U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

VIA CM/ECF

October 28, 2026

The Honorable J. Paul Oetken
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: *In re Search Warrants Executed on April 28, 2021*, 1:21-mc-00425-JPO

Dear Judge Oetken:

The United States files the attachments listed below in response to the Court's October 23, 2026 Order, directing the United States to file "the Sealed Records addressed in the Court's October, 8, 2026 order." ECF No. 69; *see also* ECF Nos. 63, 66, 67. The attachments contain limited redactions covering only personally identifying information or information pertaining to third parties that have not consented to unsealing. *See* ECF No. 62, 65, 67.

1. Attachment A – November 4, 2019 Search Warrant Affidavit & Search Warrant
2. Attachment B – December 13, 2019 Search Warrant
3. Attachment C – December 13, 2019 Search Warrant Affidavit
4. Attachment D – April 28, 2021 Search Warrant
5. Attachment E – April 28, 2021 Search Warrant Application & Affidavit
6. Attachment F – April 13, 2021 Search Warrant Application & Supporting Affidavit
7. Attachment G – April 13, 2021 Search Warrant

Respectfully submitted,

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19 MAG 10364

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant for All Content and Other Information Associated with the iCloud Accounts assigned to Telephone Numbers [redacted], and Email [redacted], Maintained at Premises Controlled by Apple, Inc., USAO Reference No. 2018R01226

TO BE FILED UNDER SEAL

AGENT AFFIDAVIT

Agent Affidavit in Support of Application for a Search Warrant for Stored Electronic Communications

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

[redacted] being duly sworn, deposes and states:

I. Introduction

A. Affiant

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). In the course of my experience and training in this position, I have participated in criminal investigations into federal offenses involving public corruption and violations of the federal campaign finance laws. I also have training and experience executing search warrants, including those involving electronic evidence.

2. This affidavit is based upon my personal knowledge, my review of documents and other evidence, and my conversations with other law enforcement officers, as well as my training and experience concerning the use of cellphones in criminal activity. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the

facts I have learned during my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

B. The Provider, the Subject Accounts and the Subject Offenses

3. I make this affidavit in support of an application for a search warrant pursuant to 18 U.S.C. § 2703 for all content and other information associated with the Apple iCloud and email accounts assigned to telephone numbers [redacted], [redacted], [redacted], and email address [redacted] (the "Subject Accounts"), maintained and controlled by Apple Inc. ("Apple" or the "Provider"), headquartered at 1 Infinite Loop, Cupertino, California 95014. The information to be searched is described in the following paragraphs and in Attachment A to the proposed warrant.

a. The Apple iCloud account assigned to an iPhone with telephone number [redacted] ("Subject Account-1") is believed to be used by Rudolph Giuliani. Based on my review of subscriber records for telephone number [redacted], I have learned that it is subscribed to Giuliani Partners, which is a consulting business owned by Rudolph Giuliani.

b. The Apple iCloud account assigned to an iPhone with telephone number [redacted] ("Subject Account-2") is also believed to be used by Rudolph Giuliani. Based on my review of subscriber records for telephone number [redacted], I have learned that it is subscribed to Rudolph Giuliani.

c. The Apple email and iCloud account assigned to the email address [redacted] ("Subject Account-3") is also believed to be used by Rudolph Giuliani.

d. The Apple iCloud account assigned to an iPhone with telephone number [redacted] ("Subject Account-4") is believed to be used by Victoria Toensing. Based on my review of subscriber records for telephone number [redacted], I have learned that it is subscribed to Victoria Toensing.

4. As detailed below, there is probable cause to believe that the Subject Accounts contain evidence, fruits, and instrumentalities of violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 951 (acting as an agent of a foreign government), 18 U.S.C. § 2 (willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (together, the "Subject Offenses").

C. Services and Records of the Provider

5. Based on my training, experience, and participation in this investigation, as well as my review of publicly-available information, I have learned the following about Apple:

a. Apple designs, manufactures, and markets mobile communication and media devices, personal computers, and portable digital music players, and sells a variety of related software, services, peripherals, networking solutions, and third-party digital content and applications. Apple's products and services include Mac, iPhone, iPad, iPod, Apple TV, a portfolio of consumer and professional software applications, the iOS and Mac OS operating systems, iCloud, and a variety of accessory, service and support offerings. Apple provides email services to its users through email addresses at the domain names mac.com, me.com, and icloud.com.

b. The iPhone is a line of smartphones designed and marketed by Apple. It runs Apple's iOS mobile operating system. The iPhone has wireless internet capabilities and can connect to many cellular networks around the world. The iPhone can shoot video, send and receive

email, browse the Internet, send text messages, provide navigation services via Global Positioning Satellite location technology, record notes, do mathematical calculations, and receive visual and audio voicemail. Apple's text and video messaging application programs are, respectively, iMessage, which enables users of Apple devices to exchange instant messages containing text, photos, videos, locations, and contacts, and FaceTime, which enables those users to conduct video calls. Other functions such as video games, reference works, social networking—including Facebook and Twitter—can be enabled by downloading application programs ("apps" or, singular, "app"). Apple operates an App Store, which offers numerous apps by Apple and third parties.

c. Apple's devices, including iPhones, can be backed up to iCloud, a file hosting, storage, and sharing service provided by Apple. Apple provides users with gigabytes of free electronic storage space on iCloud, and users can purchase additional storage space. That storage space, located on servers controlled by Apple, may be used to store iOS device backups, which by default happens automatically for a user of an iCloud account. iCloud accounts may also be used to store or backup data associated with the use of iCloud-connected services including email (iCloud mail), images and video (iCloud Photo Library, My Photo Stream, and iCloud Photo Sharing); documents, spreadsheets, presentations, and other files (iWorks and iCloud Drive); and web browser settings and Wi-Fi network information (iCloud Tabs and iCloud Keychain). iCloud accounts are accessed using an "Apple ID," which is typically created during the setup of an Apple device or through the registration of an iCloud account. A single Apple ID can be linked to multiple Apple services and devices, serving as a central authentication and syncing mechanism. Because iCloud accounts are typically linked to iPhones, iCloud accounts are generally registered with a telephone number belonging to an iPhone.

d. Apple maintains the following records and information with respect to Apple accounts:

i. *Subscriber and billing.* When a user registers an Apple device with an iCloud account, or creates an iCloud mail account, Apple collects and maintains (typically unverified) identifying information about each subscriber, including, for example, name, username, address, telephone number, and email addresses. Apple also maintains records concerning the date on which the account was created, the Internet protocol ("IP") address of the user at the time of account creation, the current status of the account (*e.g.*, active or closed), the length of service, and the types of services utilized by the subscriber. Additionally, for some subscribers, Apple maintains records of the subscriber's means and source of payment, including any credit card or bank account number.

