, 2019), <https://docs.house.gov/meetings/JU/JU00/20191211/110331/HMKP-116-JU00-20191211-SD927.pdf> (“Lutsenko Retainer Agreement”). Toensing had briefly served as counsel to President Trump in connection with Special Counsel Robert Mueller’s investigation on Russian interference in the 2016 presidential election before she stepped down because of a conflict of interest. *See* Kenneth P. Vogel, *Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump*, N.Y. TIMES (May 9, 2019), <https://www.nytimes.com/2019/05/09/us/politics/giuliani-ukraine-trump.html> (“May 9 NY Times Article”) (cited by Compl.).

⁶ *See, e.g.*, MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 1*, YOUTUBE, at 21:15-22 (Jan. 15, 2020), <https://www.youtube.com/watch?v=DVnZVuhOycs> (“Maddow Interview Pt. 1”) (statement by Parnas that Toensing was part of the “team”).

⁷ BuzzFeedNews Article; Kent Dep. at 58 (“Mr. Giuliani was almost unmissable starting in mid-March. As the news campaign, or campaign of slander against, not only Ambassador Yovanovitch unfolded, he had a very high — a media promise, so he was on TV, his Twitter feed ramped up and it was all focused on Ukraine, and it was focused on the four story lines that unfolded in those days between March 20 and 23rd.”); Maddow Interview Pt. 1 at 26:58–27:14 (“Maddow: Do you believe that part of a motivation to get rid of Ambassador Yovanovitch, to get her out of post, was because she was in the way of this effort to get the government of Ukraine to announce investigations of Joe Biden? Parnas: That was the only motivation. There was no other motivation.”).

⁸ Text from Yuriy Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), https://intelligence.house.gov/uploaded-files/20200114_-_parnas_excerpts_translated_slide_deck.pdf (“It’s just that if you don’t make a decision about Madam—you are bringing into question all my allegations. Including about B.” (rough translation)); *see* MSNBC, *Exclusive: Rachel Maddow Interviews Lev Parnas - Part 2*, YOUTUBE (Jan. 15, 2020), <https://www.youtube.com/watch?v=Xj-4V5ui8H4> (“Maddow Interview Pt. 2”) at 7:55–8:48 (“Maddow: Is Mr. Lutsenko saying in effect

1 that Yovanovitch “needed to be removed” because she had impeded his efforts to push for the
 2 investigations, including by “denying visas to Ukrainians who wanted to come to US and explain
 3 Dem corruption in Ukraine.”⁹ In May, 2019, President Trump recalled Yovanovitch, who was
 4 eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S.
 5 Ambassador to Ukraine.¹⁰

6 Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to
 7 arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a
 8 meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.¹¹ Parnas
 9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,
 10 but Kolomoisky declined to do so.¹² According to U.S. National Security Advisor John Bolton’s
 11 published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a
 12 “desire to meet with President-Elect Zelensky to discuss his country’s investigation” of the 2016

‘listen if you want me to make these Biden allegations you’re gonna have to get rid of this ambassador?’ Parnas: Oh absolutely.”).

⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 17, 2019, 7:07AM), <https://twitter.com/RudyGiuliani/status/120690888320221186> (“Yovanovitch needed to be removed for many reasons most critical she was denying visas to Ukrainians who wanted to come to US and explain Dem corruption in Ukraine. She was OBSTRUCTING JUSTICE and that’s not the only thing she was doing. She at minimum enabled Ukrainian collusion.”) (emphasis in original). See John Bolton, *THE ROOM WHERE IT HAPPENED* at 454 (Simon & Schuster, 1st ed. 2020) (“Bolton Book”) (“Trump had complained about our Ambassador Yovanovitch, for some time, noting to me on March 21[, 2019] during a telephone call covering a number of subjects that she was ‘bad-mouthing us like crazy’ and . . . saying he wanted her fired ‘today.’ . . . A few days later, on March 25[, . . .] I learned Giuliani was the source of the stories about Yovanovitch”); *id.* at 456 (“[On] April 23[, 2019,] I was called to the Oval to find Trump and [then-Acting White House Chief of Staff] Mulvaney on the phone, discussing Yovanovitch again with Giuliani, who was still pressing for her removal. . . . In Giuliani’s mind, Yovanovitch was protecting Hillary Clinton, whose campaign was purportedly the subject of Ukrainian criminal investigations, and there was some connection with Joe Biden’s son Hunter in there as well.”).

