

**FEDERAL ELECTION COMMISSION****FIRST GENERAL COUNSEL'S REPORT****MUR 7645**

COMPLAINT: Sept. 23, 2019

NOTIFICATION DATE: Sept. 27, 2019

LAST RESPONSE: June 17, 2020

ACTIVATION DATE: Jan. 31, 2020

**STATUTE OF LIMITATIONS:**

April 2024 (earliest) – September 2024 (latest)

**ELECTION CYCLE: 2020****COMPLAINANTS:**

Common Cause

Paul S. Ryan

**RESPONDENTS:**

Donald J. Trump

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

Crate in his official capacity as treasurer

Rudolph "Rudy" Giuliani

Lev Parnas

Igor Fruman

Victoria Toensing

**MUR 7663**

COMPLAINT: Nov. 18, 2019

NOTIFICATION DATE: Nov. 25, 2019

LAST RESPONSE: June 17, 2020

ACTIVATION DATE: Jan. 31, 2020

**STATUTE OF LIMITATIONS:**

April 2024 (earliest) – September 2024 (latest)

**ELECTION CYCLE: 2020****COMPLAINANT:**

Erwin L. Rupert II

**RESPONDENTS:**

Donald J. Trump

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

Crate in his official capacity as treasurer

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

First General Counsel's Report

Page 2 of 82

1		<b>MUR 7705<sup>1</sup></b>
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

---

<sup>1</sup> 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.

## **TABLE OF CONTENTS**

1			
2	I.	INTRODUCTION .....	4
3	II.	FACTUAL BACKGROUND.....	6
4	A.	Overview.....	6
5	B.	Respondents' Early Efforts to Develop Allegations Regarding Burisma.....	7
6	C.	Zelensky's Inauguration.....	12
7	D.	Conditioning of White House Visit on Announcement of Investigation.....	14
8	E.	The July 25 Phone Call Between Trump and Zelensky.....	20
9	F.	Events After the July 25 Phone Call .....	22
10	G.	Withholding U.S. Security Aid to Ukraine .....	26
11	H.	Trump's Statements on China Investigating the Bidens.....	32
12	I.	The Complaints and Responses .....	33
13	III.	LEGAL ANALYSIS.....	37
14	A.	The Act and Commission Regulations Prohibit the Solicitation of Foreign National	
15		Contributions or Donations in Connection with a Federal Election .....	38
16	B.	The Commission Should Find Reason to Believe the Trump Committee, Trump,	
17		Giuliani, and Parnas Knowingly Solicited Contributions from a Foreign National ...	40
18	1.	Trump, Giuliani, and Parnas Knowingly Solicited Zelensky to Publicly Announce	
19		and Investigate Allegations Regarding Joe Biden and Burisma, and Foreign	
20		Interference in the 2016 U.S. Presidential Election .....	40
21	2.	The Announcement and Investigation Were "Contributions" Under the Act.....	48
22	3.	Neither DOJ's Decision Not to Pursue Criminal Charges, Nor the Special Counsel's	
23		Report, Forecloses Civil Enforcement of the Act in this Matter .....	69
24	C.	The Commission Should Dismiss the Allegations Regarding Fruman and Toensing	74
25	D.	The Commission Should Dismiss the Allegation that Trump and the Trump	
26		Committee Solicited a Contribution from China .....	77
27	IV.	CONCILIATION.....	79
28	V.	RECOMMENDATIONS.....	80

**I. INTRODUCTION**

This report discusses three complaints alleging 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 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 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. In addition, the complaint in MUR 7645 alleges that Giuliani, Lev Parnas, Igor Fruman, and Victoria Toensing solicited, or provided substantial assistance in the solicitation of, contributions from Ukraine.

Giuliani, the Trump Committee, and Toensing filed responses denying these allegations, 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

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

## **II. FACTUAL BACKGROUND**

### **A. Overview**

The available information indicates that between April and September of 2019, President Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly announce, and thereafter conduct, an investigation into whether, when he was Vice President, Joe Biden<sup>2</sup> acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter was a board member; and an investigation into whether, during the 2016 presidential election, the DNC coordinated with Ukraine to support Hillary Clinton, Trump's opponent in that election. The available information indicates that Trump and Giuliani requested Zelensky's announcement and the investigation of these allegations in order to advance Trump's personal political goal of depicting Biden and his political party in a negative light during the 2020 presidential campaign.

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

---

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

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

First General Counsel's Report

Page 7 of 82

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

These events were the subject of widespread reporting, including the articles cited in the complaints, and were the subject of testimony in connection with the U.S. House of Representatives' Impeachment Inquiry into Trump in 2019.<sup>3</sup> This report cites the sworn testimony, taken in closed-door depositions and public hearings, of witnesses appearing as part of that impeachment inquiry.

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

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

---

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

<sup>4</sup> 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 Bidens<sup>5</sup> — and  
 2 Shokin's successor, Yuriy Lutsenko — who had also made allegations underlying Giuliani's  
 3 claims — to further this effort.<sup>6</sup> Giuliani and Parnas were also in contact with Victoria  
 4 Toensing, who appears to have served as counsel to both Shokin and Lutsenko,<sup>7</sup> and Toensing  
 5 may have relayed information regarding the allegations to them from her clients.<sup>8</sup>

---

for *Inquiries for Trump*, N.Y. TIMES (Nov. 27, 2019), [www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html](http://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](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).

<sup>5</sup> 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.”).

<sup>6</sup> 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.”).

<sup>7</sup> 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).

<sup>8</sup> *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.<sup>9</sup> 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.<sup>10</sup> 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.”<sup>11</sup> In May, 2019, President Trump recalled Yovanovitch, who was

---

<sup>9</sup>       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.”).

<sup>10</sup>       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](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.”).

<sup>11</sup>       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[, 2019], . . . 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.”).

eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S. Ambassador to Ukraine.<sup>12</sup>

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

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

---

<sup>12</sup> 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.").

<sup>13</sup> BuzzFeedNews Article.

<sup>14</sup> *Id.*

<sup>15</sup> 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](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.”<sup>16</sup> 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.”<sup>17</sup> Amid backlash following the publication of the New York Times article, however,  
 6 Giuliani canceled the trip.<sup>18</sup> 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.”<sup>19</sup>  
 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.”<sup>20</sup>

---

<sup>16</sup> 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](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.”).

<sup>17</sup> Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), [https://judiciary.house.gov/uploadedfiles/excerpt\\_2\\_final.pdf](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

<sup>18</sup> *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”).

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

<sup>20</sup> 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?”).

## C. Zelensky's Inauguration

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

Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to attend Zelensky's inauguration.<sup>23</sup> After Giuliani canceled his aforementioned trip to meet 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.”).

<sup>21</sup> 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.”).

<sup>22</sup> 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.”).

<sup>23</sup> 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.”<sup>24</sup>  
 5 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and  
 6 Trump.<sup>25</sup> After their meeting, Parnas sent Shefir a follow-up message, and Shefir disconnected

---

<sup>24</sup> 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](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](https://www.youtube.com/watch?v=QUXht__f3Rk) (“Cooper Interview Pt. 2”).

<sup>25</sup> 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.

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

First General Counsel's Report

Page 14 of 82

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

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

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

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

---

<sup>26</sup> 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.

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

<sup>28</sup> Williams Dep. at 37.

<sup>29</sup> 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.”).

<sup>30</sup> 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.<sup>31</sup> Participants in that meeting later  
 2 described Trump's negative reaction<sup>32</sup> with accounts of Trump telling his advisors that they  
 3 would have to "talk to Rudy" before an Oval Office meeting would be scheduled.<sup>33</sup> 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.<sup>34</sup>

---

<sup>31</sup> Taylor Dep. at 24; Volker Dep. at 29–30.

<sup>32</sup> 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.").

<sup>33</sup> 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.").

<sup>34</sup> 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

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

On June 28, 2019, Volker told Sondland, Taylor, and Perry that he “planned to be explicit with President Zelensky in a one-on-one meeting in Toronto on July 2nd about what President Zelensky should do to get the meeting in the White House.”<sup>37</sup> Volker stated that “he would relay 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.”).

<sup>35</sup> 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](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.”).

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

<sup>37</sup> Taylor Dep. at 25–26.



on investigations to get to the bottom of things.”<sup>38</sup> On July 3, 2019, Volker met with Zelensky in Toronto, Canada, and conveyed that Giuliani had Trump’s attention on Ukraine and had been amplifying a negative impression of Ukraine with Trump.<sup>39</sup>

On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian counterpart, Oleksandr Danyliuk, and a number of others, including Sondland and Volker, as well as National Security Council staff members Dr. Fiona Hill and Vindman.<sup>40</sup> According to those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after Ukraine initiated the investigations.<sup>41</sup> Testimony reflects that Bolton “stiffened” at this comment

---

<sup>38</sup> *Id.* at 26.

<sup>39</sup> 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.”).

<sup>40</sup> 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.

<sup>41</sup> 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;<sup>42</sup> 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."<sup>43</sup>

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.<sup>44</sup> 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.<sup>45</sup>

---

<sup>42</sup> 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.").

<sup>43</sup> 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).

<sup>44</sup> 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.").

<sup>45</sup> 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.<sup>46</sup> 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.<sup>47</sup> 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.<sup>48</sup>

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."<sup>49</sup> Further, thirty minutes

---

<sup>46</sup> 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](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").

<sup>47</sup> 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").

<sup>48</sup> Taylor Dep. at 30.

<sup>49</sup> *Id.*

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

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

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

---

<sup>50</sup> 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.").

<sup>51</sup> 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.

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

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

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

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

---

<sup>52</sup> July 25 Call Memo at 3.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *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.”).

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

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

#### **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.<sup>61</sup>

---

<sup>56</sup> 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.

<sup>57</sup> July 25 Call Memo at 4.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 5.

<sup>60</sup> *Id.*

<sup>61</sup> 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.<sup>62</sup> 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.”<sup>63</sup> That same day, Trump asked Sondland, by phone, if Zelensky was “going  
 4 to do the investigation[,]”<sup>64</sup> and Sondland replied that Zelensky would do “anything you ask him  
 5 to.”<sup>65</sup> 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.”<sup>66</sup> 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.”<sup>67</sup>

---

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”).

<sup>62</sup> Sondland Hearing at 25.

<sup>63</sup> *Id.*

<sup>64</sup> 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.”).

<sup>65</sup> Holmes Dep. at 24.

<sup>66</sup> 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.”).

<sup>67</sup> Taylor Dep. at 40.

1           Giuliani met with Yermak, Zelensky's advisor, in Madrid, on August 2, 2019.<sup>68</sup> They  
 2           agreed that Ukraine would make a public statement announcing the investigation, and they  
 3           discussed the White House visit.<sup>69</sup> Following additional phone and text conversations,<sup>70</sup> 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.<sup>71</sup> 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."<sup>72</sup> 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

---

<sup>68</sup> *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.").

<sup>69</sup> 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!").

<sup>70</sup> *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 statememt [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!").

<sup>71</sup> 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.").

<sup>72</sup> 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.”<sup>73</sup> Volker added specific references to Burisma and 2016 election interference to the  
 2 proposed statement and sent the revised draft to Yermak.<sup>74</sup> 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.”<sup>75</sup> Yermak therefore asked if the U.S.  
 5 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the  
 6 investigations.<sup>76</sup> 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.”<sup>77</sup>  
 9 Volker agreed with Yermak that Zelensky should not issue the public statement with specific

---

<sup>73</sup> 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.”).

<sup>74</sup> 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”).

<sup>75</sup> 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.”).

<sup>76</sup> Volker Dep. at 197–8.

<sup>77</sup> 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.”).

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

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

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

---

<sup>78</sup> Volker Dep. at 44–45.

<sup>79</sup> *Id.*

<sup>80</sup> 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).

<sup>81</sup> 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.”).

<sup>82</sup> 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.)”).

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

First General Counsel's Report

Page 27 of 82

1 war with Russia, which was viewed as serving the U.S. national security interest.<sup>83</sup> 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.’”<sup>84</sup> 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.<sup>85</sup>

---

<sup>83</sup> 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.”).

<sup>84</sup> 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.”).

<sup>85</sup> 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,<sup>86</sup> and the aid remained frozen throughout August 2019.<sup>87</sup>  
 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."<sup>88</sup> 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.<sup>89</sup> 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

---

<sup>86</sup> 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.").

<sup>87</sup> 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](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.

<sup>88</sup> Bolton Book at 471.

<sup>89</sup> 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](http://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](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.”<sup>90</sup> 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.”<sup>91</sup> Zelensky said that even the appearance of U.S. support for Ukraine  
 5 faltering might embolden Russian aggression towards Ukraine.<sup>92</sup> 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.”<sup>93</sup>

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

---

<sup>90</sup> 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.”).

<sup>91</sup> 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.”).

<sup>92</sup> *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.”).

<sup>93</sup> 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.”).

<sup>94</sup> 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.”).

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

First General Counsel's Report

Page 30 of 82

1 Taylor texted Sondland: “Are we now saying that security assistance and WH meeting are  
2 conditioned on investigations?”<sup>95</sup> 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.”<sup>96</sup>

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.<sup>97</sup> Sondland further relayed that Trump had also made clear that  
10 Zelensky himself would have to announce the investigations and do so publicly.<sup>98</sup> 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.<sup>99</sup>

---

<sup>95</sup> First Volker Text Excerpts at 5.

<sup>96</sup> 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.”).

<sup>97</sup> 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.”).

<sup>98</sup> 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*.”).

<sup>99</sup> 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

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

First General Counsel's Report

Page 31 of 82

1           After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine  
 2   on September 11, 2019.<sup>100</sup> 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.<sup>101</sup> 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.”<sup>102</sup>

---

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.”).

<sup>100</sup>       *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.

<sup>101</sup>       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](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.”).

<sup>102</sup>       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



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

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

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

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

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

<sup>103</sup> 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.").

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

<sup>105</sup> 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).



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

First General Counsel's Report

Page 33 of 82

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.<sup>106</sup>

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

## **I. The Complaints and Responses**

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

---

<sup>106</sup> CNBC Article.

<sup>107</sup> *Id.*

<sup>108</sup> Compl. ¶¶ 1, 41, 45, MUR 7645.

<sup>109</sup> *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.<sup>110</sup>

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.<sup>111</sup> 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.”<sup>112</sup>

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.<sup>113</sup> Giuliani also contended that because his actions preceded the April

---

<sup>110</sup> Compl. at 1–2, MUR 7663.

<sup>111</sup> 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.

<sup>112</sup> 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/>.

<sup>113</sup> 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.*

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

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

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

---

<sup>114</sup> *Id.* at 1–2.

<sup>115</sup> *Id.* at 2.

<sup>116</sup> *Id.* at 3.

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

<sup>118</sup> *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”).<sup>119</sup> 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.”<sup>120</sup> 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.<sup>121</sup>

---

<sup>119</sup> *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)).

<sup>120</sup> Special Counsel’s Report at 187.

<sup>121</sup> 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

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

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

### III. LEGAL ANALYSIS

The available information indicates that Donald J. Trump and his personal attorney, Rudy Giuliani, requested, recommended, and pressured Ukrainian President Volodymyr Zelensky, both directly and indirectly through their representatives — including Giuliani’s associate, Lev Parnas, and diplomatic officials Gordon Sondland and Kurt Volker — to make an official public 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.*)

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

<sup>123</sup> *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.

<sup>124</sup> *Id.*

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

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

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

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

---

<sup>125</sup> See 52 U.S.C. § 30101(8)(A)(i).

<sup>126</sup> 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).

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

First General Counsel's Report

Page 39 of 82

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

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

---

<sup>127</sup> 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).

<sup>128</sup> 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”).

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

<sup>130</sup> 52 U.S.C. § 30121(b)(2).

<sup>131</sup> 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

<sup>132</sup> 52 U.S.C. § 30101(8)(A).

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

First General Counsel's Report

Page 40 of 82

without charge or at a charge that is less than the usual and normal charge for such goods or services.”<sup>133</sup>

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

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

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

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

---

<sup>133</sup> 11 C.F.R. § 100.52(d).

<sup>134</sup> Factual & Legal Analysis at 6-7, MUR 7271 (DNC)

<sup>135</sup> Advisory Op. 2007-22 at 6 (Hurysh) (“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”).



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

First General Counsel's Report

Page 41 of 82

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

Commission regulations specify:

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

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

---

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

<sup>137</sup> *Id.*

<sup>138</sup> *Id.* § 300.2(m)(2)(xii).

<sup>139</sup> *Id.* § 300.2(m)(2)(xi).

<sup>140</sup> *Id.* § 300.2(m)(2)(xiii).

<sup>141</sup> 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.

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

First General Counsel's Report

Page 42 of 82

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

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

Here, Trump, Giuliani, and Parnas knowingly solicited Zelensky by asking, requesting, or recommending, directly and through intermediaries,<sup>144</sup> that Zelensky provide two deliverables:

---

<sup>142</sup> 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”).

<sup>143</sup> 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).

<sup>144</sup> 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

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

First General Counsel's Report

Page 43 of 82

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.<sup>145</sup> 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.<sup>146</sup>

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).

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

<sup>146</sup> 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.

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

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

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

---

<sup>147</sup> *Supra* note 24 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

<sup>148</sup> *Id.*

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

<sup>150</sup> Sondland Hearing at 26–27; Taylor Dep. at 26.

<sup>151</sup> *Supra* notes 40–41 and accompanying text.

1 that the White House meeting could be scheduled after Ukraine initiated the desired  
2 investigations.<sup>152</sup> 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.<sup>153</sup> 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.<sup>154</sup>

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."<sup>155</sup> 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,

---

<sup>152</sup> Vindman Dep. at 17; Hill Dep. at 65–67.