ii. *Device information and settings.* Apple maintains information about the devices associated with an Apple ID. When a user activates or upgrades an iOS device, Apple captures and retains the user's IP address and identifiers for the device, such as the Integrated Circuit Card ID ("ICCID") number, which is the serial number on the device's SIM card, the Media Access Control address ("MAC address"), the unique device identifier ("UDID"), and the serial number. In addition, information about a user's device is captured when iTunes is used on that device to play content associated with an Apple ID. Information about a user's device settings may be captured and stored on the iCloud.

iii. *IP records.* Apple maintains connection logs with IP addresses that reflect a user's sign-on activity for Apple services such as iTunes Store and App Store, iCloud, Game Center, and the My Apple ID and iForget pages on Apple's website.

iv. *Address book.* Apple allows subscribers to maintain the equivalent of an address book on the iPhones, comprising telephone numbers, email addresses, and other contact information. That information may be backed up to a user's iCloud account. Similarly, Apple allows users of iCloud mail accounts to maintain the equivalent of an address book of email accounts.

v. *Call history and voicemails.* Apple maintains records reflecting telephone call history and logs for FaceTime calls. That information may be backed up to a user's iCloud account. Apple also allows iCloud subscribers to automatically backup audio and visual voicemails to a subscriber's iCloud account.

vi. *Text message contents.* In general, text messages, Short Message Service ("SMS") messages, Multimedia Messaging Service ("MMS") messages, and iMessages sent to or from a subscriber's account are backed up to the iCloud unless and until the subscriber deletes the messages. If the subscriber does not delete messages, they can remain on the iCloud indefinitely. Even if the subscriber deletes messages off of an electronic device, they may continue to be available on the iCloud for a certain period of time.

vii. *Email contents.* Apple allows subscribers to create an email account under the domain @icloud.com, @me.com, and @mac.com. Such accounts can be used to send and receive emails, and can be accessed from a computer, tablet, or iPhone. Additionally, an iCloud account subscriber may elect to store and maintain email content for Apple and non-Apple email accounts on an iCloud account. When a subscriber makes such an election, any email (which can include attachments such as documents, images, and videos) sent to or from a subscriber's account, or stored in draft form in the account, is maintained on Apple's servers unless and until the subscriber deletes the email. If the subscriber does not delete the email, it can remain on Apple's

servers indefinitely. Even if the subscriber deletes the email, it may continue to be available on Apple's servers for a certain period of time. Additionally, to the extent a subscriber maintains an iCloud Mail account, iCloud enables a user to access Apple-provided email accounts, and email stored in those accounts are maintained by Apple.

viii. *Photos and videos.* In general, an iCloud account subscriber may elect to store and maintain photographs and videos on an iCloud account. When a subscriber makes such an election, any photograph or video stored in the account is maintained on Apple's servers unless and until the subscriber deletes the photograph or video. If the subscriber does not delete the photograph or video, it can remain on Apple's servers indefinitely. Even if the subscriber deletes a photograph or video, it may continue to be available on Apple's servers for a certain period of time. Additionally, to the extent a subscriber uses iCloud Photo Library and My Photo Stream, which can be used to store and manage images and videos, or iCloud Photo Sharing, which allows users to share images and videos with other Apple subscribers, photographs and videos stored in those platforms are also maintained in a subscriber's iCloud account. Apple also retains the metadata – or data that provides information about the data in question, such as the time and date of creation, the author or creator, the means of its creation, the purpose of the data, among other data – for photos and videos that are stored on a iCloud account. This metadata includes what is known as exchangeable image file format (or "Exif") data, and can include GPS location information for where a photo or video was taken.

ix. *Documents.* An iCloud account subscriber may elect to store and maintain documents on an iCloud account by saving documents on an iPhone to the iCloud or by using the service iCloud Drive, which can be used to store documents to the iCloud. Additionally, iWork Apps, a suite of productivity apps (Pages, Numbers, and Keynote), enables iCloud to be used to

create, store, and share documents, spreadsheets, and presentations.

x. *Web history, search history, and bookmarks.* Apple maintains search and web browsing activity from Safari, Apple's proprietary web browser, as well as bookmarks used to save particular website addresses. iCloud account subscribers may also use iCloud Tabs, which enables iCloud to be used to synchronize webpages opened in Safari web browsers on multiple devices, and iCloud Keychain, which enables a user to keep website username and passwords, credit card information, and Wi-Fi network information synchronized across multiple Apple devices.

xi. *Third-party application data.* Records and data associated with third-party apps may also be stored on iCloud. For example, the iOS app WhatsApp, an encrypted instant messaging and calling service, can be configured to regularly backup a user's instant messages on iCloud.

xii. *Location data.* Apple maintains recent location data, collected periodically, from mobile devices. For example, Apple collects information collected from GPS, Wi-Fi networks, cell site locations, and mobile networks to estimate a user's location. The Apple application Find My iPhone, which allows owners of Apple devices to remotely identify and track the location of devices, allows for location reporting, which allows Apple to periodically store and use a device's most recent location data in connection with an iCloud account.

xiii. *iOS Device Backups.* Apple allows iPhone users to back up the contents of their devices, including messages, web history, and preferences, to an iCloud account.

D. Jurisdiction and Authority to Issue Warrant

6. Pursuant to 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A), the Government may require a provider of an electronic communications service or a remote computing service, such as the

Provider, to disclose all stored content and all non-content records or other information pertaining to a subscriber, by obtaining a warrant issued using the procedures described in the Federal Rules of Criminal Procedure.

7. A search warrant under § 2703 may be issued by "any district court of the United States (including a magistrate judge of such a court)" that "has jurisdiction over the offense being investigated." 18 U.S.C. § 2711(3)(A)(i).

8. When the Government obtains records under § 2703 pursuant to a search warrant, the Government is not required to notify the subscriber of the existence of the warrant. 18 U.S.C. § 2703(a), (b)(1)(A), (c)(2) & (3). Additionally, the Government may obtain an order precluding the Provider from notifying the subscriber or any other person of the warrant, for such period as the Court deems appropriate, where there is reason to believe that such notification will seriously jeopardize an investigation. 18 U.S.C. § 2705(b).

II. Prior Applications

9. On or about January 18, 2019, the United States Attorney's Office for the Southern District of New York ("USAO") and FBI sought and obtained from the Honorable Sarah Netburn, Magistrate Judge for the Southern District of New York, a search warrant (the "January 18 Warrant") for records in email accounts belonging to Lev Parnas, Igor Fruman, and Deanna Van Rensburg, among others.

10. On or about May 16, 2019, the USAO and FBI sought and obtained from the Honorable Stewart Aaron, Magistrate Judge for the Southern District of New York, a search warrant (the "May 16 Warrant") for iCloud accounts belonging to Lev Parnas, Igor Fruman, and Deanna Van Rensburg.

11. On or about August 14, 2019, the USAO and FBI sought and obtained from the Honorable Henry B. Pitman, Magistrate Judge for the Southern District of New York, a search warrant (the "August 14 Warrant") for email accounts belonging to Lev Parnas, Igor Fruman, and others.