¹⁰ BuzzFeedNews Article; Deposition of Ambassador William B. Taylor before the Permanent Select Committee on Intelligence for the U.S. House of Representatives at 22 (Oct. 22, 2019) (“Taylor Dep.”).

¹¹ BuzzFeedNews Article.

¹² *Id.*

1 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky
2 and “make sure Giuliani got his meeting in Kiev next week.”¹³

3 As reported in a New York Times interview published the following day, May 9, 2019,
4 Giuliani stated that he intended to travel to Ukraine for the purpose of “meddling” in Ukrainian
5 investigations, specifying that “this isn’t [about] foreign policy” and that the investigations
6 would uncover “information [that] will be very, very helpful to my client, and may turn out to be
7 helpful to my government.”¹⁴ Giuliani wrote to Zelensky on May 10, 2019, in an effort to set up
8 a meeting while on this trip, in which he stated: “I am private counsel to President Donald J.
9 Trump. Just to be precise, I represent him as a private citizen, not as President of the United
10 States.”¹⁵ Amid backlash following the publication of the New York Times article, however,

¹³ Bolton Book at 459 (“On May 8, [2019,] . . . Trump called me to the Oval, where he was meeting with Giuliani, Mulvaney, Cipollone, and perhaps others. The subject was Ukraine, and Giuliani’s desire to meet with President-Elect Zelensky to discuss his country’s investigation of either Hillary Clinton’s efforts to influence the 2016 campaign or something having to do with Hunter Biden and the 2020 election, or maybe both. . . . Trump was clear I was to call Zelensky and make sure Giuliani got his meeting in Kiev next week.”); *see* Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“In my capacity as personal counsel to President Trump and with his knowledge and consent, I request a meeting with you on this upcoming Monday, May 13th or Tuesday, May 14th. I will need no more than a half-hour of your time and I will be accompanied by my colleague Victoria Toensing, a distinguished American attorney who is very familiar with this matter.”).

¹⁴ May 9 NY Times Article (“We’re not meddling in an election, we’re meddling in an investigation, which we have a right to do,” Mr. Giuliani said in an interview on Thursday when asked about the parallel to the special counsel’s inquiry. ‘There’s nothing illegal about it,’ he said. ‘Somebody could say it’s improper. And this isn’t foreign policy — I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop. And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.”); *see* Text from Rudy Giuliani to Lev Parnas [5/11/2019 8:07:39 AM(UTC-4)], https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf (“My purpose was to share information to assist their on-going investigation of Ukrainian officials being used by Americans to gather information to assist Clinton in last election. It was also to alert them to the very real dangers that their [sic] are people involved in the investigation as targets who are attempting to shut it down before it reaches a conclusion.”).

¹⁵ Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf.

1 Giuliani canceled the trip.¹⁶ He later sought to clarify his intentions in a November 6, 2019,
 2 Twitter post: “The investigation I conducted concerning 2016 Ukrainian collusion and
 3 corruption, was done solely as a defense attorney to defend my client against false charges.”¹⁷
 4 On October 2, 2019, Trump stated during a press conference: “And just so you know, we’ve
 5 been investigating, on a personal basis — through Rudy and others, lawyers — corruption in the
 6 2016 election.”¹⁸

7 Toensing does not appear, based on information presently before the Commission, to
 8 have had any further involvement in the effort to request that Zelensky publicly announce and
 9 investigate the allegations regarding Burisma and the 2016 election interference.

10 C. The Complaint and Response

11 The complaint, which was filed on September 23, 2019, alleged that Toensing “solicited,
 12 or provided substantial assistance in the solicitation of, a contribution from foreign nationals” in
 13 connection with Trump’s request to Zelensky that Ukraine investigate Joe Biden and 2016
 14 election interference.¹⁹ It further alleges that “President Trump solicited a ‘contribution’ as
 15 defined [in the Act] from Ukraine President Zelensky in connection with the 2020 U.S.

¹⁶ See Bolton Book at 461 (noting that after the publication of the New York Times piece, Bolton, John Eisenberg, and Pat Cipollone met and “agreed Giuliani couldn’t be allowed to go to Ukraine”).

¹⁷ Rudy W. Giuliani (@RudyGiuliani), Twitter (Nov. 6, 2019, 3:43 PM), <https://twitter.com/RudyGiuliani/status/1192180680391843841>.