<sup>153</sup> Vindman Dep. at 29; Hill Dep. at 69.

<sup>154</sup> 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.

<sup>155</sup> 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.”<sup>156</sup> 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.”<sup>157</sup>

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.<sup>158</sup> 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.<sup>159</sup>

---

<sup>156</sup> *Id.* at 4.

<sup>157</sup> 11 C.F.R. § 300.2(m)(2)(xii).

<sup>158</sup> *See* 11 C.F.R. § 300.2(m).

<sup>159</sup> 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.<sup>160</sup> 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."<sup>161</sup>

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."<sup>162</sup>

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

---

<sup>160</sup> 11 C.F.R. § 300.2(m).

<sup>161</sup> July 25 Call Memo at 5.

<sup>162</sup> Holmes Dep. at 24.

<sup>163</sup> 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).

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

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

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

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

---

<sup>164</sup> 52 U.S.C. § 30101(8)(A).

<sup>165</sup> 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)).

<sup>166</sup> 11 C.F.R. § 100.52(d)(1) (emphases added).

<sup>167</sup> *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)).



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

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

---

<sup>168</sup> 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).

<sup>169</sup> 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").

<sup>170</sup> 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).

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

First General Counsel's Report

Page 50 of 82

otherwise incur";<sup>171</sup> whether the provider of the thing or any third party "utilized its resources" to produce, organize, or collect the thing provided;<sup>172</sup> and whether the thing "may not have been publicly available" for the campaign's use absent the provider's actions.<sup>173</sup>

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

---

<sup>171</sup> 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.

<sup>172</sup> 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").

<sup>173</sup> 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).

<sup>174</sup> 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).

<sup>175</sup> 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.<sup>176</sup>

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.<sup>177</sup> 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."<sup>178</sup>

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

---

<sup>176</sup> 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.*)

<sup>177</sup> 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).

<sup>178</sup> 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

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

First General Counsel's Report

Page 52 of 82

1 it was a unique, nonpublic “deliverable,”<sup>179</sup> 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.<sup>180</sup> 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”<sup>181</sup> — 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.<sup>182</sup> However, unlike

---

<sup>179</sup> 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.

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

<sup>181</sup> See, *e.g.*, F&LA at 8, MUR 7271

<sup>182</sup> 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

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

First General Counsel's Report

Page 53 of 82

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,<sup>183</sup> 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.”<sup>184</sup>

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.<sup>185</sup> 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.<sup>186</sup> 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).

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

<sup>184</sup> 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.”).

<sup>185</sup> *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).

<sup>186</sup> 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.<sup>187</sup> 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.<sup>188</sup> This activity required Ukraine to direct human and logistical resources to this end,<sup>189</sup>  
 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."<sup>190</sup> 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.<sup>191</sup>

---

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").

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

<sup>188</sup> 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).

<sup>189</sup> See Taylor Dep. at 135–36.

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

<sup>191</sup> 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.<sup>192</sup> 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.<sup>193</sup>

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.

---

<sup>192</sup>       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)).

<sup>193</sup>       *E.g.* Advisory Op. 2007-22 at 6.

c. The Official Investigation of a Potential Election Opponent and that Opponent's Political Party Is a Thing "of Value" Under the Act

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

The Ukrainian investigation sought by Trump and Giuliani was akin to a service that campaigns commonly expend resources on — opposition research, or research into potentially damaging information about political opponents.<sup>194</sup> The requested investigation would have required a third party, the Ukrainian government, to use its resources to provide a benefit to the Trump Committee — *i.e.*, researching negative information about Trump's potential election opponent, Biden, and Biden's party, the DNC — thereby relieving the Trump Committee of the attendant expense of that investigative effort. As such, the requested investigation closely aligns with prior Commission matters finding that third party research conducted on a campaign's behalf for no charge or at a reduced charge results in an in-kind contribution.<sup>195</sup>

Further, the requested investigation was a thing "of value" irrespective of whether it ultimately produced any useful information for the Trump Committee. Like an opposition

---

<sup>194</sup> See FEC, *2017-2018 Disbursement Data*, [https://www.fec.gov/data/disbursements/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&disbursement\\_description=research](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").

<sup>195</sup> F&LA at 7, MUR 7271 (citing F&LA at 13–20, MUR 6414 (explaining that a committee's receipt of opposition research services without paying the usual or normal charge may result in an in-kind contribution)) *see also* 11 C.F.R. § 100.52(d)(2).



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

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

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

<sup>196</sup> 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).

<sup>197</sup> 52 U.S.C. § 30101(8)(A)(i).

MURs 7645, 7663, and 7705 (Donald J. Trump, *et al.*)  
 First General Counsel's Report  
 Page 58 of 82

1 and publicizing damaging information about Biden, Trump's potential opponent in the 2020 U.S.  
 2 presidential election,<sup>198</sup> 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.”<sup>199</sup> 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,<sup>200</sup>

---

<sup>198</sup> 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”).

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

<sup>200</sup> *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).

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

First General Counsel's Report

Page 59 of 82

1 fulfill the obligations of holding federal office,<sup>201</sup> or engage in legal or policy advocacy<sup>202</sup> —  
 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.<sup>203</sup>

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.<sup>204</sup> During their July 25, 2019, call, Trump asked Zelensky to

---

<sup>201</sup> *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”).

<sup>202</sup> *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”).

<sup>203</sup> *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”).

<sup>204</sup> 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*

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

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

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

<sup>206</sup> Holmes Dep. at 24.

<sup>207</sup> *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.").

<sup>208</sup> 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.”<sup>209</sup> 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.<sup>210</sup> 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.<sup>211</sup> 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.<sup>212</sup>  
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.

---

<sup>209</sup> Hannity Interview.

<sup>210</sup> 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](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

<sup>211</sup> Bolton Book at 459.

<sup>212</sup> July 25 Call Memo.

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

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

---

<sup>213</sup> May 9 NY Times Article.

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

<sup>215</sup> 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](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).

<sup>216</sup> Giuliani Resp. at 2.

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

First General Counsel's Report

Page 63 of 82

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.<sup>217</sup> 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 Zelensky<sup>218</sup> — 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.<sup>219</sup>

---

<sup>217</sup> 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](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.

<sup>218</sup> Maddow Interview Pt. 1 at 13:43–16:12.

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

Parnas's statements indicate that he shared Giuliani's purpose when he pursued the announcement of the Biden investigation in a May 12, 2019, meeting with Zelensky's aide Serhiy Shefir. At that meeting, Parnas told Shefir that the announcement was a prerequisite for Vice President Pence to attend Zelensky's inauguration<sup>220</sup> and, after Shefir demurred, Parnas informed Giuliani, and Trump directed Pence not to attend Zelensky's inauguration.<sup>221</sup> Viewed in light of Parnas's later acknowledgement that among the "several demands" that he conveyed to Shefir, the "most important one was the announcement of the Biden investigation,"<sup>222</sup> Giuliani's response when that demand was not satisfied — "OK, they'll see"<sup>223</sup> — and Trump's subsequent directive that Pence not attend Zelensky's inauguration, Parnas's statements evince an electoral purpose since Parnas acknowledged which demand was "the most important" and attempted to pressure Zelensky into providing it to benefit Trump's campaign.

Further, numerous U.S. officials expressed concern regarding the requests that Zelensky announce and investigate these allegations, stemming from the fact that the announcement and investigation were pursued through an improper, irregular channel — namely, through Giuliani, a private citizen acting as Trump's personal attorney<sup>224</sup> — rather than through an official channel, such as a request for intergovernmental law enforcement cooperation, and were sought for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted

---

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

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

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

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

<sup>224</sup> *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.<sup>225</sup>

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.<sup>226</sup>  
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.<sup>227</sup> 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

---

<sup>225</sup> 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.”).

<sup>226</sup> 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.”).

<sup>227</sup> Vindman Dep. at 29–31; Hill Dep. at 69–70.

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

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

---

<sup>228</sup> Taylor Dep. at 30; Bolton Book at 472.

<sup>229</sup> First Volker Text Excerpts at 3; Volker Dep. at 113.

<sup>230</sup> 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.

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

First General Counsel's Report

Page 67 of 82

1 and the DNC, as well as publicly commit Ukraine to investigating those allegations.<sup>231</sup> 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.<sup>232</sup> 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 relationship<sup>233</sup> — 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.<sup>234</sup> 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.<sup>235</sup> The Department of Defense raised a further concern that the OMB

---

<sup>231</sup> 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.").

<sup>232</sup> Volker Dep. at 44.

<sup>233</sup> Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

<sup>234</sup> Bolton Book at 468–69.

<sup>235</sup> 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.<sup>236</sup> 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.”<sup>237</sup>

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.<sup>238</sup> Testimony  
9 reflects that Trump also told Sondland that Zelensky would have to announce the investigation  
10 for the aid to be released.<sup>239</sup> 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.<sup>240</sup>  
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

---

<sup>236</sup> Morrison Dep. at 163; GAO Decision at 1, 8.

<sup>237</sup> First Volker Text Excerpts at 9.

<sup>238</sup> Bolton Book at 471.

<sup>239</sup> Morrison Dep. at 190–91; Taylor Dep. at 39.

<sup>240</sup> 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.<sup>241</sup>

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.<sup>242</sup> 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.<sup>243</sup> 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 publicly<sup>244</sup> — 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

---

<sup>241</sup> 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.”).

<sup>242</sup> Volker Dep. at 113.

<sup>243</sup> Maddow Interview Pt. 1 at 8:58–9:37.

<sup>244</sup> 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.<sup>245</sup> 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.<sup>246</sup> 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.”<sup>247</sup>

---

<sup>245</sup> Trump Comm. Resp. at 1.

<sup>246</sup> 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”).

<sup>247</sup> *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,"<sup>248</sup> 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.<sup>249</sup> 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."<sup>250</sup> 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."<sup>251</sup> 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.

---

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

<sup>249</sup>       *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)

<sup>250</sup>       Advisory Op. 2007-08 at 4 n.2 (King).

<sup>251</sup>       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 evidence<sup>252</sup> — irrespective  
 8   of whether the violation was knowing and willful.<sup>253</sup> 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.<sup>254</sup> 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.<sup>255</sup> 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"

---

<sup>252</sup>       *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.").

<sup>253</sup>       *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)).

<sup>254</sup>       *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").

<sup>255</sup>       Special Counsel's Report at 188.



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

First General Counsel's Report

Page 73 of 82

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

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

\* \* \*

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

---

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

<sup>257</sup> 52 U.S.C. § 30106(b)(1).

<sup>258</sup> *See Bluman*, 800 F. Supp. 2d at 288.

<sup>259</sup> *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).

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

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

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

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

---

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

<sup>261</sup> 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).

<sup>262</sup> 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."<sup>263</sup>

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.<sup>264</sup> 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.<sup>265</sup> 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."<sup>266</sup> 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

---

<sup>263</sup> Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

<sup>264</sup> BuzzFeedNews Article.

<sup>265</sup> Cooper Interview Pt. 2 at 2:04–2:20.

<sup>266</sup> Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

record indicates that Toensing provided legal representation to former Ukrainian Prosecutors General Shokin and Lutsenko, in connection with the Biden/Burisma and 2016 election interference allegations, respectively — *i.e.*, Toensing was hired to investigate Shokin's "March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing," and to help Lutsenko "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."<sup>267</sup> Toensing may have also relayed information from her clients, Shokin and Lutsenko, to Giuliani and Parnas, who were investigating the same allegations.<sup>268</sup> However, neither Toensing's conduct as legal counsel to Shokin and Lutsenko, nor her limited contact with Giuliani and Parnas, indicates that she was actively involved with the requisite intent to facilitate soliciting Zelensky to make a prohibited contribution. As such, the available information does not support a finding that Toensing knowingly provided substantial assistance in soliciting a contribution from Zelensky.

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

---

<sup>267</sup> 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.

<sup>268</sup> Maddow Interview Pt. 1 at 21:15–22.

<sup>269</sup> 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.

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

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

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

<sup>270</sup> Suppl. Compl. at 1, MUR 7705.

<sup>271</sup> *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.<sup>272</sup> 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.<sup>273</sup> 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.<sup>274</sup>

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."<sup>275</sup> Accordingly, we recommend that the Commission dismiss the allegations raised in

---

<sup>272</sup> 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").

<sup>273</sup> Yahoo News Article, CNBC Article.

<sup>274</sup> *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.

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

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

First General Counsel's Report

Page 79 of 82

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**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.*)

First General Counsel's Report

Page 81 of 82

- 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

11. Approve the appropriate letters.

March 23, 2021

Date

*Lisa J. Stevenson* by SG

Lisa J. Stevenson  
 Acting General Counsel

*Charles Kitcher*

Charles Kitcher  
 Acting Associate General Counsel  
 for Enforcement

*Mark Shonkwiler*

Mark Shonkwiler  
 Assistant General Counsel for Enforcement

*Saurav Ghosh*

Saurav Ghosh  
 Attorney

*Nicholas Mueller*

Nicholas Mueller  
 Attorney

*Aaron Rabinowitz*

Aaron Rabinowitz  
 Attorney

Attachments:

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

**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 Biden<sup>1</sup> 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.

---

<sup>1</sup> 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**

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

<sup>2</sup> 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](http://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](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).

<sup>3</sup> 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.”).

<sup>4</sup> 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.”).

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

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

<sup>5</sup> 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).

<sup>6</sup> *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”).

<sup>7</sup> 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.”).

<sup>8</sup> 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](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.”<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> Parnas  
 9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,  
 10 but Kolomoisky declined to do so.<sup>12</sup> 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.”).

<sup>9</sup> 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.”).

<sup>10</sup> 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.”).

<sup>11</sup> BuzzFeedNews Article.

<sup>12</sup> *Id.*



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

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

<sup>13</sup> 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](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.”).

<sup>14</sup> 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](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.”).

<sup>15</sup> Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), [https://judiciary.house.gov/uploadedfiles/excerpt\\_2\\_final.pdf](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

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

### C. Zelensky’s Inauguration

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

<sup>16</sup> 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”).

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

<sup>18</sup> 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.”).

<sup>19</sup> 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.”).

<sup>20</sup> 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

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

---

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.").

<sup>21</sup> 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.

<sup>22</sup> 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](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

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

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

---

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](https://www.youtube.com/watch?v=QUXht__f3Rk) (“Cooper Interview Pt. 2”).

<sup>23</sup> 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.

<sup>24</sup> 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.

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

<sup>26</sup> Williams Dep. at 37.

<sup>27</sup> 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**

Upon returning to the United States, Perry, Sondland, and Volker met with Trump on May 23, 2019; according to their testimony, these officials offered a very positive report on the situation in Ukraine and their impressions of its new president, Zelensky — particularly with respect to his willingness and desire to combat corruption.<sup>28</sup> The three men encouraged Trump to schedule a meeting with Zelensky in the Oval Office.<sup>29</sup> Participants in that meeting later described Trump’s negative reaction<sup>30</sup> with accounts of Trump telling his advisors that they would have to “talk to Rudy” before an Oval Office meeting would be scheduled.<sup>31</sup> Volker and Sondland testified that they understood from Trump’s directive to involve Giuliani in discussions

<sup>28</sup> 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.”).

<sup>29</sup> Taylor Dep. at 24; Volker Dep. at 29–30.

<sup>30</sup> 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.”).

<sup>31</sup> 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.<sup>32</sup>

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.”<sup>33</sup> 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

---

<sup>32</sup> 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.”).

<sup>33</sup> 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](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.”<sup>34</sup>

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.”<sup>35</sup> 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.”<sup>36</sup> 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.<sup>37</sup>

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.<sup>38</sup> 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

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

<sup>35</sup> Taylor Dep. at 25–26.

<sup>36</sup> *Id.* at 26.

<sup>37</sup> 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.”).

<sup>38</sup> 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.

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

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

<sup>39</sup> 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.

<sup>40</sup> 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.”).

<sup>41</sup> 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).

<sup>42</sup> 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.”).



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

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

<sup>43</sup> 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.").

<sup>44</sup> 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](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").

<sup>45</sup> 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").

<sup>46</sup> Taylor Dep. at 30.

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

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

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

---

<sup>47</sup> *Id.*

<sup>48</sup> 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.”).

U.S. presidential election could be found on a DNC server in Ukraine.<sup>49</sup> Trump added, “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.”<sup>50</sup> Trump concluded the point by saying: “Whatever you can do, it’s very important that you do it if that’s possible.”<sup>51</sup> Zelensky replied by noting the importance of cooperation between the U.S. and Ukraine and stated: “[I]n addition to that investigation, I guarantee as the President of Ukraine that all the investigations will be done openly and candidly.”<sup>52</sup>

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

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

<sup>49</sup> 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.

<sup>50</sup> July 25 Call Memo at 3.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *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

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

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

---

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.”).

<sup>54</sup> 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.

<sup>55</sup> July 25 Call Memo at 4.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 5.

<sup>58</sup> *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.<sup>59</sup> Sondland also separately met with Yermak.<sup>60</sup> 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.”<sup>61</sup> That same day, Trump asked Sondland, by phone, if Zelensky was “going to do the investigation[,]”<sup>62</sup> and Sondland replied that Zelensky would do “anything you ask him to.”<sup>63</sup> 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

<sup>59</sup> 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”).

<sup>60</sup> Sondland Hearing at 25.

<sup>61</sup> *Id.*

<sup>62</sup> 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.”).

<sup>63</sup> Holmes Dep. at 24.