12. On or about October 17, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the January 18 Warrant returns for evidence of additional offenses.[1]

13. On or about October 21, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the May 16 Warrant returns for evidence of additional offenses.

III. Probable Cause Regarding the Subject Offenses

Relevant Background

14. The FBI and USAO are investigating whether Rudolph Giuliani, Victoria Toensing, Lev Parnas and Igor Fruman, and others, at the request and/or under the direction of a foreign government, entity, or person, undertook actions to cause the removal of the United States Ambassador to the Ukraine, Marie Yovanovitch. The Foreign Agents Registration Act ("FARA")

[1] On August 14, 2019, the USAO and FBI sought a warrant from the Honorable Henry B. Pitman, Magistrate Judge for the Southern District of New York, to conduct an expanded search of the January 18 Warrant returns, which warrant application is separate from the August 14 Warrant defined above. Judge Pitman reviewed and approved the application, and both the affiant and Judge Pitman signed the affidavit in support of the application for a warrant, which was assigned docket number 19 Mag. 7595. However, at present, the Government is unable to locate a copy of the search warrant, which, to the extent it was presented to Judge Pitman, was not retained. Accordingly, on October 17, 2019, the USAO presented the signed copy of the 19 Mag. 7595 application to Judge Oetken, who, that same day, issued a new warrant authorizing the seizure of the same materials sought in the August 14 application. Moreover, no material identified herein was seized pursuant to the August 14 application. All of the material discussed herein that is attributed to the January 18 Warrant was seized and identified pursuant to that original judicial authorization.

criminalizes acting as an agent of a foreign principal without registering with the Attorney General for certain specified activities. Activities covered by FARA include acting as a "publicity agent" or engaging in the United States in "political activities." *See* 22 U.S.C. §§ 611-12. "[P]olitical activities" are defined in the statute as "any activity . . . [to] influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party." *Id.* As relevant here, FARA requires any person acting "at the order, request, or under the direction or control" of (i) a foreign principal, or (ii) a person whose activities are "indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign principal," to register with the Attorney General and to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts, and disbursements in support of those activities. *Id.* Similarly, the federal foreign agent statute prohibits non-diplomats from acting within the United States as agents of a foreign government without prior notification to the Attorney General. 18 U.S.C. § 951. As described below, there is probable cause to believe that Giuliani, Toensing, Parnas, and Fruman lobbied for the removal of then-Ambassador Yovanovitch, at the direction and request of at least one Ukrainian government official, and that they did so without registering under FARA or providing notice to the Attorney General. *See* 22 U.S.C. §§ 612 (setting forth the requirements of the registration statement), 618 (providing criminal liability for any willful violations of the statute), 18 U.S.C. § 2 (willfully causing a violation of the foregoing statutes), 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes); 18 U.S.C. § 951 (acting as an agent of a foreign government).

15. As set forth below, based on my review of materials obtained pursuant to the January 18 Warrant, May 16 Warrant, and August 14 Warrant, it appears that Giuliani and Toensing used iPhones registered to the Subject Accounts to, among other things, communicate about the removal of Ambassador Yovanovitch in furtherance of their efforts to seek the removal of the Ambassador at the request of, and/or direction of, one or more Ukrainian government officials, a scheme that, as detailed herein, appears to have begun in approximately the spring of 2018. Additionally, it appears that Giuliani used Subject Account-3 to send and receive emails related to efforts to seek the removal of the Ambassador. This warrant therefore seeks content from Subject Account-1 through -3 from May 1, 2018 to the present, and from Subject Account-4 from December 1, 2018 to the present, which, for the reasons discussed herein, there is probable cause to believe will contain evidence of the Subject Offenses.

16. Based on my review of public sources, I have learned that Rudolph Giuliani is an attorney who also engages in substantial non-legal consulting work, including through his consulting business, Giuliani Partners. As discussed below, in the fall of 2018, Parnas retained Giuliani Partners purportedly to provide consulting advice regarding the structure, marketing, and personnel involved in Parnas's fledgling fraud detection business named Fraud Guarantee. In his capacity as a lawyer, Giuliani is also a personal attorney for President Donald J. Trump. Victoria Toensing and her husband, Joseph diGenova, are attorneys who are the founding members of diGenova & Toensing, LLP, a law firm based in Washington, D.C. Parnas is a businessman and entrepreneur who lives in south Florida, and is a naturalized U.S. citizen originally from Ukraine. According to a sworn affidavit that Parnas filed with the Federal Election Commission (the "FEC"), he has worked in a number of industries including as a real estate broker, stockbroker, and most recently as the founder of Fraud Guarantee, which "provides risk management tools for

investors to prevent losses from fraudulent activities." Parnas's business partner in Fraud Guarantee is David Correia, who is also a businessman based in south Florida. Igor Fruman is also a business partner with Parnas and Correia, who is based in south Florida and is a naturalized U.S. citizen originally from Belarus.

17. On October 9, 2019, a grand jury sitting in the Southern District of New York returned an indictment charging (i) Lev Parnas and Igor Fruman with conspiring to make unlawful straw donations, making and willfully causing false statements to be made to the FEC, and fabricating documents to impede, obstruct, and influence the proper administration of a matter within the FEC's jurisdiction, in violation of 52 U.S.C. §§ 30122 and 18 U.S.C. §§ 371, 1001, 2, and 1519; and (ii) Lev Parnas, Igor Fruman, David Correia and Andrey Kukushkin with conspiring to make unlawful foreign contributions in violation of 52 U.S.C. § 30121 and 18 U.S.C. § 371.

Unregistered Activities as Foreign Agents

18. There is probable cause to believe that between 2018 and 2019, Giuliani, Toensing, Parnas, Fruman, and others worked to remove the then-U.S. Ambassador to Ukraine, Marie Yovanovitch, at the direction and/or request of at least one Ukrainian government official, in violation of U.S. law and as part of the Subject Offenses.

19. Based on my review of emails obtained pursuant to the January 18 Warrant and my review of public reporting, I have learned that going back to at least 2016, Parnas and Fruman had close relationships with Ukrainian government officials, to include Roman Nasirov (then-Head of the State Fiscal Service of Ukraine),[2] Victor Shokin (then-General Prosecutor of Ukraine), and

[2] Based on my review of public reporting and participation in the investigation, I have learned that the State Fiscal Service of Ukraine is a governmental agency that combines the powers of tax authorities, customs, and financial police, and is responsible for, among other things, implementing state tax and customs policy.