¹⁸ Remarks by President Trump and President Niinistö of the Republic of Finland in Joint Press Conference, The White House (Oct. 2, 2019), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-joint-press-conference/> (“Trump-Niinistö Press Conference”); *but see* Maddow Interview Pt. 1 at 8:58–9:37 (“Maddow: When you say that the President knew about your movements and knew what you were doing. Are you saying specifically . . . that the President was aware that you and Mr. Giuliani were working on this effort in Ukraine to basically try to hurt Joe Biden’s political career, he knew about that? Parnas: Basically. It was all about Joe Biden, Hunter Biden. . . . It was never about corruption. It was never — it was strictly about the Burisma which included Hunter Biden and Joe Biden.”).

¹⁹ Compl. ¶¶ 1, 41, 45.

1 presidential election and for the purpose of influencing the 2020 presidential election candidacy
2 of Joe Biden” and that Toensing did the same “[i]n multiple meetings with Ukraine prosecutors
3 and other Ukraine officials.”²⁰

4 Toensing filed a response to the complaint denying the allegations and asserting that she
5 “is not now and never has been an employee of, consultant to or ‘operative’ of [the Trump]
6 campaign.”²¹ Further, she asserts that she engaged in “exploring the possibility” of providing
7 legal representation for “a Ukrainian citizen” in a twenty-minute phone call with that person,
8 who was referred to her by an American attorney.²² Toensing states that although she had
9 planned a trip to Ukraine to further that possible representation, “the proposed engagement never
10 materialized.”²³

11 **II. LEGAL ANALYSIS**

12 The available information does not support a finding that Victoria Toensing violated the
13 Act and Commission regulations by knowingly soliciting or providing substantial assistance in
14 soliciting Zelensky to make a prohibited contribution, as alleged.²⁴ The Commission has
15 explained that “substantial assistance means active involvement in the solicitation, making,
16 receipt or acceptance of a foreign national contribution or donation with an intent to facilitate

²⁰ *Id.* ¶¶ 41, 44.

²¹ Resp. of Victoria Toensing at 1–2, MUR 7645 (Oct. 28, 2019).

²² *Id.* at 1, 2. Toensing represents that the referring attorney told her that the “Ukrainian citizen appeared to have first-hand knowledge of misconduct by US Government officials in Ukraine but that officials at the US Embassy in Kiev had directed this individual not to provide such information.” *Id.* at 2.

²³ *Id.*

²⁴ *See* 11 C.F.R. § 110.20(h).

1 successful completion of the transaction[.]” and “does not include strictly ministerial activity
2 undertaken pursuant to the instructions of an employer, manager or supervisor.”²⁵

3 The available information also does not indicate that Victoria Toensing knowingly
4 solicited or provided substantial assistance in soliciting a foreign national contribution. The
5 record indicates that Toensing provided legal representation to former Ukrainian Prosecutors
6 General Shokin and Lutsenko, in connection with the Biden/Burisma and 2016 election
7 interference allegations, respectively — *i.e.*, Toensing was hired to investigate Shokin’s “March
8 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in
9 such firing,” and to help Lutsenko “discuss with United States government officials the evidence
10 of illegal conduct in Ukraine regarding the United States, for example, interference in the 2016
11 U.S. elections.”²⁶ Toensing may have also relayed information from her clients, Shokin and
12 Lutsenko, to Giuliani and Parnas, who were investigating the same allegations.²⁷ However,
13 neither Toensing’s conduct as legal counsel to Shokin and Lutsenko, nor her limited contact with
14 Giuliani and Parnas, indicates that she was actively involved with the requisite intent to facilitate
15 soliciting Zelensky to make a prohibited contribution. As such, the available information does
16 not support a finding that Toensing knowingly provided substantial assistance in soliciting a
17 contribution from Zelensky.

²⁵ Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

²⁶ Shokin Retainer Agreement at 1; Lutsenko Retainer Agreement at 1. Toensing appears to deny that any such representation ever took place, *see supra* Toensing Resp. at 2, but even if, *arguendo*, Toensing did represent Shokin and Lutsenko in connection with these allegations, the overall record does not indicate that her conduct resulted in knowingly soliciting or providing substantial assistance in soliciting Zelensky.

²⁷ Maddow Interview Pt. 1 at 21:15–22.

THIS PROPOSED DRAFT WAS VOTED ON BUT
NOT APPROVED BY THE COMMISSION.

1 Accordingly, the Commission dismisses the allegation that Toensing violated 52 U.S.C.
2 § 30121(a)(2) and 11 C.F.R. § 110.20(g) or 11 C.F.R. § 110.20(h) by knowingly soliciting or
3 providing substantial assistance in soliciting a prohibited foreign national contribution.