1 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”<sup>64</sup> 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.”<sup>65</sup>

5 Giuliani met with Yermak, Zelensky’s advisor, in Madrid, on August 2, 2019.<sup>66</sup> They  
 6 agreed that Ukraine would make a public statement announcing the investigation, and they  
 7 discussed the White House visit.<sup>67</sup> Following additional phone and text conversations,<sup>68</sup> 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.<sup>69</sup> Sondland and Volker discussed

---

<sup>64</sup> 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.”).

<sup>65</sup> Taylor Dep. at 40.

<sup>66</sup> *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.”).

<sup>67</sup> 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!”)

<sup>68</sup> *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!”).

<sup>69</sup> 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.”<sup>70</sup> 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.”<sup>71</sup> Volker added specific references to Burisma and 2016 election interference to the  
 7 proposed statement and sent the revised draft to Yermak.<sup>72</sup> 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.”<sup>73</sup> Yermak therefore asked if the U.S.  
 10 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the

<sup>70</sup> 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.”).

<sup>71</sup> 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.”).

<sup>72</sup> 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”).

<sup>73</sup> 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.”).

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

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

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

<sup>74</sup> Volker Dep. at 197–8.

<sup>75</sup> 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.”).

<sup>76</sup> Volker Dep. at 44–45.

<sup>77</sup> *Id.*

<sup>78</sup> 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).

<sup>79</sup> 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.<sup>80</sup>  
 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.<sup>81</sup> 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.’”<sup>82</sup> Sworn testimony  
 9 indicates that the Office of the Secretary of Defense raised a contemporaneous concern that the

<sup>80</sup> 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.)”).

<sup>81</sup> 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.”).

<sup>82</sup> 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.<sup>83</sup>

3 Ukrainian officials apparently noticed the withholding of security aid at some point in  
 4 late July or early August 2019,<sup>84</sup> and the aid remained frozen throughout August 2019.<sup>85</sup>

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.”<sup>86</sup> 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.<sup>87</sup> Because the White House and OMB had

---

<sup>83</sup> 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.

<sup>84</sup> 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.”).

<sup>85</sup> 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](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.

<sup>86</sup> Bolton Book at 471.

<sup>87</sup> 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.”<sup>88</sup> 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.”<sup>89</sup> Zelensky said that even the appearance of U.S. support for Ukraine  
 7 faltering might embolden Russian aggression towards Ukraine.<sup>90</sup> 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.”<sup>91</sup>

---

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](http://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](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)).

<sup>88</sup> 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.”).

<sup>89</sup> 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.”).

<sup>90</sup> *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.”).

<sup>91</sup> 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.<sup>92</sup> On learning of this discussion,  
 3           Taylor texted Sondland: “Are we now saying that security assistance and WH meeting are  
 4           conditioned on investigations?”<sup>93</sup> 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.”<sup>94</sup>

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.<sup>95</sup> Sondland further relayed that Trump had also made clear that

---

<sup>92</sup> 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.”).

<sup>93</sup> First Volker Text Excerpts at 5.

<sup>94</sup> 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.”).

<sup>95</sup> 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.<sup>96</sup> 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.<sup>97</sup>

4 After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine  
 5 on September 11, 2019.<sup>98</sup> 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.<sup>99</sup> 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

<sup>96</sup> 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.”).

<sup>97</sup> 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.”).

<sup>98</sup> *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.

<sup>99</sup> 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](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.”).



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

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

Biden became the Democratic Party’s nominee for President on June 5, 2020.<sup>102</sup>

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

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

<sup>100</sup> 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.”)

<sup>101</sup> 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.”).

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

<sup>103</sup> 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*

Well, I would think if they [Ukraine] were honest about it, they'd start a major investigation into the Bidens. It's a very simple answer. They [Ukraine] should investigate the Bidens because how does a company that's newly formed and all these companies, and by the way, likewise, China should start an investigation into the Bidens because what happened in China is just about as bad as what happened with Ukraine. 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.<sup>104</sup>

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

## **I. The Complaints and Response**

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

<sup>104</sup> CNBC Article.

<sup>105</sup> *Id.*

<sup>106</sup> Compl. ¶¶ 1, 41, 45, MUR 7645.

<sup>107</sup> *Id.* ¶¶ 41, 44.

1 copy of the White House call memorandum for the July 25, 2019, call between Trump and  
 2 Zelensky.<sup>108</sup> 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.<sup>109</sup> 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.”<sup>110</sup>

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.<sup>111</sup> 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.”<sup>112</sup> 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*

<sup>108</sup> Compl. at 1–2, MUR 7663.

<sup>109</sup> 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.

<sup>110</sup> 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/>.

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

<sup>112</sup> *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”).<sup>113</sup> 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.”<sup>114</sup> 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

---

<sup>113</sup> *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)).

<sup>114</sup> Special Counsel’s Report at 187.

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

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

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

<sup>115</sup> See 52 U.S.C. § 30101(8)(A)(i).

<sup>116</sup> 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).

<sup>117</sup> 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).

<sup>118</sup> 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”).

implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.”<sup>119</sup>

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

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

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

<sup>120</sup> 52 U.S.C. § 30121(b)(2).

<sup>121</sup> 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

<sup>122</sup> 52 U.S.C. § 30101(8)(A).

<sup>123</sup> 11 C.F.R. § 100.52(d).

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

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

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

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

Commission regulations specify:

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

<sup>124</sup> Advisory Op. 2007-22 at 6 (Huryz) (“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”).

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

mere statements of political support or mere guidance as to the applicability of a particular law or regulation.<sup>126</sup>

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

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

---

<sup>126</sup> *Id.*

<sup>127</sup> *Id.* § 300.2(m)(2)(xii).

<sup>128</sup> *Id.* § 300.2(m)(2)(xi).

<sup>129</sup> *Id.* § 300.2(m)(2)(xiii).

<sup>130</sup> 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.

<sup>131</sup> 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.<sup>132</sup>

7 Here, Trump knowingly solicited Zelensky by asking, requesting, or recommending,  
 8 directly and through intermediaries,<sup>133</sup> 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.<sup>134</sup> 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

<sup>132</sup> 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).

<sup>133</sup> 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).

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

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

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

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

---

<sup>135</sup> 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.

<sup>136</sup> *Supra* note 22 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

<sup>137</sup> *Id.*

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



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

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

<sup>139</sup> Sondland Hearing at 26–27; Taylor Dep. at 26.

<sup>140</sup> *Supra* notes 38–39 and accompanying text.

<sup>141</sup> Vindman Dep. at 17; Hill Dep. at 65–67.

<sup>142</sup> Vindman Dep. at 29; Hill Dep. at 69.

<sup>143</sup> 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.”<sup>144</sup> 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.”<sup>145</sup> 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.”<sup>146</sup>

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

---

<sup>144</sup> July 25 Call Memo at 3.

<sup>145</sup> *Id.* at 4.

<sup>146</sup> 11 C.F.R. § 300.2(m)(2)(xii).

1 election interference allegations.<sup>147</sup> 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.<sup>148</sup>

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.<sup>149</sup> 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

---

<sup>147</sup> See 11 C.F.R. § 300.2(m).

<sup>148</sup> Taylor Dep. at 30; First Volker Text Excerpts at 4.

<sup>149</sup> 11 C.F.R. § 300.2(m).

want to ensure [sic] you that we will be very serious about the case and will work on the investigation.”<sup>150</sup>

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

Accordingly, the overall record establishes that Trump knowingly solicited Zelensky to provide the announcement and investigation of these allegations.<sup>152</sup>

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

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

<sup>150</sup> July 25 Call Memo at 5.

<sup>151</sup> Holmes Dep. at 24.

<sup>152</sup> 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).

<sup>153</sup> 52 U.S.C. § 30101(8)(A).

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

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

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

<sup>154</sup> 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)).

<sup>155</sup> 11 C.F.R. § 100.52(d)(1) (emphases added).

<sup>156</sup> *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)).

<sup>157</sup> *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;<sup>158</sup> whether  
 3 political campaigns have previously used their own resources to procure the thing in question;<sup>159</sup>  
 4 whether the provision of the thing would “relieve” the campaign of an “expense it would  
 5 otherwise incur”;<sup>160</sup> whether the provider of the thing or any third party “utilized its resources”  
 6 to produce, organize, or collect the thing provided;<sup>161</sup> and whether the thing “may not have been  
 7 publicly available” for the campaign’s use absent the provider’s actions.<sup>162</sup>

---

MUR 5409 (Grover Norquist, *el 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).

<sup>158</sup> *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”).

<sup>159</sup> *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).

<sup>160</sup> *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.

<sup>161</sup> *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”).

<sup>162</sup> *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).

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

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

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

<sup>163</sup> 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).

<sup>164</sup> 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).

<sup>165</sup> 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.

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

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

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

<sup>167</sup> 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).

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



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

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

<sup>169</sup> 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.”).

<sup>170</sup> 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).

<sup>171</sup> 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”).



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

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

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

<sup>173</sup> 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).

<sup>174</sup> See Taylor Dep. at 135–36.

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

<sup>176</sup> 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.<sup>177</sup>

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

---

<sup>177</sup> *E.g.* Advisory Op. 2007-22 at 6.

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

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

<sup>178</sup> See FEC, *2017-2018 Disbursement Data*, [https://www.fec.gov/data/disbursements/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&disbursement\\_description=research](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”).

<sup>179</sup> 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.”<sup>180</sup>

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.<sup>181</sup> 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,<sup>182</sup> 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.”<sup>183</sup> As

---

<sup>180</sup> 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).

<sup>181</sup> 52 U.S.C. § 30101(8)(A)(i).

<sup>182</sup> 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”).

<sup>183</sup> 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,<sup>184</sup>  
 3 fulfill the obligations of holding federal office,<sup>185</sup> or engage in legal or policy advocacy<sup>186</sup> —  
 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

<sup>184</sup> *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”).

<sup>185</sup> *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”).

<sup>186</sup> *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”).

party's payments for a coordinated communication, or inferred from the surrounding  
 circumstances.<sup>187</sup>

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

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

<sup>187</sup> *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").

<sup>188</sup> 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").

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

<sup>190</sup> Holmes Dep. at 24.

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

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

<sup>191</sup> *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.”).

<sup>192</sup> 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.”).

<sup>193</sup> Hannity Interview.

<sup>194</sup> 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](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).



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

Further, numerous U.S. officials expressed concern regarding the requests that Zelensky announce and investigate these allegations, stemming from the fact that the announcement and investigation were pursued through an improper, irregular channel — namely, through Giuliani, a private citizen acting as Trump's personal attorney<sup>197</sup> — rather than through an official channel, such as a request for intergovernmental law enforcement cooperation, and were sought for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted negatively to Sondland's statement to the Ukrainians that the White House would agree to schedule an official meeting for Zelensky after Ukraine initiated the investigations; Bolton swiftly ended the meeting and afterward instructed his associate, Hill, to inform the National Security Council's legal counsel about Sondland's statement and that he, Bolton, was not party to the offer.<sup>198</sup>

---

<sup>195</sup> Bolton Book at 459.

<sup>196</sup> July 25 Call Memo.

<sup>197</sup> *See supra* notes 17–17 and accompanying text.

<sup>198</sup> 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.<sup>199</sup>  
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.<sup>200</sup> 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.<sup>201</sup> 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

---

<sup>199</sup> 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.").

<sup>200</sup> Vindman Dep. at 29–31; Hill Dep. at 69–70.

<sup>201</sup> Taylor Dep. at 30; Bolton Book at 472.

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

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

<sup>202</sup> First Volker Text Excerpts at 3; Volker Dep. at 113.

<sup>203</sup> 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.”).

<sup>204</sup> *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.”).

<sup>205</sup> Volker Dep. at 44.

1 diplomatic relationship<sup>206</sup> — 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.<sup>207</sup> 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.<sup>208</sup> 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.<sup>209</sup> 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.”<sup>210</sup>

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

---

<sup>206</sup> Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

<sup>207</sup> Bolton Book at 468–69.

<sup>208</sup> Taylor Dep. at 28 and 132; Cooper Dep. at 16.

<sup>209</sup> Morrison Dep. at 163; GAO Decision at 1, 8.

<sup>210</sup> First Volker Text Excerpts at 9.

1 the Biden and 2016 election interference investigations had been turned over.<sup>211</sup> Testimony  
2 reflects that Trump also told Sondland that Zelensky would have to announce the investigation  
3 for the aid to be released.<sup>212</sup> 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.<sup>213</sup>  
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.<sup>214</sup>

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

---

<sup>211</sup> Bolton Book at 471.

<sup>212</sup> Morrison Dep. at 190–91; Taylor Dep. at 39.

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

<sup>214</sup> 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.”).

discussions with Volker and Sondland.<sup>215</sup> Moreover, Parnas stated publicly that the pursuit of the Burisma allegation was never about combating corruption, but rather about Joe and Hunter Biden.<sup>216</sup> The insistence on a public announcement committing Ukraine to investigating these *particular* allegations connected to a potential candidate in the next presidential election supports a reasonable inference that the true purpose for withholding the aid was not to ensure Ukraine’s commitment to fighting corruption — a general commitment that Zelensky had campaigned on and had, indeed, offered to announce publicly<sup>217</sup> — but rather to influence the 2020 presidential election.

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

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

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

<sup>215</sup> Volker Dep. at 113.

<sup>216</sup> Maddow Interview Pt. 1 at 8:58–9:37.

<sup>217</sup> Taylor Dep. at 198-99; Volker Dep. at 29–30.

<sup>218</sup> Trump Comm. Resp. at 1.

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

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

<sup>219</sup> 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”).

<sup>220</sup> *Id.* at 187 (emphasis added).

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

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

In addition, the Special Counsel’s decision not to prosecute any campaign finance violations, and DOJ’s decision to not criminally prosecute anyone in connection with the Zelensky call, are based on considerations that are materially distinct from the Commission’s consideration of these matters in an administrative and civil context. While a criminal prosecution for a violation of the Act would need to prove beyond a reasonable doubt that the violation was knowing and willful, the Commission in a civil proceeding would only have to establish a violation of the Act based upon the preponderance of the evidence<sup>224</sup> — irrespective of whether the violation was knowing and willful.<sup>225</sup> Moreover, at this initial stage of the administrative proceedings, the information before the Commission need only raise a reasonable inference, *i.e.*, credibly allege, that a violation occurred to support a “reason to believe”

<sup>222</sup> Advisory Op. 2007-08 at 4 n.2 (King).

<sup>223</sup> Advisory Op. 1982-04 at 3 (Apodaca).

<sup>224</sup> *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.”).

<sup>225</sup> *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)).



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

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

<sup>226</sup> 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”).

<sup>227</sup> Special Counsel’s Report at 188.

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

<sup>229</sup> 52 U.S.C. § 30106(b)(1).

<sup>230</sup> See *Bluman*, 800 F. Supp. 2d at 288.

<sup>231</sup> 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



\* \* \*

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

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

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

The available information does not support finding reason to believe that Trump and the 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).

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

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

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

---

<sup>233</sup> Suppl. Compl. at 1, MUR 7705.

<sup>234</sup> See Yahoo News Article; CNBC Article.

<sup>235</sup> 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.<sup>236</sup>

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.”<sup>237</sup> 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.

---

<sup>236</sup> *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.

<sup>237</sup> 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. Cate 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 Biden<sup>1</sup> 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.

---

<sup>1</sup> 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**

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

<sup>2</sup> 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](http://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](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).

<sup>3</sup> 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.”).

<sup>4</sup> 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,<sup>5</sup> and Toensing  
2 may have relayed information regarding the allegations to them from her clients.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> Giuliani later wrote in a Twitter post

<sup>5</sup> 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.).

<sup>6</sup> 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”).

<sup>7</sup> 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.”).

<sup>8</sup> 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](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.”<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> Parnas  
 9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,  
 10 but Kolomoisky declined to do so.<sup>12</sup> 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.”).

<sup>9</sup> 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.”).

<sup>10</sup> 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.”).

<sup>11</sup> BuzzFeedNews Article.

<sup>12</sup> *Id.*

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

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

<sup>13</sup> 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](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.”).

<sup>14</sup> 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](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.”).

<sup>15</sup> Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), [https://judiciary.house.gov/uploadedfiles/excerpt\\_2\\_final.pdf](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

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

### C. Zelensky’s Inauguration

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

<sup>16</sup> 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”).

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

<sup>18</sup> 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.”).

<sup>19</sup> 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.”).

<sup>20</sup> 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.<sup>21</sup> 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.”<sup>22</sup>

---

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.”).

<sup>21</sup> 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.

<sup>22</sup> 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](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,

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

In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended 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](https://www.youtube.com/watch?v=QUXht__f3Rk) (“Cooper Interview Pt. 2”).

<sup>23</sup> 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.

<sup>24</sup> 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.

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

<sup>26</sup> Williams Dep. at 37.

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

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

Upon returning to the United States, Perry, Sondland, and Volker met with Trump on May 23, 2019; according to their testimony, these officials offered a very positive report on the situation in Ukraine and their impressions of its new president, Zelensky — particularly with respect to his willingness and desire to combat corruption.<sup>28</sup> The three men encouraged Trump to schedule a meeting with Zelensky in the Oval Office.<sup>29</sup> Participants in that meeting later described Trump’s negative reaction<sup>30</sup> with accounts of Trump telling his advisors that they would have to “talk to Rudy” before an Oval Office meeting would be scheduled.<sup>31</sup> Volker and

<sup>27</sup> 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.”).

<sup>28</sup> 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.”).

<sup>29</sup> Taylor Dep. at 24; Volker Dep. at 29–30.

<sup>30</sup> 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.”).