Petro Poroshenko (then-President of Ukraine). Parnas also appears to have acted as an intermediary on their behalf in the United States. Specifically, I have learned the following with respect to Parnas's activities in 2016 and 2017 related to Ukrainian officials:

a. In December 2016, Fruman flew with Nasirov from Munich to Miami, and arranged a dinner for Nasirov, Fruman, Parnas, Correia, and others at Mar-a-Lago on December 15, 2016, apparently to pitch Nasirov on investing in Hudson Holdings, a fund associated with Correia. Based on my review of financial records, I have learned that on January 11, 2017, Nasirov subsequently wired $500,000 (from "Tartarus Worldwide Limited," which based on my review of publicly available corporate records, appears to be a U.K. company that was dissolved in 2018) to an account Parnas controlled (unrelated to Hudson Holdings, the fund that Correia pitched). Based on my review of emails obtained pursuant to the January 18 Warrant, I have learned that Nasirov transferred the funds to Parnas pursuant to a promissory note, signed only by Parnas, which described the funds as a loan.[3]

b. In late December 2016 and early January 2017, Parnas began communicating with Brian Ballard, a Florida-based lobbyist, in order to have Ballard represent Nasirov's personal interests in the United States. Parnas served as an intermediary between Ballard and Nasirov, and received a referral fee from Ballard after Ballard was retained. However, it appears that Ballard and Parnas took efforts to hide the fact that Nasirov was the ultimate client: in an early draft of a retainer agreement circulated in early January 2017, the client was listed as a British law firm "acting in the interests of Roman Nasirov, a citizen of Ukraine." However, after Ballard told Parnas that he needed to run the contract by the Senate Foreign Relations staff, subsequent drafts

[3] Based on my review of bank account records, it appears that Parnas used these funds for largely personal expenses, and does not appear to have repaid Nasirov.

(and the final signed version) omitted any reference to Nasirov, and described the client simply as the British law firm. Email correspondence made clear, however, that Nasirov was the ultimate client: Parnas sent the contract (which he received from Ballard) to Nasirov for his final signature, although a different individual actually signed the contract as an "authorized representative," and Parnas directed Nasirov to pay Ballard $100,000, which Nasirov appeared to have done. The contract memorialized an agreement for Ballard to "consult with the Client and advocate on its behalf" on any issues "before the Federal government of the United States" in exchange for $100,000 per month, plus costs.

c. Parnas also solicited Ballard's help in ensuring that Nasirov and other Ukrainian officials were invited to the U.S. presidential inauguration, and had access to tickets to inaugural events. On January 4, 2017, Parnas emailed Ballard a copy of Nasirov's passport, with the subject line "Inaugural." On January 11, 2017, Parnas asked Ballard for invitation letters, apparently to the Inauguration, for Nasirov, Boris Lozkhin (a Ukrainian entrepreneur and former government official), and Victor Shokin (the former Prosecutor General). On January 14, 2017, a representative of the inaugural committee emailed Parnas to confirm that tickets had been set aside for Parnas, Fruman, Nasirov, and Lozkhin. It appears that Nasirov attended at least some inaugural events with Parnas, and while Shokin may have been invited, he did not attend.

d. Following the presidential inauguration, Parnas acted again as an intermediary between Ballard and the Ukrainian government. On February 10, 2017, Ballard emailed Parnas a copy of a contract for services between the "Government of Ukraine" and Ballard Partners, which appeared to be separate from Ballard's work for Nasirov (which was already subject to a paid retainer and signed contract). On February 14, 2017, Ballard sent Parnas a copy of a letter from Ballard to President Poroshenko, in which Ballard apologized for not being able to travel to meet

Poroshenko, but looked forward to meeting him in New York to "discuss the issues of importance to Ukraine in its relations with the United States." Parnas then forwarded a copy of the letter to Nasirov. However, Ballard terminated his work on behalf of these Ukrainian clients shortly thereafter: on February 19, 2017, Parnas forwarded Ballard a copy of an article in the *New York Times* entitled "A Back-Channel Plan for Ukraine and Russia, Courtesy of Trump Associates." Sylvester Lukis, the managing partner of Ballard's Washington office, wrote back "Not good." On March 14, 2017, Lukis emailed Parnas in reference to Ballard's "representation of the [British law firm]," and wrote that because they have not "received any direction" in the three months they have been under contract, Ballard was terminating the agreement. Parnas replied, "Got it. I will let them know." Based on my review of Department of Justice filings related to FARA, I have learned that neither Ballard nor Parnas registered under FARA in connection with any work performed in 2017 for Nasirov, the British law firm, or the government of Ukraine.

20. Based on my review of materials obtained pursuant to the May 16 Warrant and public reporting, it appears that at least two events—both of which were subsequently referenced by Yuriy Lutsenko,[4] the Ukrainian Prosecutor-General, in his communications with Parnas regarding Yovanovitch's removal in the spring of 2019—appear to have provided motives for Lutsenko or

[4] Based on my review of public reporting and participation in the investigation, I have learned that Poroshenko appointed Lutsenko as Prosecutor-General in May 12, 2016, after the former Prosecutor-General, Victor Shokin, was removed from his office by parliament. According to public reporting, Lutsenko has no legal training and is an ally of Poroshenko. Based on my review of the May 16 Warrant returns, I have learned that according to a message between Parnas and Lutsenko dated May 2, 2019, Parnas referred to Lutsenko as "the head of the Ukrainian Republican party." According to public reporting, in 2014, Lutsenko was elected the leader of the Bloc of Petro Poroshenko political party. In August 2015, the Ukrainian Democratic Alliance for Reform merged with the Bloc of Petro Poroshenko party, and Vitali Klitschko became its leader. Klitschko is currently the mayor of Kiev, and was a former professional boxer who hired Rudolph Giuliani in 2008 as a campaign consultant. In September 2019, Lutsenko was fired by Volodymyr Zelensky, the newly-elected president of Ukraine.

others allied with then-President Poroshenko to seek Yovanovitch's removal in the spring of 2018. Specifically, I have learned the following:

a. According to public reporting, on April 4, 2018, Ukraine's National Anti-Corruption Bureau ("NABU") released an audio recording of Nazar Kholodnytsky, the head of the Special Anti-Corruption Office ("SAPO") implicating Kholodnytsky in corruption. According to public reporting, NABU receives funding from the U.S. and European Union aid programs, and has worked with U.S. law enforcement to share information in the past. In the recordings, Kholodnytsky tipped off corruption targets that they were going to be searched, and pressured anti-corruption prosecutors and judges. As discussed below, Yovanovitch referenced this episode the following year, when she called for Kholodnytsky's removal. Based on subsequent messages between Lutsenko and Parnas which are discussed below, in which Lutsenko arranged for Kholodnytsky to be interviewed by a journalist as part of their efforts to remove Yovanovitch, it appears that Lutsenko and Kholodnytsky were aligned, or at the very least, are aligned in their opposition to NABU and Yovanovitch.

b. According to public reporting, in early 2018 Lutsenko led an investigation into corruption within the State Migration Service ("SMS"), which led to the arrests of NABU agents. Lutsenko used this episode to attack the head of NABU (Artem Sytnyk) as incompetent, and introduced an anti-NABU piece of legislation. However, Sytnyk announced that Lutsenko's arrests had thwarted a joint FBI-NABU investigation into the SMS allowing Iranians to obtain Ukrainian passports. According to public reporting, Yovanovitch and officials from the European Union used this incident (the thwarted investigation) to stop lawmakers from passing the anti-NABU legislation introduced by Lutsenko. Lutsenko subsequently sent documents related to this

incident to Parnas in the spring of 2019, as their efforts to remove Yovanovitch intensified, and his messages evinced a belief that Sytnyk and Yovanovitch were aligned against Lutsenko.

c. According to an interview with Lutsenko published in the *New York Times* on October 5, 2019, Lutsenko frequently clashed with Ambassador Yovanovitch beginning in as early as 2016. Specifically, Lutsenko stated that in his first meeting with Yovanovitch in 2016, Lutsenko snapped at Yovanovitch that "no one is going to dictate to me who is going to be investigated," with respect to Lutsenko's investigations into anti-corruption activists, and that Yovanovitch left the meeting. According to the *New York Times* article, as Yovanovitch stepped up her criticism of Ukraine's failure to root out corruption, Lutsenko's "personal animus toward Yovanovitch grew," and he became convinced that "he needed to go around her and find a direct path to a more receptive audience: Mr. Trump's inner circle."

21. Based on my participation in the investigation to date, it appears that the push to remove Yovanovitch began in the spring of 2018. Based on my review of border crossing records, it appears that Parnas was in the United States in early 2018. Fruman, however, traveled to Ukraine in March, April, and May 2018. While the exact nature of Fruman's trips—and who he met with—is unknown, based on my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, it appears that at least some of those trips were geared towards various business ventures. Based on my participation in the investigation, I have learned that Fruman appears to be an investor in a bar and restaurant in Ukraine, and previously invested in a milk company in Ukraine. Around this time, in the spring of 2018, based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that Fruman began exchanging messages with Parnas regarding energy companies in Ukraine and Poland. Around that same time period, in March and April 2018, Parnas and Fruman began attending a number of political fundraising

events and making large contributions to congressional candidates and political action committees with the apparent purpose of enhancing their influence in Republican circles.

22. Based on my participation in the investigation as well as my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I have learned that Parnas and Fruman appear to have used their newfound political access to seek Yovanovitch's removal. Specifically, I have learned the following:

a. During an April 20, 2018 roundtable at Mar-a-Lago sponsored by the House Majority Trust PAC, Parnas met then-Congressman Pete Sessions (R-TX), and subsequently scheduled a meeting with Sessions for May 9, 2018. On May 9, 2018, in Washington, D.C., Parnas had the first of what would be multiple meetings with Sessions. Fruman was in Ukraine at the time, and so Parnas sent Fruman two photographs of the meeting: one depicted Parnas pointing at a map of Ukraine and Eastern Europe while Sessions looked on, and the other photo depicted Sessions posing with Parnas.

b. It appears that in that first meeting, Parnas discussed with Sessions the United States Ambassador to Ukraine, Marie Yovanovitch, and advocated for her removal from that position. In a letter dated that same day—May 9, 2018—Sessions wrote to Secretary of State Michael Pompeo:

> I wanted to bring to your attention an interaction that I recently had with individuals regarding the current U.S. Ambassador to Ukraine. As you likely know, Marie Yovanovitch is the U.S. Ambassador to Ukraine. . . . I have received notice of concrete evidence from close companions that Ambassador Yovanovitch has spoken privately and repeatedly about her disdain for the current Administration in a way that might call for the expulsion of Ms. Yovanovitch as U.S. Ambassador to Ukraine immediately. I kindly ask you to consider terminating her ambassadorship and find a replacement as soon as possible.

c. On or about June 15, 2018, a member of Sessions's staff forwarded that letter to Parnas's assistant, who then forwarded it to Parnas and Fruman, and Sessions' staff noted, "Please

don't distribute, this is only for your records." Parnas had multiple other meetings with Sessions in May and June 2018. It also appears that on May 9, 2018, or at one of the subsequent meetings, Parnas committed to raising $21,000 for Sessions's reelection campaign. Based on my review of FEC data, I have learned that Fruman and Parnas each subsequently made $2,700 contributions to Sessions, who was running for reelection in November 2018, which were funded by Fruman (and reimbursed later with funds from a Russian national, who does not appear to be relevant to any potential violations of the Subject Offenses as described herein).

d. Parnas's efforts to remove Yovanovitch continued into July 2018. Based on my review of emails obtained pursuant to the January 18 Warrant and May 16 Warrant, I have learned that around July 6, 2018, Parnas and Fruman traveled to Ukraine and met with Poroshenko, then-President of Ukraine. Later that month, Sessions's staff arranged a call with the State Department regarding Ambassador Yovanovitch. Prior to that call, Sessions's chief of staff asked Parnas if there was anything else he wanted to discuss before she spoke to the State Department. Despite Sessions's letter and subsequent efforts, Ambassador Yovanovitch was not removed from her posting at that time.

23. After efforts to lobby Sessions to cause the State Department to remove or recall Yovanovitch did not, themselves, result in her removal, it appears that Parnas soon enlisted Giuliani in his efforts to remove Yovanovitch. Based on my review of emails obtained pursuant to the January 18 Warrant and my review of public reporting, I have learned, among other things, the following:

a. Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that Parnas and Giuliani met, or became acquainted, beginning in July 2018. Parnas appears to have met Giuliani at one of the Republican fundraising events Parnas attended in the

spring and summer of 2018. On July 21, 2018, Parnas sent Giuliani an iMessage at the telephone number that is assigned to Subject Account-1,[5] "Hi my brother this is Lev Parnas so you have my number. I just want to thank you my brother for an incredible evening !!!"

b. Based on my review of materials obtained pursuant to the January 18 Warrant, I have learned that on August 16, 2018, Giuliani (using the email assigned to Subject Account-3) sent Correia a one-page draft agreement between Fraud Guarantee and Giuliani Partners. In that agreement, Fraud Guarantee agreed to hire Giuliani Partners "as a consultant to undertake and present [] a report which advises [Fraud Guarantee] on the following,": (i) "proper corporate structure to meet the requirements of state and federal regulators"; (ii) "appropriate personnel to manage the business" and the "Board and Advisory Board"; (iii) a "scoring system consisting of a number and written observations"; and (iv) a "marketing program." The contract reflected that Fraud Guarantee would pay Giuliani Partners $500,000 upon signing the agreement, and $100,000 per month thereafter.

i. After Giuliani circulated the initial draft agreement in August 2018, the parties exchanged several emails regarding the scope of the contract, and contemporaneous emails appeared to reflect an understanding that Giuliani Partners would provide consulting, and not legal advice. In an email dated September 5, 2018, in a "draft response to Rudy" that Correia sent to Parnas and Fruman, Correia wrote "[m]y understanding is Giuliani partners does not include a law firm and [what it provides] us will only be business advice." On September 10, 2018, Correia wrote Giuliani (at the email assigned to Subject Account-3) with several questions and clarifications regarding the draft agreement, which Correia described as "partial comments from