<sup>31</sup> 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.<sup>32</sup>

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.”<sup>33</sup> 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.”).

<sup>32</sup> 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.”).

<sup>33</sup> 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,

time, Giuliani continued publicly calling for such investigations, tweeting on June 21, 2019: “New Pres of Ukraine still silent on investigation of the Ukrainian interference in 2016 election and alleged Biden bribery of President Poroshenko. Time for leadership and investigate both if you want to purge how Ukraine was abused by Hillary and Obama people.”<sup>34</sup>

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

On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian 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](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.”).

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

<sup>35</sup> Taylor Dep. at 25–26.

<sup>36</sup> *Id.* at 26.

<sup>37</sup> 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.”).



well as National Security Council staff members Dr. Fiona Hill and Vindman.<sup>38</sup> According to those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after Ukraine initiated the investigations.<sup>39</sup> Testimony reflects that Bolton “stiffened” at this comment and quickly ended the meeting;<sup>40</sup> Hill testified that Bolton asked her to inform the National Security Council’s legal counsel what Sondland had said, and to say that Bolton “was not part of whatever drug deal Sondland and Mulvaney are cooking up.”<sup>41</sup>

At a follow-up meeting that took place immediately after the Bolton meeting, Sondland more explicitly told the Ukrainians that a White House visit would happen only after Ukraine

<sup>38</sup> 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.

<sup>39</sup> 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.

<sup>40</sup> 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.”).

<sup>41</sup> 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).

announced the requested investigations.<sup>42</sup> After the Ukrainians left the meeting, Hill and Vindman confronted Sondland about the conditioning of a White House meeting on announcing investigations, which Hill and Vindman said they felt was inappropriate.<sup>43</sup>

In mid-July 2019, U.S. officials, at the urging of Giuliani, further pressured Ukrainian officials to conduct investigations into alleged Ukrainian interference in the 2016 election to benefit Clinton, and purported corruption relating to the Biden family’s activities in Ukraine. On July 19, 2019, Volker had breakfast with Giuliani and Parnas, and agreed to arrange for Giuliani to meet one of Zelensky’s closest advisors, Andriy Yermak, in Madrid, Spain.<sup>44</sup> After the breakfast, Volker texted Sondland and Taylor to relay that, per Giuliani, it was most important

<sup>42</sup> 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.”).

<sup>43</sup> 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.”).

<sup>44</sup> 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](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”).

for Zelensky to say that he “will help” with the investigation.<sup>45</sup> The following day, July 20, 2019, Ukrainian national security advisor Danyliuk spoke with Taylor and expressed that Zelensky “did not want to be used as a pawn” in U.S. election matters.<sup>46</sup>

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

---

<sup>45</sup> 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”).

<sup>46</sup> Taylor Dep. at 30.

<sup>47</sup> *Id.*

<sup>48</sup> 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.”).

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

During the July 25 phone call between Trump and Zelensky, Trump repeatedly asked Zelensky to work with Giuliani and U.S. Attorney General William Barr to investigate the allegations involving 2016 election interference and the Bidens. Specifically, according to the White House’s telephone conversation memorandum, Trump told Zelensky “I would like you to do us a favor” and continued: “I would like you to find out what happened with this whole situation with Ukraine, they say CrowdStrike . . . [t]he server, they say Ukraine has it” — comments alluding to the allegation that proof of Ukraine’s purported interference in the 2016 U.S. presidential election could be found on a DNC server in Ukraine.<sup>49</sup> Trump added, “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.”<sup>50</sup> Trump concluded the point by saying: “Whatever you can do, it’s very important that you do it if that’s possible.”<sup>51</sup> Zelensky replied by noting the importance of cooperation between the U.S. and Ukraine and stated: “[I]n addition to that investigation, I

<sup>49</sup> 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.

<sup>50</sup> July 25 Call Memo at 3.

<sup>51</sup> *Id.*

1 guarantee as the President of Ukraine that all the investigations will be done openly and  
 2 candidly.”<sup>52</sup>

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.<sup>53</sup>

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.”<sup>54</sup> Zelensky reiterated that “we will  
 14 take care of that and will work on the investigation of the case.”<sup>55</sup> Trump again told Zelensky

---

<sup>52</sup> *Id.*

<sup>53</sup> *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.”).

<sup>54</sup> 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.

<sup>55</sup> July 25 Call Memo at 4.

that he would have Giuliani and Barr call, adding: “[W]e will get to the bottom of it. I’m sure you will figure it out.”<sup>56</sup>

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

#### **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.<sup>59</sup> Sondland also separately met with Yermak.<sup>60</sup> Sondland stated that he did not “recall the

---

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 5.

<sup>58</sup> *Id.*

<sup>59</sup> 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”).

<sup>60</sup> Sondland Hearing at 25.

specifics of our conversation, but I believe the issue of investigations was probably a part of that agenda or meeting.”<sup>61</sup> That same day, Trump asked Sondland, by phone, if Zelensky was “going to do the investigation[,]”<sup>62</sup> and Sondland replied that Zelensky would do “anything you ask him to.”<sup>63</sup> 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 the, quote, unquote, ‘Biden investigation’ that Mr. Giuliani was pushing.”<sup>64</sup> Sondland and Volker later stated to Taylor, in separate instances, “that President Trump is a businessman. When a businessman is about to sign a check to someone who owes him something . . . the businessman asks that person to pay up before signing the check.”<sup>65</sup>

Giuliani met with Yermak, Zelensky’s advisor, in Madrid, on August 2, 2019.<sup>66</sup> They agreed that Ukraine would make a public statement announcing the investigation, and they

---

<sup>61</sup> *Id.*

<sup>62</sup> 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.”).

<sup>63</sup> Holmes Dep. at 24.

<sup>64</sup> 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.”).

<sup>65</sup> Taylor Dep. at 40.

<sup>66</sup> *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.<sup>67</sup> Following additional phone and text conversations,<sup>68</sup> 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.<sup>69</sup> 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.”<sup>70</sup> 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.”<sup>71</sup> Volker added specific references to Burisma and 2016 election interference to the

---

<sup>67</sup> 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!”)

<sup>68</sup> *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 statememt [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!”).

<sup>69</sup> 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.”).

<sup>70</sup> 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.”).

<sup>71</sup> 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.<sup>72</sup> 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.”<sup>73</sup> Yermak therefore asked if the U.S.  
 4 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the  
 5 investigations.<sup>74</sup> 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.”<sup>75</sup>  
 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

<sup>72</sup> 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”).

<sup>73</sup> 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.”).

<sup>74</sup> Volker Dep. at 197–8.

<sup>75</sup> 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.”).

anything that would look like it would play into [U.S.] domestic politics, and this could.”<sup>76</sup> As such, efforts to prepare the statement did not proceed further.<sup>77</sup>

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

Congress appropriated \$391 million in aid to Ukraine for fiscal year 2019, with \$250 million to be administered by the Department of Defense and the remaining \$141 million to be administered by the Department of State.<sup>78</sup> On July 3, 2019, however, the Office of Management and Budget (“OMB”) blocked the Congressional notification required to release the funds to State and subsequently placed a hold on all military support funding.<sup>79</sup> According to Bolton’s account, Secretary of Defense Mark Esper, Secretary of State Mike Pompeo, and Bolton repeatedly pressed Trump, individually and in tandem, to release the aid to Ukraine.<sup>80</sup> According to sworn testimony by Bill Taylor and Deputy Assistant Secretary of Defense Laura Cooper, numerous officials at the Department of Defense, the Department of State, and the National Security Council considered this aid to be crucial support for Ukraine in its ongoing war with Russia, which was viewed as serving the U.S. national security interest.<sup>81</sup> No specific

<sup>76</sup> Volker Dep. at 44–45.

<sup>77</sup> *Id.*

<sup>78</sup> 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).

<sup>79</sup> 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.”).

<sup>80</sup> 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.)”).

<sup>81</sup> 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.’”<sup>82</sup> 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.<sup>83</sup>

---

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.”).

<sup>82</sup> 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.”).

<sup>83</sup> 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,<sup>84</sup> and the aid remained frozen throughout August 2019.<sup>85</sup>  
 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.”<sup>86</sup> 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.<sup>87</sup> 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

<sup>84</sup> 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.”).

<sup>85</sup> 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](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.

<sup>86</sup> Bolton Book at 471.

<sup>87</sup> 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](http://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](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.”<sup>88</sup> 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.”<sup>89</sup> Zelensky said that even the appearance of U.S. support for Ukraine  
5 faltering might embolden Russian aggression towards Ukraine.<sup>90</sup> 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.”<sup>91</sup>

8 Sondland spoke with Yermak later that day, explaining that the security assistance was  
9 conditioned on the public announcement of the investigations.<sup>92</sup> On learning of this discussion,

---

<sup>88</sup> 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.”).

<sup>89</sup> 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.”).

<sup>90</sup> *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.”).

<sup>91</sup> 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.”).

<sup>92</sup> 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?”<sup>93</sup> 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.”<sup>94</sup>

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.<sup>95</sup> Sondland further relayed that Trump had also made clear that  
 10 Zelensky himself would have to announce the investigations and do so publicly.<sup>96</sup> 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.<sup>97</sup>

---

<sup>93</sup> First Volker Text Excerpts at 5.

<sup>94</sup> 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.”).

<sup>95</sup> 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.”).

<sup>96</sup> 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*.”).

<sup>97</sup> 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



After public and Congressional scrutiny, Trump lifted the hold on security aid to Ukraine on September 11, 2019.<sup>98</sup> No official reason for the hold was ever given, although in subsequent public statements, Trump stated that he was concerned about Ukrainian corruption and felt that European Union countries should be providing Ukraine with more security assistance.<sup>99</sup> At a White House press briefing on October 17, 2019, Mulvaney said that the security aid had been withheld to pressure Ukraine to cooperate with “an ongoing investigation” by DOJ into 2016 election interference, and that “[t]here’s going to be political influence in foreign policy . . . that is going to happen.”<sup>100</sup>

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.”).

<sup>98</sup> *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.

<sup>99</sup> 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](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.”).

<sup>100</sup> 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

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

Biden became the Democratic Party’s nominee for President on June 5, 2020.<sup>102</sup>

## **H. The Complaint and Response**

The complaint, which was filed on September 23, 2019, alleged that Giuliani “solicited, or provided substantial assistance in the solicitation of, a contribution from foreign nationals” in connection with Trump’s request to Zelensky that Ukraine investigate Joe Biden and 2016 election interference.<sup>103</sup> It further alleges that, in the “July 25, 2019, phone call, President Trump solicited a ‘contribution’ as defined [in the Act] from Ukraine President Zelensky in connection with the 2020 U.S. presidential election and for the purpose of influencing the 2020 presidential election candidacy of Joe Biden” and that Giuliani did the same “[i]n multiple meetings with Ukraine prosecutors and other Ukraine officials.”<sup>104</sup>

---

whether or not they were cooperating in an ongoing investigation with our Department of Justice. That’s completely legitimate.”)

<sup>101</sup> 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.”).

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

<sup>103</sup> Compl. ¶¶ 1, 41, 45.

<sup>104</sup> *Id.* ¶¶ 41, 44.



Giuliani filed a response to the complaint denying the allegations and asserting that as Trump’s personal attorney he had attempted to acquire and develop “rebuttal information” to defend Trump from the allegation that Trump may have colluded with Russia during the 2016 election, which was the subject of Special Counsel Robert Mueller’s then-ongoing investigation.<sup>105</sup> Giuliani also contended that because his actions preceded the April 2019 announcement of Joe Biden’s presidential candidacy in the 2020 election, they could not be construed as attempting to generate “opposition research” to influence a federal election.<sup>106</sup>

Giuliani acknowledged that he met with “a Ukrainian prosecutor” and a “former official” who “offered very detailed information and additional evidence about substantial collusion between Ukraine government officials and officials of the Clinton campaign and employees of the DNC” as well as “corroborating evidence of the Biden bribery and money laundering.”<sup>107</sup> Giuliani’s response denies that he ever saw a proposed draft of Zelensky’s announcement regarding investigations, but it acknowledges that when Volker and Sondland asked him about “a statement the Ukrainians were going to make,” he told them that “the statement should make clear that the President [Zelensky] was committed to rooting out corruption including completing the investigation of the 2016 corruption. Collusion, Burisma and whatever else remained.”<sup>108</sup>

---

<sup>105</sup> 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.*

<sup>106</sup> *Id.* at 1–2.

<sup>107</sup> *Id.* at 2.

<sup>108</sup> *Id.* at 3.

## II. LEGAL ANALYSIS

The available information indicates that Rudy Giuliani requested, recommended, and pressured Ukrainian President Volodymyr Zelensky, both directly and indirectly through representatives — including Giuliani’s associate, Lev Parnas, and diplomatic officials Gordon Sondland and Kurt Volker — to make an official public announcement and conduct an investigation into Burisma, Joe and Hunter Biden, and purported Ukrainian electoral interference intended to support Hillary Clinton during the 2016 U.S. presidential election, in order to influence the 2020 presidential election. The record indicates that Giuliani asked that Zelensky investigate these two allegations and announce the investigation with explicit references to the allegations, for the purpose of benefiting Trump’s reelection campaign. As such, Giuliani knowingly solicited a foreign national to provide in-kind “contributions” — *i.e.*, things “of value” sought “for the purpose of influencing” the 2020 U.S. presidential election — from Ukrainian nationals.<sup>109</sup>

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

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>110</sup> Moreover, the Act and Commission regulations prohibit any person from knowingly

<sup>109</sup> See 52 U.S.C. § 30101(8)(A)(i).

<sup>110</sup> 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.”

soliciting, accepting, or receiving any such contribution or donation from a foreign national,<sup>111</sup>  
and Commission regulations further prohibit any person from knowingly providing substantial  
assistance in soliciting, making, accepting, or receiving any such contribution or donation.<sup>112</sup>  
Under Commission regulations, “to solicit” means “to ask, request, or recommend, explicitly or  
implicitly, that another person make a contribution, donation, transfer of funds, or otherwise  
provide anything of value.”<sup>113</sup>

The Act’s definition of “foreign national” includes an individual who is not a citizen or  
national of the United States and who is not lawfully admitted for permanent residence,<sup>114</sup> as  
well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a  
government of a foreign country.”<sup>115</sup> A “contribution” includes “any gift, subscription, loan,  
advance, or deposit of money or anything of value made by any person for the purpose of  
influencing any election for Federal office.”<sup>116</sup> Under Commission regulations, “anything of  
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).

<sup>111</sup> 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).

<sup>112</sup> 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”).

<sup>113</sup> 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

<sup>114</sup> 52 U.S.C. § 30121(b)(2).

<sup>115</sup> 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

<sup>116</sup> 52 U.S.C. § 30101(8)(A).

without charge or at a charge that is less than the usual and normal charge for such goods or services.”<sup>117</sup>

Under the Act, soliciting, accepting, or receiving information in connection with an election from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to perform services for the political committee, could potentially result in the receipt of a prohibited in-kind contribution. Indeed, the Commission has recognized the “broad scope” of the foreign national contribution prohibition and found that even where the value of a good “may be nominal or difficult to ascertain,” such contributions are nevertheless prohibited.<sup>118</sup>

**B. The Commission Finds Reason to Believe Giuliani Knowingly Solicited Contributions from a Foreign National**

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

The available record indicates that Giuliani knowingly solicited a prohibited contribution when he directly and indirectly asked, requested, or recommended that Zelensky issue a public announcement and investigate allegations that Joe Biden pressured Ukraine to fire its Prosecutor General in order to terminate an investigation of Burisma and thus protect his son, Hunter Biden,

<sup>117</sup> 11 C.F.R. § 100.52(d).

<sup>118</sup> Advisory Op. 2007-22 at 6 (Huryz) (“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”).

and that foreign interference in the 2016 U.S. presidential election originated in Ukraine in coordination with the DNC.<sup>119</sup>

Commission regulations specify:

A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation.<sup>120</sup>

Commission regulations also provide examples of statements that would constitute solicitations, including but not limited to: “The candidate will be very pleased if we can count on you for \$10,000;”<sup>121</sup> “I will not forget those who contribute at this crucial stage;”<sup>122</sup> and “Your contribution to this campaign would mean a great deal to the entire party and to me personally.”<sup>123</sup> However, the Commission has “emphasize[d] that the definition . . . is not tied in any way to a candidate’s use of particular ‘magic words’ or specific phrases.”<sup>124</sup> The Commission has also explained that communications must be reasonably construed in context,

<sup>119</sup> See 11 C.F.R. § 300.2(m) (defining “solicit”).

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* § 300.2(m)(2)(xii).

<sup>122</sup> *Id.* § 300.2(m)(2)(xi).

<sup>123</sup> *Id.* § 300.2(m)(2)(xiii).

<sup>124</sup> 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.

such that “the Commission’s objective standard hinges on whether the recipient should have reasonably understood that a solicitation was made.”<sup>125</sup>

Applying these provisions, the Commission has previously found that asking a foreign national to make a political contribution, while offering a potential benefit in return, results in a prohibited solicitation. In MUR 6528, the Commission found reason to believe that a federal candidate knowingly and willfully “solicited or played an active role in the solicitation” of foreign national contributions, including by offering to help obtain immigration status for a foreign national if he contributed to the candidate’s campaign, and telling the foreign national that although he could not legally contribute to the candidate’s campaign, he could provide funds to third parties to make such contributions.<sup>126</sup>

Giuliani knowingly solicited Zelensky by asking, requesting, or recommending, directly and through intermediaries,<sup>127</sup> that Zelensky provide two deliverables: The Ukrainian

<sup>125</sup> 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”).

<sup>126</sup> 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).

<sup>127</sup> 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.<sup>128</sup> 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.<sup>129</sup>

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.<sup>130</sup> 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).

<sup>128</sup> See 11 C.F.R. § 110.20(a)(3) (defining “foreign national”); *id.* § 110.20(a)(4) (defining “knowingly”).

<sup>129</sup> 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.

<sup>130</sup> *Supra* note 23 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).



“relationships would be sour” and that the U.S. “would stop giving them any kind of aid.”<sup>131</sup>

Interviews and testimony reflect that when Shefir did not respond to these overtures, Parnas informed Giuliani of the apparent rejection and, the following day, Trump instructed Pence not to attend Zelensky’s inauguration.<sup>132</sup>

Parnas’s statements conveyed, on behalf of Trump and Giuliani, a clear request and recommendation that Zelensky provide the desired announcement of the investigation — particularly when those statements are reasonably construed in the context of Parnas’s comment that refusal would “sour” the U.S.-Ukraine relationship and lead to the loss of future U.S. aid, as well as the planned attendance of Vice President Pence at Zelensky’s inauguration. Giuliani also directly told Zelensky’s aides, as well as Sondland and Volker, that Trump wanted Zelensky to make a public announcement committing Ukraine to conducting the desired investigation.<sup>133</sup>

Both personally and through his associate, Parnas, Giuliani conveyed a clear request that Zelensky publicly announce and conduct the investigation.

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

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

As set forth above, the record indicates that Giuliani solicited Zelensky to provide an official public announcement and investigation of allegations regarding Joe Biden and foreign interference in the 2016 U.S. presidential election. In so doing, he solicited “contributions” from

<sup>131</sup> *Id.*

<sup>132</sup> Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

<sup>133</sup> Sondland Hearing at 26–27; Taylor Dep. at 26.



a foreign national, in that the announcement and investigation were each a thing “of value” sought “for the purpose of influencing” a federal election.<sup>134</sup>

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

In defining a “contribution,” the Act uses a broadly-encompassing phrase, “anything of value,”<sup>135</sup> which, under the Commission’s regulation, includes “*all* in-kind contributions” and “the provision of *any* goods or services” at no charge or at a reduced charge.<sup>136</sup> The regulation also provides a non-exhaustive list of examples that satisfy various campaign needs and represent a wide variety of electoral “value,” such as: places to operate (“facilities”), methods of conveying a message (“advertising services”), and raw voter data (“mailing lists”), as well as physical and human resources (“supplies” and “personnel,” respectively).<sup>137</sup> The list of examples conveys that a wide variety of things that may confer a benefit to a campaign, and thus potentially spare the campaign’s own resources, conceivably constitute things of value.

<sup>134</sup> 52 U.S.C. § 30101(8)(A).

<sup>135</sup> 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)).

<sup>136</sup> 11 C.F.R. § 100.52(d)(1) (emphases added).

<sup>137</sup> *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.<sup>138</sup> 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;<sup>139</sup> whether  
6   political campaigns have previously used their own resources to procure the thing in question;<sup>140</sup>  
7   whether the provision of the thing would “relieve” the campaign of an “expense it would  
8   otherwise incur”;<sup>141</sup> whether the provider of the thing or any third party “utilized its resources”

<sup>138</sup> 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).

<sup>139</sup> 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”).

<sup>140</sup> 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).

<sup>141</sup> 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.

to produce, organize, or collect the thing provided;<sup>142</sup> and whether the thing “may not have been publicly available” for the campaign’s use absent the provider’s actions.<sup>143</sup>

The Commission has concluded that the provision of free opposition research may constitute a contribution under the Act. In MUR 5409, the Commission found that a corporation made prohibited in-kind contributions by providing a campaign with its private lists of organizations and individuals with similar political views, which the corporation “utilized its resources to obtain and compile,” and which “contain[ed] information that may be of value in connection with” a federal election.<sup>144</sup> Moreover, in the foreign national context, the Commission has previously explained that a foreign national makes a prohibited contribution by providing anything to a campaign that thereby “relieve[s the] campaign of the expense that it would otherwise incur,” even if the item’s value “may be nominal or difficult to ascertain.”<sup>145</sup>

<sup>142</sup> 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”).

<sup>143</sup> 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).

<sup>144</sup> 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).

<sup>145</sup> 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).

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

The information available in these matters indicates that the official public announcement of investigations that Trump and Giuliani sought from Zelensky was a thing “of value” because it was a unique, nonpublic “deliverable,”<sup>146</sup> the provision of which involved the use of the Ukrainian government’s official resources to confer an electoral benefit on Trump’s 2020 presidential reelection campaign, and would have relieved the campaign of expenses required to procure the same benefit.

The desired announcement had a potential benefit for the Trump Committee: It was an amplification of negative allegations about Trump’s potential election opponent — akin to negative campaign advertising, or hiring a prominent public figure to criticize an electoral opponent — by Zelensky, an ostensibly disinterested authority.<sup>147</sup> The announcement would have benefited Trump’s reelection campaign, not by researching damaging information about a political opponent — *i.e.*, conducting “opposition research” — but instead by publicizing that damaging information, *i.e.*, magnifying corruption allegations against one of Trump’s potential 2020 election opponents, Biden, and Biden’s political party, the DNC, much like a damaging narrative about an opponent propagated through paid electioneering activity.<sup>148</sup> However, unlike

<sup>146</sup> 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.

<sup>147</sup> See Advisory Op. 1990-12 at 2; First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

<sup>148</sup> 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

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,<sup>149</sup> 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.”<sup>150</sup>

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.<sup>151</sup> 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.<sup>152</sup> 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).

<sup>149</sup> *See* 52 U.S.C. § 30101(9)(A) (defining “expenditure”); *id.* § 30104(b) (mandating periodic disclosure of all expenditures).

<sup>150</sup> 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.”).

<sup>151</sup> *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).

<sup>152</sup> 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.<sup>153</sup>  
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.<sup>154</sup> This activity required Ukraine to direct  
5 human and logistical resources to this end,<sup>155</sup> 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.”<sup>156</sup> 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”).

<sup>153</sup> See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

<sup>154</sup> 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).

<sup>155</sup> See Taylor Dep. at 135–36.

<sup>156</sup> 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.<sup>157</sup> 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.<sup>158</sup>

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.

---

<sup>157</sup> 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)).

<sup>158</sup> *E.g.* Advisory Op. 2007-22 at 6.

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

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

The Ukrainian investigation sought by Trump and Giuliani was akin to a service that campaigns commonly expend resources on — opposition research, or research into potentially damaging information about political opponents.<sup>159</sup> The requested investigation would have required a third party, the Ukrainian government, to use its resources to provide a benefit to the Trump Committee — *i.e.*, researching negative information about Trump’s potential election opponent, Biden, and Biden’s party, the DNC — thereby relieving the Trump Committee of the attendant expense of that investigative effort. As such, the requested investigation closely aligns with prior Commission matters finding that third party research conducted on a campaign’s behalf for no charge or at a reduced charge results in an in-kind contribution.<sup>160</sup>

<sup>159</sup> See FEC, *2017-2018 Disbursement Data*, [https://www.fec.gov/data/disbursements/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&disbursement\\_description=research](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”).

<sup>160</sup> F&LA at 13–20, MUR 6414 (explaining that a committee’s receipt of opposition research services without paying the usual or normal charge may result in an in-kind contribution); *see also* 11 C.F.R. § 100.52(d)(2).



Further, the requested investigation was a thing “of value” irrespective of whether it ultimately produced any useful information for the Trump Committee. Like an opposition research service paid for by any campaign, the “value” of the requested Ukraine investigation in this context, for the Act’s purposes, derives from the cost of the investigative *effort*, without regard to the perceived value of the resulting *information*, just as the value of a campaign ad, for the Act’s purposes, generally derives from the production and distribution costs without regard to its effectiveness in persuading voters. The requested investigation would have required that Ukraine deploy its official law enforcement infrastructure to pursue information regarding Biden’s alleged conduct with respect to Burisma, and the DNC’s alleged conduct with respect to alleged Ukrainian election interference, which would incur a cost even if the Ukrainian investigation failed to produce any information supporting these allegations. Accordingly, because Ukraine’s government would have had to use its resources to investigate the allegations, thus sparing the Trump Committee the expense of doing so and potentially allowing the campaign to otherwise direct its resources, the requested investigation was a thing “of value.”<sup>161</sup>

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

The available information indicates that the requested announcement and investigation were sought “for the purpose of influencing” a federal election.<sup>162</sup> As discussed above, Trump repeatedly requested that Zelensky confer with Giuliani and investigate allegations regarding Biden and 2016 election interference during their July 25, 2019, phone call. Trump’s later

<sup>161</sup> 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).

<sup>162</sup> 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,<sup>163</sup> 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.”<sup>164</sup> 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,<sup>165</sup>

<sup>163</sup> 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”).

<sup>164</sup> Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate).

<sup>165</sup> *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,<sup>166</sup> or engage in legal or policy advocacy<sup>167</sup> —  
 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.<sup>168</sup>

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

<sup>166</sup> *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”).

<sup>167</sup> *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”).

<sup>168</sup> *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”).

purpose of what he described as “meddling in an investigation” — *i.e.*, to urge the newly-elected Ukrainian president, Zelensky, to pursue the Biden/Burisma and 2016 election interference allegations. Giuliani, as Trump’s personal counsel, expressed his belief that Ukraine’s investigation of these allegations would uncover “information [that] will be very, very helpful to my client.”<sup>169</sup> Viewed in the context of his broader effort to develop and disseminate these allegations — including by pushing for the removal of Ambassador Yovanovitch, who Giuliani viewed as an impediment to the desired investigation,<sup>170</sup> and meeting with Shokin, the former Ukrainian prosecutor who had allegedly tried to investigate Burisma before being removed at Biden’s behest, as well as Shokin’s successor Lutsenko — Giuliani’s comments indicate recognition that the Ukrainian investigation would likely benefit Trump personally because of the influence such actions would have on the election in his non-official capacity, *i.e.*, in his campaign.

Giuliani later publicly claimed that his purpose in investigating “2016 Ukrainian collusion and corruption” was “solely” to defend Trump “against false charges[,]”<sup>171</sup> a claim that Giuliani also raises in his response filed with the Commission.<sup>172</sup> Even if one were to accept, *arguendo*, that Giuliani’s reason for urging Ukraine to investigate the 2016 election interference allegation was to defend his client, Trump, in connection with Special Counsel Robert Mueller’s

<sup>169</sup> May 9 NY Times Article.

<sup>170</sup> See *supra* notes 8–11 and accompanying text (discussing Giuliani’s effort to have Yovanovitch removed).

<sup>171</sup> 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](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).

<sup>172</sup> 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.<sup>173</sup> 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 Zelensky<sup>174</sup> — 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.<sup>175</sup>

---

<sup>173</sup> 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](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.

<sup>174</sup> Maddow Interview Pt. 1 at 13:43–16:12.

<sup>175</sup> *See* F&LA at 6, MUR 7024 (quoting 52 U.S.C. § 30101(8)(A)(i)).

Parnas’s statements indicate that he shared Giuliani’s purpose when he pursued the announcement of the Biden investigation in a May 12, 2019, meeting with Zelensky’s aide Serhiy Shefir. At that meeting, Parnas told Shefir that the announcement was a prerequisite for Vice President Pence to attend Zelensky’s inauguration<sup>176</sup> and, after Shefir demurred, Parnas informed Giuliani, and Trump directed Pence not to attend Zelensky’s inauguration.<sup>177</sup> Viewed in light of Parnas’s later acknowledgement that among the “several demands” that he conveyed to Shefir, the “most important one was the announcement of the Biden investigation,”<sup>178</sup> Giuliani’s response when that demand was not satisfied — “OK, they’ll see”<sup>179</sup> — and Trump’s subsequent directive that Pence not attend Zelensky’s inauguration, Parnas’s statements evince an electoral purpose since Parnas acknowledged which demand was “the most important” and attempted to pressure Zelensky into providing it to benefit Trump’s campaign.

Further, numerous U.S. officials expressed concern regarding the requests that Zelensky announce and investigate these allegations, stemming from the fact that the announcement and investigation were pursued through an improper, irregular channel — namely, through Giuliani, a private citizen acting as Trump’s personal attorney<sup>180</sup> — rather than through an official channel, such as a request for intergovernmental law enforcement cooperation, and were sought for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted

<sup>176</sup> Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

<sup>177</sup> Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

<sup>178</sup> Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

<sup>179</sup> Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

<sup>180</sup> *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.<sup>181</sup>

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.<sup>182</sup>  
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.<sup>183</sup> 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

---

<sup>181</sup> 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.”).

<sup>182</sup> 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.”).

<sup>183</sup> 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.<sup>184</sup> 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.<sup>185</sup> 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.”<sup>186</sup>

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

---

<sup>184</sup> Taylor Dep. at 30; Bolton Book at 472.

<sup>185</sup> First Volker Text Excerpts at 3; Volker Dep. at 113.

<sup>186</sup> 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.<sup>187</sup> 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.<sup>188</sup> 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 relationship<sup>189</sup> — 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.<sup>190</sup> 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

---

<sup>187</sup> 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.”).

<sup>188</sup> Volker Dep. at 44.

<sup>189</sup> Andersen Dep. at 50; Taylor Dep. at 76–77; Volker Dep. at 38; Holmes Dep. at 41.

<sup>190</sup> Bolton Book at 468–69.

1 for the aid appropriation.<sup>191</sup> 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.<sup>192</sup> 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.”<sup>193</sup>

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.<sup>194</sup> Testimony  
10 reflects that Trump also told Sondland that Zelensky would have to announce the investigation  
11 for the aid to be released.<sup>195</sup> 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.<sup>196</sup>

---

<sup>191</sup> Taylor Dep. at 28 and 132; Cooper Dep. at 16.

<sup>192</sup> Morrison Dep. at 163; GAO Decision at 1, 8.

<sup>193</sup> First Volker Text Excerpts at 9.

<sup>194</sup> Bolton Book at 471.

<sup>195</sup> Morrison Dep. at 190–91; Taylor Dep. at 39.

<sup>196</sup> 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.<sup>197</sup>

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.<sup>198</sup> 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.<sup>199</sup> 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 publicly<sup>200</sup> — but rather to influence the 2020 presidential  
17 election.

---

<sup>197</sup> 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.”).

<sup>198</sup> Volker Dep. at 113.

<sup>199</sup> Maddow Interview Pt. 1 at 8:58–9:37.

<sup>200</sup> Taylor Dep. at 198-99; Volker Dep. at 29–30.

Attachment 2

**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

requested announcement and investigations fall within the meaning of “anything of value” and, as the record reflects, were sought for the purpose of influencing the 2020 presidential election, the requests constituted a legally prohibited solicitation of a contribution from a foreign national in violation of the Act.

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

## **I. FACTUAL BACKGROUND**

### **A. Overview**

The available information indicates that between April and September of 2019, President Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly announce, and thereafter conduct, an investigation into whether, when he was Vice President, Joe Biden<sup>1</sup> acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter was a board member; and an investigation into whether, during the 2016 presidential election, the DNC coordinated with Ukraine to support Hillary Clinton, Trump’s opponent in that election. The available information indicates that Trump and Giuliani requested Zelensky’s announcement and the investigation of these allegations in order to advance Trump’s personal

---

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

political goal of depicting Biden and his political party in a negative light during the 2020 presidential campaign.

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

#### **B. Early Efforts to Develop Allegations Regarding Burisma**

According to news reports and testimony, in 2018 and early 2019, Giuliani, along with his associates Parnas and Igor Fruman, engaged in a concerted effort to develop evidence supporting the allegation that in 2016, while serving as Vice President, Biden had acted improperly by pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin, to prevent an investigation of a Ukrainian energy company, Burisma, and Hunter Biden, a one-time board member of Burisma.<sup>2</sup> Giuliani made several attempts to meet with Shokin —

<sup>2</sup> 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](http://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 Bidens<sup>3</sup> — and Shokin’s successor, Yuriy Lutsenko — who had also made allegations  
3 underlying Giuliani’s claims — to further this effort.<sup>4</sup> Giuliani and Parnas were also in contact  
4 with Victoria Toensing, who appears to have served as counsel to both Shokin and Lutsenko,<sup>5</sup>  
5 and Toensing may have relayed information regarding the allegations to them from her clients.<sup>6</sup>

---

(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](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).

<sup>3</sup> 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.”).

<sup>4</sup> 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.”).

<sup>5</sup> 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.).

<sup>6</sup> *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.<sup>7</sup> 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.<sup>8</sup> 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.”<sup>9</sup> In May, 2019, President Trump recalled Yovanovitch, who was

<sup>7</sup> 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.”).

<sup>8</sup> 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](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.”).

<sup>9</sup> 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[, 2019] . . . 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.”).

eventually replaced as the lead U.S. diplomat in Ukraine by Bill Taylor, a former U.S. Ambassador to Ukraine.<sup>10</sup>

Giuliani also reportedly attempted to meet with Zelensky directly, using intermediaries to arrange such a meeting. On April 23, 2019, Giuliani sent Parnas and Fruman to Israel for a meeting with Igor Kolomoisky, a wealthy Ukrainian with ties to President Zelensky.<sup>11</sup> Parnas and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky, but Kolomoisky declined to do so.<sup>12</sup> According to U.S. National Security Advisor John Bolton's published account, during a May 8, 2019, Oval Office meeting with Trump, Giuliani expressed a "desire to meet with President-Elect Zelensky to discuss his country's investigation" of the 2016 election interference and Biden/Burisma allegations, and Trump directed Bolton to call Zelensky and "make sure Giuliani got his meeting in Kiev next week."<sup>13</sup>

As reported in a New York Times interview published the following day, May 9, 2019, Giuliani stated that he intended to travel to Ukraine for the purpose of "meddling" in Ukrainian investigations, specifying that "this isn't [about] foreign policy" and that the investigations would uncover "information [that] will be very, very helpful to my client, and may turn out to be

<sup>10</sup> 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.").