[5] Based on my review of the materials obtained pursuant to the May 16 Warrant, I have learned that the messages sent by and to Giuliani and Toensing described herein, unless otherwise noted, were iMessages sent and received by iPhones assigned to the Subject Accounts.

our attorney" at a separate firm. Specifically, Correia wrote Giuliani that it was "[i]mportant for the agreement to [] note whether or not the information and consulting work will be purely from a business perspective, or from a legal perspective? My understanding is Giuliani partners does not include a law firm and [] will only be business advice. However, clarity as to what sort of credence, if any, a court of law, Government agency or regulatory body would give to the advice we received from Giuliani Partners, would be helpful." It does not appear that Giuliani responded to the email, and instead that further discussions took place in person.

c. On November 12, 2018, Correia sent Parnas what appeared to be a final version of the Fraud Guarantee agreement with Giuliani Partners, however it was not signed and I have not located a signed copy within the materials obtained pursuant to the January 18 Warrant or May 16 Warrant. The agreement was dated November 2, 2018 between Fraud Guarantee (by David Correia) and Giuliani Partners (by Rudolph Giuliani). Consistent with the terms of the August 2018 draft contract, Fraud Guarantee retained Giuliani Partners to provide regulatory, personnel advice, and advice regarding a corporate structure for Fraud Guarantee's "InvestShield" product in order to "offer to appropriate clients monitoring for convictions for fraud in entities in which those clients propose to invest." Specifically, Fraud Guarantee retained Giuliani Partners to, among other things: (i) prepare a report within 60 days advising Fraud Guarantee on a corporate structure; (ii) provide advice on appropriate personnel to manage the business; (iii) provide advice on "identifying trained fraud investigators to determine the appropriateness of potential clients," and (iv) provide advice on the "marketing strategy" for the business. Fraud Guarantee agreed to pay Giuliani Partners $900,000, to be made up of $250,000 paid in September 2018 (which was reflected on the agreement as "already paid"); $250,000 paid in October 2018 (reflected as "already paid"); and $100,000 per month between November 2018 and February 2019. The

agreement did not include any provision in reflecting that Giuliani was retained as an attorney, or would provide legal advice. A subsequent invoice to Fraud Guarantee from Giuliani Partners in December 2018 described fees due for "strategic advice & consulting services."

d. Based on my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, it does not appear that Giuliani Partners provided the agreed-upon report for Fraud Guarantee, and that they only performed minimal work for Fraud Guarantee in October and November 2018. For instance, in November 2018, George Boyle, the director of investigations for Giuliani Partners, exchanged emails with Correia referencing the fact that Boyle had, or would, review publicly filed materials in connection with a "vulnerability assessment" for Fraud Guarantee. However, based on my review of emails obtained pursuant to the January 18 Warrant and materials obtained pursuant to the May 16 Warrant, it does not appear that Giuliani Partners performed any work for Fraud Guarantee after November 2018.

e. Moreover, while Giuliani has made at least one public statement identifying Parnas and Fruman as his "clients," and Parnas has made multiple public statements identifying Giuliani as his "lawyer," based on my participation in the investigation, and particularly my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I have not identified a legal retainer agreement, or evidence that Giuliani performed legal work for Parnas or Fruman.

f. According to my review of the iMessages between Giuliani and Parnas based on materials obtained pursuant to the May 16 Warrant, I have learned that Parnas and Giuliani exchanged a number of messages (with Giuliani using the telephone number assigned to Subject Account-1) regarding the payment of Giuliani's retainer in the fall of 2018, but it did not appear from the messages that Parnas himself directly paid Giuliani. Instead, it appears that Parnas and Correia solicited third parties to invest in Fraud Guarantee, and directed those third parties to wire

$250,000 each to a bank account in the name of Giuliani Partners with the notation "Credit towards Fraud Guarantee Holdings, LLC agreement." Accordingly, it appears from my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant that these investors in Fraud Guarantee believed they were paying Giuliani to help advance the business interests of Fraud Guarantee. However, based on my participation in the investigation and my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, it appears that Giuliani's work for Parnas involved, in large part, assisting in the efforts to remove Ambassador Yovanovitch.[6]

24. It appears that Giuliani's assistance on the Ambassador issue began in earnest in December 2018. Based on my review of public reporting and materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I have learned, among other things, the following:

a. On December 7, 2018, Parnas forwarded Giuliani via iMessage (at the telephone number assigned to Subject Account-1) a copy of the May 9, 2018 Sessions letter.

b. In January 2019, Giuliani, Parnas, and Fruman met with Lutsenko at Giuliani Partners in New York. A memorandum regarding the meeting, which appears to have been subsequently provided to the State Department by Giuliani, indicates that they discussed Ambassador Yovanovitch, who Lutsenko asserted "protects" the "ineffective" Specialized

[6] Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that Giuliani attended at least one of Parnas's subsequent meetings with Sessions. Specifically, I have learned that on September 13, 2018, Parnas sent an SMS text message to the telephone number assigned to Subject Account-2, along with contacts saved in Parnas's phone as "Pete Sessions" and "Roy Bailey." Parnas's message said, "I'm here with Rudy I've shared it with him." Based on my review of materials obtained pursuant to the January 18 Warrant, I have learned that Giuliani was scheduled to attend a meeting on or about September 5, 2018 with Parnas and Sessions in Washington, D.C. Although it was not clear from the January 18 Warrant returns whether Giuliani actually attended that meeting, based on the timing of the above-referenced message, it appears that the meeting did occur. Based on my participation in the investigation, I have learned that Roy Bailey is a Texas-based businessman who was the finance co-chair of the 58th Presidential Inaugural Committee in 2016, and is currently the finance co-chairman of President Trump's reelection campaign.

Anticorruption Prosecutor's Office in Ukraine—an apparent reference to NABU and Artem Sytnyk—and who Lutsenko claimed asked him to close three cases, including a case against the member of Ukraine's Parliament who was involved in the disclosure of Manafort-related information. According to the memorandum, Lutsenko also reported that he had re-initiated an investigation his predecessor, Victor Shokin, had opened into Burisma, in which Hunter Biden, a board member, was implicated.

c. Around the same time, also according to a memorandum which appears to have been provided to the State Department by Giuliani, Parnas, Fruman, and Giuliani participated in a phone interview of Shokin (the former Prosecutor General), who provided information about his Burisma investigation and claimed that President Poroshenko had put an end to the investigation at the request of then-Vice-President Joe Biden.