<sup>11</sup> BuzzFeedNews Article.

<sup>12</sup> *Id.*

<sup>13</sup> 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](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.”<sup>14</sup> 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.”<sup>15</sup> Amid backlash following the publication of the New York Times article, however,  
5 Giuliani canceled the trip.<sup>16</sup> 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.”<sup>17</sup>  
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.”<sup>18</sup>

---

<sup>14</sup> 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](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.”).

<sup>15</sup> Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), [https://judiciary.house.gov/uploadedfiles/excerpt\\_2\\_final.pdf](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

<sup>16</sup> *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”).

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

<sup>18</sup> 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.”).

## C. Zelensky's Inauguration

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

Two days later, on April 23, 2019, Vice President Mike Pence accepted an invitation to attend Zelensky's inauguration.<sup>21</sup> After Giuliani canceled his aforementioned trip to meet Zelensky in Ukraine, however, Lev Parnas met with Zelensky's aide, Serhiy Shefir, in Kyiv on May 12, 2019; Parnas stated in subsequent interviews that he told Shefir that "Zelensky needed

<sup>19</sup> 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.").

<sup>20</sup> 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.").

<sup>21</sup> 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.”<sup>22</sup>  
4 Parnas further said that he told Shefir that he was making this demand on behalf of Giuliani and  
5 Trump.<sup>23</sup> 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.<sup>24</sup> Parnas

<sup>22</sup> 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](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](https://www.youtube.com/watch?v=QUXht__f3Rk) (“Cooper Interview Pt. 2”).

<sup>23</sup> 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.

<sup>24</sup> 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

took this to mean that Zelensky would not make the requested announcement and passed that information along to Giuliani, who responded, “OK, they’ll see.”<sup>25</sup> The following day, Trump instructed Pence not to attend the inauguration.<sup>26</sup>

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

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

Upon returning to the United States, Perry, Sondland, and Volker met with Trump on May 23, 2019; according to their testimony, these officials offered a very positive report on the situation in Ukraine and their impressions of its new president, Zelensky — particularly with respect to his willingness and desire to combat corruption.<sup>28</sup> The three men encouraged Trump to schedule a meeting with Zelensky in the Oval Office.<sup>29</sup> 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.

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

<sup>26</sup> Williams Dep. at 37.

<sup>27</sup> 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.”).

<sup>28</sup> 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.”).

<sup>29</sup> Taylor Dep. at 24; Volker Dep. at 29–30.



1 described Trump’s negative reaction<sup>30</sup> with accounts of Trump telling his advisors that they  
2 would have to “talk to Rudy” before an Oval Office meeting would be scheduled.<sup>31</sup> 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.<sup>32</sup>

---

<sup>30</sup> 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.”).

<sup>31</sup> 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.”).

<sup>32</sup> 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

Giuliani, in communications with Sondland and Volker, made it clear that a White House meeting would not be scheduled until Ukraine announced the two investigations and, according to Sondland, “Giuliani also expressed those requests directly to the Ukrainians.”<sup>33</sup> At the same time, Giuliani continued publicly calling for such investigations, tweeting on June 21, 2019: “New Pres of Ukraine still silent on investigation of the Ukrainian interference in 2016 election and alleged Biden bribery of President Poroshenko. Time for leadership and investigate both if you want to purge how Ukraine was abused by Hillary and Obama people.”<sup>34</sup>

On June 28, 2019, Volker told Sondland, Taylor, and Perry that he “planned to be explicit with President Zelensky in a one-on-one meeting in Toronto on July 2nd about what President Zelensky should do to get the meeting in the White House.”<sup>35</sup> Volker stated that “he would relay that President Trump wanted to see rule of law, transparency, but also, specifically, cooperation on investigations to get to the bottom of things.”<sup>36</sup> 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.”).

<sup>33</sup> 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](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.”).

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

<sup>35</sup> Taylor Dep. at 25–26.

<sup>36</sup> *Id.* at 26.



Toronto, Canada, and conveyed that Giuliani had Trump's attention on Ukraine and had been amplifying a negative impression of Ukraine with Trump.<sup>37</sup>

On July 10, 2019, Bolton hosted a meeting at the White House with his Ukrainian counterpart, Oleksandr Danyliuk, and a number of others, including Sondland and Volker, as well as National Security Council staff members Dr. Fiona Hill and Vindman.<sup>38</sup> According to those in attendance, the meeting went smoothly until the Ukrainians asked about scheduling the promised Oval Office meeting; while Bolton demurred, Sondland said that, per an agreement with Acting White House Chief of Staff Mick Mulvaney, the meeting could be scheduled after Ukraine initiated the investigations.<sup>39</sup> Testimony reflects that Bolton "stiffened" at this comment and quickly ended the meeting;<sup>40</sup> Hill testified that Bolton asked her to inform the National

<sup>37</sup> 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.").

<sup>38</sup> 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.

<sup>39</sup> 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.

<sup>40</sup> 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

Security Council’s legal counsel what Sondland had said, and to say that Bolton “was not part of whatever drug deal Sondland and Mulvaney are cooking up.”<sup>41</sup>

At a follow-up meeting that took place immediately after the Bolton meeting, Sondland more explicitly told the Ukrainians that a White House visit would happen only after Ukraine announced the requested investigations.<sup>42</sup> After the Ukrainians left the meeting, Hill and Vindman confronted Sondland about the conditioning of a White House meeting on announcing investigations, which Hill and Vindman said they felt was inappropriate.<sup>43</sup>

In mid-July 2019, U.S. officials, at the urging of Giuliani, further pressured Ukrainian officials to conduct investigations into alleged Ukrainian interference in the 2016 election to 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.”).

<sup>41</sup> 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).

<sup>42</sup> 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.”).

<sup>43</sup> 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.”).

July 19, 2019, Volker had breakfast with Giuliani and Parnas, and agreed to arrange for Giuliani to meet one of Zelensky's closest advisors, Andriy Yermak, in Madrid, Spain.<sup>44</sup> After the breakfast, Volker texted Sondland and Taylor to relay that, per Giuliani, it was most important for Zelensky to say that he "will help" with the investigation.<sup>45</sup> The following day, July 20, 2019, Ukrainian national security advisor Danyliuk spoke with Taylor and expressed that Zelensky "did not want to be used as a pawn" in U.S. election matters.<sup>46</sup>

Despite Zelensky's apparent reservations, the messages from Trump's representatives leading up to the July 25, 2019, call between Zelensky and Trump communicated that Zelensky would need to convince Trump that he would look into the investigation matters in order for their relationship to advance. Taylor testified that on July 20, 2019, the same day that Danyliuk informed Taylor of Zelensky's reservations, Sondland told Taylor "that he had recommended to President Zelensky that he use the phrase 'I will leave no stone unturned' with regard to investigations when President Zelensky spoke with President Trump."<sup>47</sup> Further, thirty minutes before the July 25 call between Zelensky and Trump, Volker texted Yermak to reiterate that, per Volker's discussions with the White House, if Zelensky convinced Trump that he would

<sup>44</sup> 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](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").

<sup>45</sup> 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").

<sup>46</sup> Taylor Dep. at 30.

<sup>47</sup> *Id.*

investigate foreign election interference in 2016, they could schedule a White House visit for Zelensky.<sup>48</sup>

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

During the July 25 phone call between Trump and Zelensky, Trump repeatedly asked Zelensky to work with Giuliani and U.S. Attorney General William Barr to investigate the allegations involving 2016 election interference and the Bidens. Specifically, according to the White House's telephone conversation memorandum, Trump told Zelensky "I would like you to do us a favor" and continued: "I would like you to find out what happened with this whole situation with Ukraine, they say CrowdStrike . . . [t]he server, they say Ukraine has it" — comments alluding to the allegation that proof of Ukraine's purported interference in the 2016 U.S. presidential election could be found on a DNC server in Ukraine.<sup>49</sup> Trump added, "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."<sup>50</sup> Trump concluded the point by saying: "Whatever you can do, it's very

<sup>48</sup> 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.").

<sup>49</sup> 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.

<sup>50</sup> July 25 Call Memo at 3.

important that you do it if that's possible."<sup>51</sup> Zelensky replied by noting the importance of cooperation between the U.S. and Ukraine and stated: "[I]n addition to that investigation, I guarantee as the President of Ukraine that all the investigations will be done openly and candidly."<sup>52</sup>

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

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

Zelensky responded to Trump, "I understand and I'm knowledgeable about the situation[,] and stated that he would be appointing a new Ukrainian Prosecutor General who would be "100% my person, my candidate," and that this person would "look into the situation, specifically to the company that you mentioned in this issue."<sup>54</sup> Zelensky reiterated that "we will

---

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *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.").

<sup>54</sup> 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.”<sup>55</sup> 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.”<sup>56</sup>

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.”<sup>57</sup> 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.”<sup>58</sup>

#### 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.<sup>59</sup>

---

General will be one hundred percent my candidate. He will start in September. He will look at the company.”  
Bolton Book at 468.

<sup>55</sup> July 25 Call Memo at 4.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 5.

<sup>58</sup> *Id.*

<sup>59</sup> 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.<sup>60</sup> 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.”<sup>61</sup> That same day, Trump asked Sondland, by phone, if Zelensky was “going  
4 to do the investigation[,]”<sup>62</sup> and Sondland replied that Zelensky would do “anything you ask him  
5 to.”<sup>63</sup> 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.”<sup>64</sup> 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.”<sup>65</sup>

---

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”).

<sup>60</sup> Sondland Hearing at 25.

<sup>61</sup> *Id.*

<sup>62</sup> 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.”).

<sup>63</sup> Holmes Dep. at 24.

<sup>64</sup> 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.”).

<sup>65</sup> Taylor Dep. at 40.

1           Giuliani met with Yermak, Zelensky’s advisor, in Madrid, on August 2, 2019.<sup>66</sup> They  
2           agreed that Ukraine would make a public statement announcing the investigation, and they  
3           discussed the White House visit.<sup>67</sup> Following additional phone and text conversations,<sup>68</sup> 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.<sup>69</sup> 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.”<sup>70</sup> 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

---

<sup>66</sup>       *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.”).

<sup>67</sup>       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!”)

<sup>68</sup>       *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!”).

<sup>69</sup>       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.”).

<sup>70</sup>       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.”<sup>71</sup> Volker added specific references to Burisma and 2016 election interference to the  
2 proposed statement and sent the revised draft to Yermak.<sup>72</sup> 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.”<sup>73</sup> Yermak therefore asked if the U.S.  
5 Department of Justice (“DOJ”) had made any formal inquiries with Ukraine regarding the  
6 investigations.<sup>74</sup> 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.”<sup>75</sup>  
9 Volker agreed with Yermak that Zelensky should not issue the public statement with specific

---

<sup>71</sup> 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.”).

<sup>72</sup> 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”).

<sup>73</sup> 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.”).

<sup>74</sup> Volker Dep. at 197–8.

<sup>75</sup> 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.”).

references to Burisma and 2016 election interference, because it was important to “avoid anything that would look like it would play into [U.S.] domestic politics, and this could.”<sup>76</sup> As such, efforts to prepare the statement did not proceed further.<sup>77</sup>

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

Congress appropriated \$391 million in aid to Ukraine for fiscal year 2019, with \$250 million to be administered by the Department of Defense and the remaining \$141 million to be administered by the Department of State.<sup>78</sup> On July 3, 2019, however, the Office of Management and Budget (“OMB”) blocked the Congressional notification required to release the funds to State and subsequently placed a hold on all military support funding.<sup>79</sup> According to Bolton’s account, Secretary of Defense Mark Esper, Secretary of State Mike Pompeo, and Bolton repeatedly pressed Trump, individually and in tandem, to release the aid to Ukraine.<sup>80</sup> According to sworn testimony by Bill Taylor and Deputy Assistant Secretary of Defense Laura Cooper, numerous officials at the Department of Defense, the Department of State, and the National Security Council considered this aid to be crucial support for Ukraine in its ongoing

<sup>76</sup> Volker Dep. at 44–45.

<sup>77</sup> *Id.*

<sup>78</sup> 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).

<sup>79</sup> 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.”).

<sup>80</sup> 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.<sup>81</sup> 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.’”<sup>82</sup> 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.<sup>83</sup>

---

<sup>81</sup> 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.”).

<sup>82</sup> 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.”).

<sup>83</sup> 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,<sup>84</sup> and the aid remained frozen throughout August 2019.<sup>85</sup>  
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.”<sup>86</sup> 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.<sup>87</sup> 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

<sup>84</sup> 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.”).

<sup>85</sup> 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](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.

<sup>86</sup> Bolton Book at 471.

<sup>87</sup> 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](http://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](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.”<sup>88</sup> 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.”<sup>89</sup> Zelensky said that even the appearance of U.S. support for Ukraine  
5 faltering might embolden Russian aggression towards Ukraine.<sup>90</sup> 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.”<sup>91</sup>

8 Sondland spoke with Yermak later that day, explaining that the security assistance was  
9 conditioned on the public announcement of the investigations.<sup>92</sup> On learning of this discussion,

---

<sup>88</sup> 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.”).

<sup>89</sup> 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.”).

<sup>90</sup> *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.”).

<sup>91</sup> 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.”).

<sup>92</sup> 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?”<sup>93</sup> 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.”<sup>94</sup>

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.<sup>95</sup> Sondland further relayed that Trump had also made clear that  
 10 Zelensky himself would have to announce the investigations and do so publicly.<sup>96</sup> 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.<sup>97</sup>

---

<sup>93</sup> First Volker Text Excerpts at 5.

<sup>94</sup> 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.”).

<sup>95</sup> 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.”).

<sup>96</sup> 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*.”).

<sup>97</sup> 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.<sup>98</sup> 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.<sup>99</sup> 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.”<sup>100</sup>

---

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.”).

<sup>98</sup> *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.

<sup>99</sup> 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](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.”).

<sup>100</sup> 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.”)

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

Biden became the Democratic Party’s nominee for President on June 5, 2020.<sup>102</sup>

## II. LEGAL ANALYSIS

The available information indicates that Donald J. Trump and his personal attorney, Rudy Giuliani, requested, recommended, and pressured Ukrainian President Volodymyr Zelensky, both directly and indirectly through their representatives — including Giuliani’s associate, Lev Parnas, and diplomatic officials Gordon Sondland and Kurt Volker — to make an official public announcement and conduct an investigation into Burisma, Joe and Hunter Biden, and purported Ukrainian electoral interference intended to support Hillary Clinton during the 2016 U.S. presidential election, in order to influence the 2020 presidential election. The record indicates that Trump, Giuliani, and Parnas asked that Zelensky investigate these two allegations and announce the investigation with explicit references to the allegations, for the purpose of benefiting Trump’s reelection campaign. As such, Parnas knowingly solicited [OR knowingly provided substantial assistance in the soliciting of] a foreign national to provide in-kind

<sup>101</sup> 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.”).

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



“contributions” — *i.e.*, things “of value” sought “for the purpose of influencing” the 2020 U.S. presidential election — from Ukrainian nationals.<sup>103</sup>

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

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>104</sup> Moreover, the Act and Commission regulations prohibit any person from knowingly soliciting, accepting, or receiving any such contribution or donation from a foreign national,<sup>105</sup> and Commission regulations further prohibit any person from knowingly providing substantial assistance in soliciting, making, accepting, or receiving any such contribution or donation.<sup>106</sup> Under Commission regulations, “to solicit” means “to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.”<sup>107</sup>

<sup>103</sup> See 52 U.S.C. § 30101(8)(A)(i).

<sup>104</sup> 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).

<sup>105</sup> 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).

<sup>106</sup> 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”).

<sup>107</sup> 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence,<sup>108</sup> as well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a government of a foreign country.”<sup>109</sup> A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”<sup>110</sup> Under Commission regulations, “anything of value” includes all in-kind contributions, which include “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”<sup>111</sup>

Under the Act, soliciting, accepting, or receiving information in connection with an election from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to perform services for the political committee, could potentially result in the receipt of a prohibited in-kind contribution. Indeed, the Commission has recognized the “broad scope” of the foreign national contribution prohibition and found that even where the value of a good “may be nominal or difficult to ascertain,” such contributions are nevertheless prohibited.<sup>112</sup>

---

<sup>108</sup> 52 U.S.C. § 30121(b)(2).

<sup>109</sup> 52 U.S.C. § 30121(b)(1); 22 U.S.C. § 611(b)(1).

<sup>110</sup> 52 U.S.C. § 30101(8)(A).

<sup>111</sup> 11 C.F.R. § 100.52(d).

<sup>112</sup> 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,

**B. The Commission Finds Reason to Believe Parnas Knowingly Solicited Contributions from a Foreign National**

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

The available record indicates that Parnas knowingly solicited a prohibited contribution when he directly and indirectly asked, requested, or recommended that Zelensky issue a public announcement and investigate allegations that Joe Biden pressured Ukraine to fire its Prosecutor General in order to terminate an investigation of Burisma and thus protect his son, Hunter Biden, and that foreign interference in the 2016 U.S. presidential election originated in Ukraine in coordination with the DNC.<sup>113</sup>

Commission regulations specify:

A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation.<sup>114</sup>

Commission regulations also provide examples of statements that would constitute 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”).