25. Based on my review of U.S. border crossing records, materials obtained pursuant to the May 16 Warrant, and public reporting, it appears that on February 11, 2019, Parnas and Giuliani again met with Lutsenko, this time in Warsaw, Poland. Based on my review of materials obtained from the May 16 Warrant, I have learned that in February 2019, Victoria Toensing, an attorney and the spouse of former Washington D.C. United States Attorney Joe diGenova, appears to have become involved in the effort to remove Ambassador Yovanovitch. On multiple occasions in February 2019, she asked Parnas (using the telephone number assigned to Subject Account-4) if Giuliani had completed drafting a retainer agreement, noting in one instance that "[o]ur hands are pretty tied about doing much until we have it in place as we need it for FARA."[7] iMessages

[7] Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that Parnas explicitly discussed FARA with at least two individuals, separate from Toensing, in the spring of 2019. *First*, on March 5, 2019, Parnas texted with [redacted], and [redacted] sent Parnas a FARA registration for a different individual, and Parnas confirmed "Got it." Notably, that FARA registration was completed on behalf of two embassies (the Embassy of Japan and

suggest that Giuliani was preparing a retainer agreement, and Parnas stated in one message to Giuliani (at the number assigned to Subject Account-1) that the retainer should be between Toensing and the Ministry of Justice of Ukraine (Attn: Pavlo Petrenko).

26. Based on my review of materials obtained from the May 16 Warrant, I have learned that on or about February 16, 2019, Giuliani (using the email address assigned to Subject Account-3) sent Parnas and Fruman an iMessage containing a draft retainer agreement between "Yuriy Lutsenko, as the General Prosecutor of Ukraine," and Giuliani Partners, Toensing, and diGenova.[8] The retainer amount was $200,000 and, according to the draft retainer, ostensibly for services by Giuliani, Toensing, and diGenova in recovering "sums of money in various financial institutions outside Ukraine."[9] It is not clear what this phrase refers to, and may simply have been an effort to

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Liberia) and on behalf of a foreign individual. *Second*, in April 2019, Parnas texted with [redacted], a naturalized Ukrainian-American who resides in Brooklyn, Israel, and Ukraine, regarding Solomon and Lutsenko. On April 24, 2019, Parnas asked [redacted] to send him the "fara registration," and [redacted] responded with a FARA registration completed by a public relations firm on behalf of Zelensky.

[8] Based on my review of materials obtained pursuant to the May 16 Warrant, it is not clear whether Parnas or Giuliani forwarded a copy of the February 2019 draft retainer agreement to Toensing. Around that time, Toensing (using the telephone number assigned to Subject Account-4) repeatedly asked Parnas via text message what the status of the retainer agreement was, and asked him to forward her a copy. Parnas responded that he was trying but it was not going through, although it is not clear whether Parnas ultimately succeeded in forwarding the draft retainer to Toensing.

[9] FARA contains a narrow exemption from the registration requirement for attorneys engaged in the practice of law on behalf of a foreign client. Specifically, the statute provides that persons who agree to represent a foreign principal "before any court of law or any agency of the Government of the United States" need not register. 22 U.S.C. § 613(g). However, the statute also provides that "representation does not include attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or agency proceedings required by statute or regulation to be conducted on the record." *Id.* Based on my review of materials obtained pursuant to the May 16 Warrant, including the text of the draft and final retainer agreements for Lutsenko, it appears that neither Giuliani nor Toensing performed any legal work on Lutsenko's behalf, let alone legal work exempted by the statute (i.e., judicial proceedings, civil or criminal investigations,

legitimize, or give the appearance of legitimacy to, what were in part and in truth their efforts to remove the U.S. ambassador to Ukraine. The agreement also stated that it was a temporary agreement to be superseded "by a long term agreement." On February 20, 2019, Parnas asked Giuliani (via iMessage sent to the number assigned to Subject Account-1) to send wire instructions and a "signed copy by you Victoria and joe so they can execute and wire funds." Later that day, Parnas confirmed that he "received signed retainer," however, based on my review of materials obtained pursuant to the May 16 Warrant, I have not yet obtained a copy of the signed retainer. As discussed below, drafts of three long-form retainer agreements between diGenova & Toensing and (i) Lutsenko, (ii) Kostiantyn Kulyk,[10] and (iii) Lutsenko and Kulyk together—all of which were signed by Toensing—were subsequently circulated in April 2019. Based on my review of Department of Justice records related to FARA filings, I have learned that none of Parnas, Fruman, Giuliani, Toensing or diGenova registered under FARA or provided notice to the Attorney General at any point in 2018 or 2019.

27. Based on my review of materials obtained from the May 16 Warrant, I have learned that in early 2019, Giuliani appeared to have privately lobbied high-level officials—including, apparently, Secretary of State Pompeo and President Trump—for the removal of Ambassador Yovanovitch. For example, on February 11, 2019, the same day that Giuliani and Parnas met with Lutsenko, Toensing (using the phone assigned to Subject Account-4) asked Parnas and Giuliani (at the telephone number assigned to Subject Account-1) in an iMessage "Is there absolute

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or on-the-record agency proceedings), and therefore it does not appear the attorney exemption applies.

[10] Based on my review of publicly available material, I have learned that Kulyk worked under Lutsenko at that time as the deputy head of International Legal Cooperation. According to an article published on October 5, 2019 in the *New York Times*, Yovanovitch asked Lutsenko to remove Kulyk at a meeting in 2016 due to Kulyk's corruption.

commitment for HER to be gone this week?" Giuliani replied, "Yes not su[r]e how absolute [w]ill get a reading in morning and call you. Pompe[o] is now aware of it. Talked to him on Friday." On February 14, 2019, Toensing (using the phone assigned to Subject Account-4) asked Parnas if he had heard from Giuliani, and Parnas said he had, and encouraged Toensing to "nudge [Giuliani] about the Mrs. A.," which appears to be a reference to Ambassador Yovanovitch. On February 16, 2019, Parnas texted Toensing (using the phone assigned to Subject Account-4) that he "really need[ed] to know [the] status of madam A. [w]hile I'm here." It appears Parnas was in Ukraine at the time. Toensing responded, "That's for Rudy to get tonight." The next day, Toensing (using the phone assigned to Subject Account-4) asked Parnas via iMessage if Giuliani "me[]t with the guy re Amb?" to which Parnas replied, "I am still waiting on that[, m]eeting with big guy in 4 hours," an apparent reference to President Trump. Later that day, Toensing asked "Was he successful re Amb?" to which Parnas replied "this week."

28. Based on my review of public reporting, I have learned that according to an article published on September 29, 2019 in *Reuters*, Giuliani admitted that he met Lutsenko in Warsaw in February 2019 after first meeting him in New York in January, but that the meeting with Lutsenko in Warsaw was "really social . . . I think it was either dinner or cigars after dinner. Not opportune for substantive discussion." However, this does not appear to be accurate, as described above, Giuliani circulated a draft retainer agreement between Lutsenko, Giuliani Partners, and diGenova & Toensing only five days after meeting with Lutsenko, and communicated with Parnas and Toensing about lobbying Pompeo and Trump to remove Yovanovitch on the same day, and in the days following, his meeting with Lutsenko.