<sup>113</sup> See 11 C.F.R. § 300.2(m) (defining “solicit”).

<sup>114</sup> *Id.*

on you for \$10,000;”<sup>115</sup> “I will not forget those who contribute at this crucial stage;”<sup>116</sup> and  
 “Your contribution to this campaign would mean a great deal to the entire party and to me  
 personally.”<sup>117</sup> However, the Commission has “emphasize[d] that the definition . . . is not tied in  
 any way to a candidate’s use of particular ‘magic words’ or specific phrases.”<sup>118</sup> The  
 Commission has also explained that communications must be reasonably construed in context,  
 such that “the Commission’s objective standard hinges on whether the recipient should have  
 reasonably understood that a solicitation was made.”<sup>119</sup>

Applying these provisions, the Commission has previously found that asking a foreign  
 national to make a political contribution, while offering a potential benefit in return, results in a  
 prohibited solicitation. In MUR 6528, the Commission found reason to believe that a federal  
 candidate knowingly and willfully “solicited or played an active role in the solicitation” of  
 foreign national contributions, including by offering to help obtain immigration status for a  
 foreign national if he contributed to the candidate’s campaign, and telling the foreign national

---

<sup>115</sup> *Id.* § 300.2(m)(2)(xii).

<sup>116</sup> *Id.* § 300.2(m)(2)(xi).

<sup>117</sup> *Id.* § 300.2(m)(2)(xiii).

<sup>118</sup> 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.

<sup>119</sup> 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”).

that although he could not legally contribute to the candidate’s campaign, he could provide funds to third parties to make such contributions.<sup>120</sup>

Here, Parnas knowingly solicited Zelensky by asking, requesting, or recommending, directly and through intermediaries,<sup>121</sup> that Zelensky provide two deliverables: The Ukrainian investigation of allegations regarding Burisma/Biden and 2016 election interference, and a public announcement of that investigation. Parnas interacted with Zelensky (through his aides) after his election as President of Ukraine and therefore had “actual knowledge” that Zelensky was a foreign national and the head of a foreign government.<sup>122</sup>

As discussed above, efforts to solicit Zelensky began with a May 12, 2019, meeting between Parnas and Serhiy Shefir, Zelensky’s aide, in which Parnas expressed that he represented Trump and Giuliani and told Shefir that Zelensky needed to announce an investigation into the Bidens before Vice President Pence would attend Zelensky’s inauguration as planned.<sup>123</sup> Parnas also told Shefir that if Zelensky did not comply, the two countries’ “relationships would be sour” and that the U.S. “would stop giving them any kind of aid.”<sup>124</sup>

<sup>120</sup> 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).

<sup>121</sup> 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).

<sup>122</sup> *See* 11 C.F.R. § 110.20(a)(3) (defining “foreign national”); *id.* § 110.20(a)(4) (defining “knowingly”).

<sup>123</sup> *Supra* note 22 (citing Maddow Interview Pt. 1; Cooper Interview Pt. 1).

<sup>124</sup> *Id.*

Interviews and testimony reflect that when Shefir did not respond to these overtures, Parnas informed Giuliani of the apparent rejection and, the following day, Trump instructed Pence not to attend Zelensky's inauguration.<sup>125</sup>

Parnas's statements conveyed, on behalf of Trump and Giuliani, a clear request and recommendation that Zelensky provide the desired announcement of the investigation — particularly when those statements are reasonably construed in the context of Parnas's comment that refusal would "sour" the U.S.-Ukraine relationship and lead to the loss of future U.S. aid, as well as the planned attendance of Vice President Pence at Zelensky's inauguration. Giuliani also directly told Zelensky's aides, as well as Sondland and Volker, that Trump wanted Zelensky to make a public announcement committing Ukraine to conducting the desired investigation.<sup>126</sup> Both personally and through his associate, Parnas, Giuliani conveyed a clear request that Zelensky publicly announce and conduct the investigation.

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

## 2. The Announcement and Investigation Were "Contributions" Under the Act

As set forth above, the record indicates that Parnas solicited Zelensky to provide an official public announcement and investigation of allegations regarding Joe Biden and foreign interference in the 2016 U.S. presidential election. In so doing, he solicited "contributions" from a foreign national, in that the announcement and investigation were each a thing "of value" sought "for the purpose of influencing" a federal election.<sup>127</sup>

---

<sup>125</sup> Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

<sup>126</sup> Sondland Hearing at 26–27; Taylor Dep. at 26.

<sup>127</sup> 52 U.S.C. § 30101(8)(A).

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

In defining a “contribution,” the Act uses a broadly-encompassing phrase, “anything of value,”<sup>128</sup> which, under the Commission’s regulation, includes “*all* in-kind contributions” and “the provision of *any* goods or services” at no charge or at a reduced charge.<sup>129</sup> The regulation also provides a non-exhaustive list of examples that satisfy various campaign needs and represent a wide variety of electoral “value,” such as: places to operate (“facilities”), methods of conveying a message (“advertising services”), and raw voter data (“mailing lists”), as well as physical and human resources (“supplies” and “personnel,” respectively).<sup>130</sup> The list of examples conveys that a wide variety of things that may confer a benefit to a campaign, and thus potentially spare the campaign’s own resources, conceivably constitute things of value.

The phrase “anything of value” facially contemplates a broad, case-by-case application, and in prior matters, the Commission has found that many tangible and intangible things fall within the scope of the regulatory text.<sup>131</sup> In prior matters, when evaluating whether something

<sup>128</sup> 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)).

<sup>129</sup> 11 C.F.R. § 100.52(d)(1) (emphases added).

<sup>130</sup> *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)).

<sup>131</sup> *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;<sup>132</sup> whether  
3 political campaigns have previously used their own resources to procure the thing in question;<sup>133</sup>  
4 whether the provision of the thing would “relieve” the campaign of an “expense it would  
5 otherwise incur”;<sup>134</sup> whether the provider of the thing or any third party “utilized its resources”  
6 to produce, organize, or collect the thing provided;<sup>135</sup> and whether the thing “may not have been  
7 publicly available” for the campaign’s use absent the provider’s actions.<sup>136</sup>

---

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).

<sup>132</sup> *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”).

<sup>133</sup> *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).

<sup>134</sup> *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.

<sup>135</sup> *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”).

<sup>136</sup> *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.<sup>137</sup>  
 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.”<sup>138</sup>

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,”<sup>139</sup> the provision of which involved the use of the  
 14 Ukrainian government’s official resources to confer an electoral benefit on Trump’s 2020

<sup>137</sup> 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).

<sup>138</sup> 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).

<sup>139</sup> 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.<sup>140</sup> 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.<sup>141</sup> 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,<sup>142</sup> Trump and Giuliani asked that Zelensky use the resources and authority of

<sup>140</sup> See Advisory Op. 1990-12 at 2; First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

<sup>141</sup> 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).

<sup>142</sup> See 52 U.S.C. § 30101(9)(A) (defining “expenditure”); *id.* § 30104(b) (mandating periodic disclosure of all expenditures).

his office to do so, thus seeking the same electoral benefit at no cost to the Trump Committee and with no public disclosure of the thing that Zelensky was asked to provide as a “favor.”<sup>143</sup>

As an official statement by the Ukrainian government, the announcement was a unique deliverable that only Zelensky (or another Ukrainian government official with the requisite authority) could provide; it was not readily or publicly available for Trump or his campaign to obtain, absent its provision by Zelensky.<sup>144</sup> Although Trump, and perhaps to an even greater extent Giuliani, publicly aired these allegations about Biden and the DNC, only Zelensky could announce an official investigation of the allegations as president of Ukraine, lending them the authority that would be at the root of the potential electoral benefit.<sup>145</sup> As such, the announcement required the use of Zelensky’s official authority, and the Ukrainian government’s

<sup>143</sup> 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.”).

<sup>144</sup> 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).

<sup>145</sup> 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”).

resources, to support the Trump Committee.<sup>146</sup> Because of Trump’s demand, Zelensky and his aides were involved in multiple, weeks-long negotiations with Department of State officials regarding the requested announcement, including the specific language that it would need to include.<sup>147</sup> This activity required Ukraine to direct human and logistical resources to this end,<sup>148</sup> akin to the type of resources necessary for the provision of a “service” at no charge, which Commission regulations include in the definition of a “contribution.”<sup>149</sup> Thus, in requesting an announcement of an investigation from the Ukrainian President, to be delivered in a public setting and with the assistance of other Ukrainian government personnel, Trump requested a deliverable that necessarily would have involved expending Ukrainian resources.

Although there appears to be no record of any political committee previously purchasing this type of deliverable, *i.e.*, an official announcement regarding a law enforcement investigation, and there does not appear to be an identifiable commercial market for it, this does not disqualify the announcement from being a thing “of value” for purposes of the Act.<sup>150</sup> A unique or unusual deliverable, such as an official announcement of an investigation, may be a thing of value — even if there is no apparent record of a political campaign previously purchasing such an item, or

<sup>146</sup> See First Gen. Counsel’s Report at 10, MUR 5409 (adopted as dispositive).

<sup>147</sup> 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).

<sup>148</sup> See Taylor Dep. at 135–36.

<sup>149</sup> 11 C.F.R. § 100.52(d)(1); *see id.* § 100.111(e)(1).

<sup>150</sup> 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)).

any commercial market for doing so, and even if it is difficult to ascribe a monetary value to it — since the Commission has made clear that even contributions whose value “may be nominal or difficult to ascertain” are prohibited when provided by a foreign national.<sup>151</sup>

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

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

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

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

<sup>151</sup> E.g. Advisory Op. 2007-22 at 6.

1   damaging information about political opponents.<sup>152</sup> 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.”

---

<sup>152</sup>     See FEC, 2017-2018 Disbursement Data, [https://www.fec.gov/data/disbursements/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&disbursement\\_description=research](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”).

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

The available information indicates that the requested announcement and investigation were sought “for the purpose of influencing” a federal election.<sup>153</sup> As discussed above, Trump repeatedly requested that Zelensky confer with Giuliani and investigate allegations regarding Biden and 2016 election interference during their July 25, 2019, phone call. Trump’s later comments regarding the July 25 call, and his ongoing support for Giuliani’s investigation of the same allegations, indicate that the request was motivated by an electoral purpose — *i.e.*, seeking and publicizing damaging information about Biden, Trump’s potential opponent in the 2020 U.S. presidential election,<sup>154</sup> and the DNC’s alleged involvement in foreign electoral interference. Trump further demonstrated that electoral purpose by repeatedly refusing — without first receiving the public announcement of the investigation — to schedule a White House meeting with Zelensky.

In analyzing whether the provision of funds or any other thing of value is a “contribution” under the Act and Commission regulations, the Commission has concluded that the question is whether a thing of value was “provided for the purpose of influencing a federal election [and] not whether [it] provided a benefit to [a federal candidate’s] campaign.”<sup>155</sup> As such, the Commission has previously found that activity lacking the requisite purpose of influencing a federal election — including, *e.g.*, activity to advance a commercial interest,<sup>156</sup>

<sup>153</sup> 52 U.S.C. § 30101(8)(A)(i).

<sup>154</sup> 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”).

<sup>155</sup> Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate).

<sup>156</sup> *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”);



- 1 fulfill the obligations of holding federal office,<sup>157</sup> or engage in legal or policy advocacy<sup>158</sup> —
- 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.<sup>159</sup>

---

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”).

<sup>157</sup> *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”).

<sup>158</sup> *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”).

<sup>159</sup> *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



The overall record in these matters supports the conclusion that Trump sought the announcement and investigation from Zelensky and Ukraine for the purpose of influencing the 2020 U.S. presidential election.<sup>160</sup> During their July 25, 2019, call, Trump asked Zelensky to investigate the Biden/Burisma and 2016 election interference allegations, requesting that Zelensky and his team discuss the matter with Giuliani and Attorney General Barr.<sup>161</sup> Trump's statements, viewed in light of his later comments regarding the call and ongoing support for Giuliani's investigation of these allegations, reflect the electoral purpose behind these requests.

In particular, Trump's statements after his call with Zelensky indicate that his purpose for seeking the investigation was to advance his own campaign for reelection by harming a potential opponent. The day after the call, on July 26, 2019, Trump called and asked Sondland whether Zelensky was "going to do the investigation," to which Sondland responded that Zelensky would do it and, in fact, would "[d]o anything you ask him to."<sup>162</sup> Sondland then told Holmes, a U.S. Embassy official who overheard Sondland's exchange with Trump, that he believed Trump "did not give a shit about Ukraine" and cared only about "'big stuff' that benefits the President, like the, quote, unquote, 'Biden investigation' that Mr. Giuliani was pushing."<sup>163</sup> 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").

<sup>160</sup> 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").

<sup>161</sup> July 25 Call Memo at 3–4; *see* October 3 Trump Remarks.

<sup>162</sup> Holmes Dep. at 24.

<sup>163</sup> *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,<sup>164</sup> and he later  
3 said, in a televised interview, that he would make Biden's alleged corruption "a major issue in  
4 the campaign."<sup>165</sup> 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.<sup>166</sup> 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.<sup>167</sup> 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

---

<sup>164</sup> 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.").

<sup>165</sup> Hannity Interview.

<sup>166</sup> 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](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

<sup>167</sup> Bolton Book at 459.

1 channels, about investigating the Biden/Burisma and 2016 election interference allegations.<sup>168</sup>  
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."<sup>169</sup> 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,<sup>170</sup> 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.

---

<sup>168</sup> July 25 Call Memo.

<sup>169</sup> May 9 NY Times Article.

<sup>170</sup> *See supra* notes 8–11 and accompanying text (discussing Giuliani's effort to have Yovanovitch removed).

Giuliani later publicly claimed that his purpose in investigating “2016 Ukrainian collusion and corruption” was “solely” to defend Trump “against false charges[,]”<sup>171</sup> a claim that Giuliani also raises in his response filed with the Commission.<sup>172</sup> Even if one were to accept, *arguendo*, that Giuliani’s reason for urging Ukraine to investigate the 2016 election interference allegation was to defend his client, Trump, in connection with Special Counsel Robert Mueller’s investigation of Russian electoral interference in the 2016 presidential election, that reasoning could plausibly provide a non-electoral purpose for Giuliani’s actions only until the Special Counsel’s Report was confidentially submitted to the Attorney General, ending the investigation, on March 22, 2019 — *i.e.*, weeks before Giuliani’s planned trip to Ukraine for the purpose of “meddling in investigations,” and months before the July 25, 2019, Trump-Zelensky phone call that is the focus of the complaints at issue in these matters.<sup>173</sup> Giuliani’s claim that he was acting solely to defend Trump is therefore inconsistent with his continued pursuit of a Ukrainian investigation into the 2016 election interference allegation well after the Special Counsel’s investigation had ended.

Moreover, Giuliani’s pursuit of the announcement of the Burisma/Biden allegation — which his associate, Parnas, characterized in a television interview as “the most important” of the

<sup>171</sup> 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](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).

<sup>172</sup> Giuliani Resp. at 2.

<sup>173</sup> 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](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.

demands of Zelensky<sup>174</sup> — has no cognizable connection with the Special Counsel’s investigation. As such, Giuliani’s efforts to pressure Zelensky to announce and investigate the Biden/Burisma allegation cannot reasonably be viewed as an attempt to defend Trump in specific connection with that inquiry. Giuliani’s efforts, and the timing of them, further undermine Giuliani’s argument as to his purpose and instead support the conclusion that Giuliani acted to benefit Trump politically with regard to his 2020 presidential reelection campaign.<sup>175</sup>

Parnas’s statements indicate that he shared Giuliani’s purpose when he pursued the announcement of the Biden investigation in a May 12, 2019, meeting with Zelensky’s aide Serhiy Shefir. At that meeting, Parnas told Shefir that the announcement was a prerequisite for Vice President Pence to attend Zelensky’s inauguration<sup>176</sup> and, after Shefir demurred, Parnas informed Giuliani, and Trump directed Pence not to attend Zelensky’s inauguration.<sup>177</sup> Viewed in light of Parnas’s later acknowledgement that among the “several demands” that he conveyed to Shefir, the “most important one was the announcement of the Biden investigation,”<sup>178</sup> Giuliani’s response when that demand was not satisfied — “OK, they’ll see”<sup>179</sup> — and Trump’s subsequent directive that Pence not attend Zelensky’s inauguration, Parnas’s statements evince an electoral purpose since Parnas acknowledged which demand was “the most important” and attempted to pressure Zelensky into providing it to benefit Trump’s campaign.

<sup>174</sup> Maddow Interview Pt. 1 at 13:43–16:12.

<sup>175</sup> See F&LA at 6, MUR 7024 (quoting 52 U.S.C. § 30101(8)(A)(i)).

<sup>176</sup> Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

<sup>177</sup> Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43; Williams Dep. at 37.

<sup>178</sup> Maddow Interview Pt. 1 at 13:43–16:12; Cooper Interview Pt. 1 at 3:12–3:33.

<sup>179</sup> Maddow Interview Pt. 1 at 16:55–17:05; Cooper Interview Pt. 1 at 3:37–3:43.

Further, numerous U.S. officials expressed concern regarding the requests that Zelensky announce and investigate these allegations, stemming from the fact that the announcement and investigation were pursued through an improper, irregular channel — namely, through Giuliani, a private citizen acting as Trump’s personal attorney<sup>180</sup> — rather than through an official channel, such as a request for intergovernmental law enforcement cooperation, and were sought for the apparent purpose of benefiting Trump politically rather than advancing U.S. interests or policy. For example, at the July 10, 2019, meeting between Bolton and Danyliuk, Bolton reacted negatively to Sondland’s statement to the Ukrainians that the White House would agree to schedule an official meeting for Zelensky after Ukraine initiated the investigations; Bolton swiftly ended the meeting and afterward instructed his associate, Hill, to inform the National Security Council’s legal counsel about Sondland’s statement and that he, Bolton, was not party to the offer.<sup>181</sup>

Bolton later asserted that he did not agree with Sondland’s persistent effort to get approval for a face-to-face meeting between Zelensky and Trump, and did not think that such a meeting should be used to discuss the allegations that Giuliani wanted Zelensky to investigate.<sup>182</sup> At a follow-up meeting without Bolton, Sondland again told the Ukrainians that a White House visit for Zelensky would happen only after the announcement of the Burisma/Biden and 2016 election interference investigations, after which Hill and Vindman confronted Sondland to

<sup>180</sup> See *supra* notes 19–20 and accompanying text.

<sup>181</sup> 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.”).

<sup>182</sup> 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.<sup>183</sup> 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.<sup>184</sup> 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.<sup>185</sup> 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.”<sup>186</sup>

<sup>183</sup> Vindman Dep. at 29–31; Hill Dep. at 69–70.

<sup>184</sup> Taylor Dep. at 30; Bolton Book at 472.

<sup>185</sup> First Volker Text Excerpts at 3; Volker Dep. at 113.

<sup>186</sup> 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



Giuliani's reported insistence on these specific references belies the argument that the announcement's purpose was non-electoral — *e.g.*, that it was sought to publicly ensure Ukrainian commitment to investigating corruption — and instead supports the inference that the announcement's purpose was to amplify allegations that would harm the reputations of Biden and the DNC, as well as publicly commit Ukraine to investigating those allegations.<sup>187</sup> Volker testified that to implement Giuliani's instructions and advance the negotiations, he incorporated the desired references and sent a revised draft statement to Yermak, although Volker also advised Yermak that announcing an investigation with specific references to these two allegations was "not a good idea" and that a "generic statement about fighting corruption" would be better.<sup>188</sup> These sentiments appear to reflect contemporaneous recognition by the officials involved that conditioning a White House visit — seen by officials on both sides as critical to the diplomatic relationship<sup>189</sup> — on the public announcement and investigation of these specific allegations was improper, because it placed pressure on Zelensky to provide deliverables that could draw him and Ukraine into the 2020 U.S. presidential election.

Trump's refusal to release the Congressionally-approved security aid to Ukraine, despite many requests to do so, also underscores the personal, electoral motive driving the demand for 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.

<sup>187</sup> 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.").

<sup>188</sup> Volker Dep. at 44.

<sup>189</sup> 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.<sup>190</sup> 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.<sup>191</sup> 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.<sup>192</sup> 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.”<sup>193</sup>

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.<sup>194</sup> Testimony  
13 reflects that Trump also told Sondland that Zelensky would have to announce the investigation  
14 for the aid to be released.<sup>195</sup> 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.

---

<sup>190</sup> Bolton Book at 468–69.

<sup>191</sup> Taylor Dep. at 28 and 132; Cooper Dep. at 16.

<sup>192</sup> Morrison Dep. at 163; GAO Decision at 1, 8.

<sup>193</sup> First Volker Text Excerpts at 9.

<sup>194</sup> Bolton Book at 471.

<sup>195</sup> 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.<sup>196</sup>  
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.<sup>197</sup>

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.<sup>198</sup> 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.<sup>199</sup> 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

---

<sup>196</sup> Sep. 24 Trump Press Conference at 0:04–0:42; Trump- Niinistö Press Conference.

<sup>197</sup> 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.”).

<sup>198</sup> Volker Dep. at 113.

<sup>199</sup> Maddow Interview Pt. 1 at 8:58–9:37.

and had, indeed, offered to announce publicly<sup>200</sup> — but rather to influence the 2020 presidential election.

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

Neither the DOJ’s decision not to criminally investigate nor the Special Counsel’s Report’s analysis bears on the Commission’s civil enforcement of the Act in these matters. The Special Counsel’s Report reasoned that the terms “anything of value” or “thing of value” are broad in scope and could include valuable information, such as opposition research.<sup>201</sup> Consistent with the analysis presented in this report, the Special Counsel’s Report stated that Commission regulations and precedent “would support the view that candidate-related opposition research given to a campaign for the purpose of influencing an election could constitute a contribution,” while observing that “no judicial decision has treated the *voluntary* provision of uncompensated opposition research or similar information as a thing of value that could amount to a contribution under campaign-finance law[.]” and that “[s]uch an interpretation could have implications beyond the foreign-source ban . . . and raise First Amendment questions.”<sup>202</sup>

The Special Counsel’s Report’s points are legally and factually inapposite, however. As noted above, the Act and Commission regulations specifically exempt voluntary activity, including activity by foreign nationals, from the Act’s definitions of “contribution” and

<sup>200</sup> Taylor Dep. at 198-99; Volker Dep. at 29–30.

<sup>201</sup> 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”).

<sup>202</sup> *Id.* at 187 (emphasis added).

1 “expenditure,”<sup>203</sup> 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.”<sup>204</sup> 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.”<sup>205</sup> 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

---

<sup>203</sup> See *supra* note 145 (discussing the volunteer exemption as applied to foreign nationals).

<sup>204</sup> Advisory Op. 2007-08 at 4 n.2 (King).

<sup>205</sup> Advisory Op. 1982-04 at 3 (Apodaca).

1 establish a violation of the Act based upon the preponderance of the evidence<sup>206</sup> — irrespective  
2 of whether the violation was knowing and willful.<sup>207</sup> 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.<sup>208</sup> 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.<sup>209</sup> 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.<sup>210</sup>

12 Finally, the Commission is entrusted with “exclusive jurisdiction with respect to the civil  
13 enforcement” of the Act.<sup>211</sup> As a civil administrative agency charged with preventing the foreign

<sup>206</sup> 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.”).

<sup>207</sup> 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)).

<sup>208</sup> 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”).

<sup>209</sup> Special Counsel’s Report at 188.

<sup>210</sup> Advisory Op. 2007-22 at 6; *cf.* MUR 7048 (Cruz) (applying statutory penalty to conciliation of soft money solicitation violation).

<sup>211</sup> 52 U.S.C. § 30106(b)(1).

1 influence over the U.S. political process,<sup>212</sup> 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.<sup>213</sup> 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.

---

<sup>212</sup> See *Bluman*, 800 F. Supp. 2d at 288.

<sup>213</sup> 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           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. Cate 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.



For the reasons set forth below, the Commission dismisses the allegations that Fruman violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or (h) by knowingly soliciting, or providing substantial assistance in the solicitation of, prohibited foreign national contributions.

## **I. FACTUAL BACKGROUND**

### **A. Overview**

The available information indicates that President Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly announce, and thereafter conduct, an investigation into whether, when he was Vice President, Joe Biden<sup>1</sup> acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter was a board member; and an investigation into whether, during the 2016 presidential election, the DNC coordinated with Ukraine to support Hillary Clinton, Trump's opponent in that election. Fruman, as an associate of Giuliani, appears to have played a minor role in those activities.

### **B. Early Efforts to Develop Allegations Regarding Burisma**

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

---

<sup>1</sup> 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.<sup>2</sup> 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 Bidens<sup>3</sup> — and  
3 Shokin’s successor, Yuriy Lutsenko — who had also made allegations underlying Giuliani’s  
4 claims — to further this effort.<sup>4</sup> Giuliani and Parnas were also in contact with Victoria

<sup>2</sup> 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](http://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](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).

<sup>3</sup> 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.”).

<sup>4</sup> 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,<sup>5</sup> and Toensing  
2 may have relayed information regarding the allegations to them from her clients.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> Giuliani later wrote in a Twitter post

<sup>5</sup> 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.).

<sup>6</sup> 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”).

<sup>7</sup> 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.”).

<sup>8</sup> 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](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.”<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> Parnas  
9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,  
10 but Kolomoisky declined to do so.<sup>12</sup> 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

<sup>9</sup> 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.”).

<sup>10</sup> 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.”).

<sup>11</sup> BuzzFeedNews Article.

<sup>12</sup> *Id.*

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

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

<sup>13</sup> 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](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.”).

<sup>14</sup> 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](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.”).

<sup>15</sup> Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), [https://judiciary.house.gov/uploadedfiles/excerpt\\_2\\_final.pdf](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

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

### C. Zelensky’s Inauguration

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

<sup>16</sup> 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”).

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

<sup>18</sup> 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.”).

<sup>19</sup> 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.”).

<sup>20</sup> 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.<sup>21</sup> 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."<sup>22</sup>

---

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.").

<sup>21</sup> 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.

<sup>22</sup> 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](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

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

In Pence’s place, Secretary of Energy Rick Perry led the delegation that attended Zelensky’s inauguration in Ukraine on May 20, 2019.

Fruman does not appear, based on information presently before the Commission, to have had any further involvement in the effort to request that Zelensky publicly announce and 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](https://www.youtube.com/watch?v=QUXht__f3Rk) (“Cooper Interview Pt. 2”).

<sup>23</sup> 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.

<sup>24</sup> 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.

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

<sup>26</sup> Williams Dep. at 37.



## **D. The Complaint and Response**

The complaint, which was filed on September 23, 2019, alleged that Fruman “solicited, or provided substantial assistance in the solicitation of, a contribution from foreign nationals” in connection with Trump’s request to Zelensky that Ukraine investigate Joe Biden and 2016 election interference.<sup>27</sup> It further alleges that “President Trump solicited a ‘contribution’ as defined [in the Act] from Ukraine President Zelensky in connection with the 2020 U.S. presidential election and for the purpose of influencing the 2020 presidential election candidacy of Joe Biden” and that Fruman did the same “[i]n multiple meetings with Ukraine prosecutors and other Ukraine officials.”<sup>28</sup>

Fruman did not file a substantive response to the complaint but filed a letter on October 23, 2019, requesting a stay in the Commission’s enforcement proceedings because he had been indicted by federal prosecutors in the Southern District of New York on alleged campaign finance violations that he claims have “substantial overlap” with the allegations in these matters.<sup>29</sup>

---

<sup>27</sup> Compl. ¶¶ 1, 41, 45.

<sup>28</sup> *Id.* ¶¶ 41, 44.

<sup>29</sup> 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”).

## II. LEGAL ANALYSIS

The available information does not support a finding that Fruman violated the Act and Commission regulations by knowingly soliciting or providing substantial assistance in soliciting Zelensky to make a prohibited contribution, as alleged.<sup>30</sup> 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.”<sup>31</sup>

The record indicates that Fruman, along with Parnas, went to Israel at Giuliani’s direction and met with Igor Kolomoisky, a Ukrainian with ties to President Zelensky, to request that Kolomoisky arrange a future meeting between Zelensky and Giuliani.<sup>32</sup> Parnas also asserts that he was later able to meet with Zelensky’s aide Serhiy Shefir “through Fruman’s contacts,” suggesting that Fruman may have facilitated that meeting, where Parnas conveyed the demand that Zelensky publicly announce an investigation.<sup>33</sup> However, Fruman does not appear to have solicited Zelensky or had “active involvement in the solicitation . . . with an intent to facilitate successful completion of the transaction.”<sup>34</sup> Fruman appears to have been only tangentially involved in soliciting Zelensky, by taking steps to procure a meeting with Zelensky for Giuliani, and by possibly connecting Parnas to Shefir. The record provides no indication that, in either

<sup>30</sup> See 11 C.F.R. § 110.20(h).

<sup>31</sup> Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

<sup>32</sup> BuzzFeedNews Article.

<sup>33</sup> Cooper Interview Pt. 2 at 2:04–2:20.

<sup>34</sup> 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. Crate 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.

For the reasons set forth below, the Commission dismisses the allegations that Toensing violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) or (h) by knowingly soliciting, or providing substantial assistance in the solicitation of, prohibited foreign national contributions.

## **I. FACTUAL BACKGROUND**

### **A. Overview**

The available information indicates that between April and September of 2019, President Trump and his personal attorney, Rudy Giuliani, engaged in a sustained, coordinated effort to request, recommend, and pressure Ukrainian President Volodymyr Zelensky to publicly announce, and thereafter conduct, an investigation into whether, when he was Vice President, Joe Biden<sup>1</sup> acted to protect his son, Hunter Biden, by pressuring the Ukrainian government to end an anticorruption investigation into a Ukrainian energy company, Burisma, of which Hunter was a board member; and an investigation into whether, during the 2016 presidential election, the DNC coordinated with Ukraine to support Hillary Clinton, Trump's opponent in that election. The information presently before the Commission indicates that Toensing may have played a minor role in these activities, through her reported representation of two Ukrainian nationals of interest to Giuliani.

### **B. Efforts to Develop Allegations Regarding Burisma**

According to news reports and testimony, in 2018 and early 2019, Giuliani, along with his associates Lev Parnas and Igor Fruman, engaged in a concerted effort to develop evidence supporting the allegation that in 2016, while serving as Vice President, Biden had acted improperly by pushing for the removal of a former Ukrainian Prosecutor General, Viktor Shokin,

---

<sup>1</sup> 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.<sup>2</sup> 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 Bidens<sup>3</sup> — and Shokin’s successor, Yuriy Lutsenko — who had also made allegations  
 5 underlying Giuliani’s claims — to further this effort.<sup>4</sup> Giuliani and Parnas were also in contact

<sup>2</sup> 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](http://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](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).

<sup>3</sup> 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.”).

<sup>4</sup> 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.”).

with Toensing, who appears to have served as counsel to both Shokin and Lutsenko,<sup>5</sup> and Toensing may have relayed information regarding the allegations to them from her clients.<sup>6</sup>

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

<sup>5</sup> 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 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.).

<sup>6</sup> *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”).

<sup>7</sup> 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.”).

<sup>8</sup> Text from Yuri Lutsenko to Lev Parnas (Mar. 22, 2019, 2:43 PM), [https://intelligence.house.gov/uploaded-files/20200114\\_-\\_parnas\\_excerpts\\_translated\\_slide\\_deck.pdf](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.”<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> Parnas  
 9 and Fruman requested that Kolomoisky set up a later meeting between Giuliani and Zelensky,  
 10 but Kolomoisky declined to do so.<sup>12</sup> 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.”).

<sup>9</sup> 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.”).

<sup>10</sup> 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.”).

<sup>11</sup> BuzzFeedNews Article.

<sup>12</sup> *Id.*



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

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

<sup>13</sup> 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](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.”).

<sup>14</sup> 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](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.”).

<sup>15</sup> Letter from Rudolph W. Giuliani to Volodymyr Zelensky, President-Elect of Ukraine (May 10, 2019), [https://judiciary.house.gov/uploadedfiles/excerpt\\_2\\_final.pdf](https://judiciary.house.gov/uploadedfiles/excerpt_2_final.pdf).

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

Toensing does not appear, based on information presently before the Commission, to have had any further involvement in the effort to request that Zelensky publicly announce and investigate the allegations regarding Burisma and the 2016 election interference.

### C. The Complaint and Response

The complaint, which was filed on September 23, 2019, alleged that Toensing “solicited, or provided substantial assistance in the solicitation of, a contribution from foreign nationals” in connection with Trump’s request to Zelensky that Ukraine investigate Joe Biden and 2016 election interference.<sup>19</sup> It further alleges that “President Trump solicited a ‘contribution’ as defined [in the Act] from Ukraine President Zelensky in connection with the 2020 U.S.

<sup>16</sup> 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”).

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

<sup>18</sup> 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.”).

<sup>19</sup> 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.”<sup>20</sup>

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.”<sup>21</sup> 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.<sup>22</sup> Toensing states that although she had  
9 planned a trip to Ukraine to further that possible representation, “the proposed engagement never  
10 materialized.”<sup>23</sup>

## 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.<sup>24</sup> 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

---

<sup>20</sup> *Id.* ¶¶ 41, 44.

<sup>21</sup> Resp. of Victoria Toensing at 1–2, MUR 7645 (Oct. 28, 2019).

<sup>22</sup> *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.

<sup>23</sup> *Id.*

<sup>24</sup> *See* 11 C.F.R. § 110.20(h).

successful completion of the transaction[.]” and “does not include strictly ministerial activity undertaken pursuant to the instructions of an employer, manager or supervisor.”<sup>25</sup>

The available information also does not indicate that Victoria Toensing knowingly solicited or provided substantial assistance in soliciting a foreign national contribution. The record indicates that Toensing provided legal representation to former Ukrainian Prosecutors General Shokin and Lutsenko, in connection with the Biden/Burisma and 2016 election interference allegations, respectively — *i.e.*, Toensing was hired to investigate Shokin’s “March 2016 firing as Prosecutor General of Ukraine and the role of then-Vice President Joe Biden in such firing,” and to help Lutsenko “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.”<sup>26</sup> Toensing may have also relayed information from her clients, Shokin and Lutsenko, to Giuliani and Parnas, who were investigating the same allegations.<sup>27</sup> However, neither Toensing’s conduct as legal counsel to Shokin and Lutsenko, nor her limited contact with Giuliani and Parnas, indicates that she was actively involved with the requisite intent to facilitate soliciting Zelensky to make a prohibited contribution. As such, the available information does not support a finding that Toensing knowingly provided substantial assistance in soliciting a contribution from Zelensky.

---

<sup>25</sup> Prohibitions E&J, 67 Fed. Reg. at 69,945–69,946.

<sup>26</sup> 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.

<sup>27</sup> Maddow Interview Pt. 1 at 21:15–22.

- 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.