29. Based on my review of materials obtained from the May 16 Warrant, public reporting and U.S. border crossing records, I have learned that shortly after Giuliani's lobbying efforts,

Parnas traveled to Ukraine in late February and met with Lutsenko. On February 21, 2019, Giuliani (using the phone assigned to Subject Account-1) texted Parnas, "How is it going????" to which Parnas replied, "Meeting with [Y]uri [Lutsenko] now everything good." Three days later, Giuliani again asked how things were going, and Parnas explained that he was "meeting with [Y]uri [Lutsenko] in 2 hours he has some paperwork to give us I'll call you after the meeting." It is unclear whether these meetings between Parnas and Lutsenko regarded Lutsenko's desire to have the Ambassador removed; Giuliani's desire for information about Hunter Biden and Burisma; both; or another topic. Nonetheless, as reflected in iMessages below, it does appear that Parnas's efforts to have Ambassador Yovanovitch removed were done at the request of Lutsenko.

30. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that following Parnas's meeting with Lutsenko in February 2019, and given that Giuliani's lobbying efforts appeared to have failed, Parnas, Toensing, Giuliani, and Lutsenko worked with a journalist, John Solomon at *The Hill*, to mount an aggressive public media campaign to remove Yovanovitch. Their media campaign began within days of Lutsenko complaining to Parnas about actions that Yovanovitch had taken in Ukraine against an ally of Lutsenko's. Specifically, I have learned the following:

31. According to articles published on March 6, 2019, Yovanovitch gave a speech in which she called for Kholodnytsky's removal from SAPO. As discussed above, NABU had previously called for the removal of Kholodnytsky (who, according to public reporting, was an ally of Lutsenko and Poroshenko), and claimed that Kholodnytsky had leaked information about corruption cases to corruption targets; yet a year later, Kholodnytsky was still in his position. Yovanovitch also criticized the Ukrainian court system, which she described as riddled with compromised judges.

32. Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that Lutsenko immediately complained about Yovanovitch's statements to Parnas. Specifically, on March 5, 2019 (which appears to be the day of Yovanovitch's speech, which was not reported until the following day), Lutsenko texted Parnas "Ambassador openly called to fire head of the SAPO," which was a reference to Kholodnytsky. Parnas asked Lutsenko to call him, and Lutsenko reported that the Ambassador had also criticized Ukrainian Supreme Court judges.

33. Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that in response to Lutsenko's complaint, on March 8, 2019, Parnas sent Toensing (at the phone number assigned to Subject Account-4) a iMessage containing a photograph of Sessions's letter, and she replied by sending the contact information for John Solomon, a reporter at *The Hill*. That same day, according to iMessages, it appears that Parnas, Toensing, diGenova and possibly Giuliani met with Solomon about Ambassador Yovanovitch, and the next day Parnas sent Solomon information about the Ambassador. Specifically, I have learned the following:

a. Lutsenko wrote Parnas again on March 8, 2019, and referred to a statement Yovanovitch made in which she called for Kholodnytsky's removal; Parnas replied "we are all in the loop," and wrote to confirm that they were setting up an interview with Lutsenko and a journalist (Solomon, as discussed below). Lutsenko then sent Parnas the contact info for Kholodnytsky, and Lutsenko wrote: "Nazar [Kholodnytsky] is waiting I explained everything. Ready to talk about the l[a]ck of impartiality." Parnas and Lutsenko discussed setting up an interview between Solomon and Poroshenko, but Lutsenko told Parnas that Poroshenko could not answer questions about "the Ambassador, Biden" in the "middle of the campaign." Based on my review of public reporting, I have learned that at the time, Poroshenko was running for re-election, which he would ultimately lose.

b. Lutsenko appeared to grow impatient with Parnas's failure to secure Yovanovitch's removal. On March 11, 2019, Lutsenko asked Parnas when he would be receiving an invitation from the "General Attorney," which appears to be a reference to the U.S. Attorney General. On March 13, 2019, Lutsenko wrote Parnas "I am fucking sick of everything. I did not get the visit. My First did not get shit. I am ready to screw your opponents. But you want even more. We – everything. You – later. This is not fair." Based on my participation in the investigation, this appears to be a reference to Lutsenko and others' willingness to share information about Burisma and Hunter Biden and frustration that Parnas, Giuliani, and possibly Toensing could not similarly deliver on issues to include the removal of Ambassador Yovanovitch and meeting for Lutsenko with the Attorney General. On March 14, 2019, Parnas responded "I just spoke with our [people]. I think there is good news. When you get a chance, call me regarding your visit here." Based on my participation in the investigation, it appears that "our people" refers to Giuliani and/or Toensing.

c. Parnas, Solomon, and Toensing continued to work together to publicize Lutsenko's allegations through Solomon. On March 12, 2019, Parnas received from Shokin a written narrative and answers to questions posed by Solomon about Yovanovitch, Vice-President Biden, and Hunter Biden. Parnas forwarded Shokin's answers to Solomon. Around that time, Parnas also spoke to Lutsenko and conveyed additional information back to Solomon. Solomon indicated that he needed President Poroshenko and Lutsenko "on the record about the ambassador and Biden," and so Parnas set up an interview between Solomon and Lutsenko.

d. Based on my review of public reporting, I have learned that on March 20, 2019, a portion of Solomon's video interview with Lutsenko and an accompanying article entitled "Senior Ukrainian Official Says He's Opened Probe into US Election Interference" were published in *The*

Hill. In his interview, Lutsenko claimed he would open an investigation into whether the director of NABU, Sytnyk, attempted to "influence the 2016 vote to the benefit of Democratic presidential nominee Hillary Clinton." In a second video interview published on March 20, 2019, by Solomon in *The Hill*, Lutsenko told Solomon that Ambassador Yovanovitch had given him "a list of people whom we should not prosecute" during their first in-person meeting in or about January 2017. *The Hill* reported that Lutsenko was not "the only person complaining about the U.S. Embassy in Kiev," and noted that Congressman Sessions wrote a "private letter asking Secretary of State Mike Pompeo to recall the current U.S. ambassador, alleging that she made disparaging statements about President Trump." *The Hill* also posted a copy of the letter. The article quoted Sytnyk as describing Lutsenko's allegations as untrue and an "absurd attempt" to discredit NABU.

34. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that Parnas continued working to publicize Lutsenko's allegations against Yovanovitch and texted links to Solomon's articles to many of his contacts. Specifically, I have learned the following:

a. On March 20, 2019, Parnas sent [redacted], the development director of [redacted] (to whom Parnas had previously donated in the name of a corporation) links to both of Solomon's articles in *The Hill*, along with links to tweets by Laura Ingraham and Sean Hannity. Parnas instructed [redacted], "have jr retweet it," an apparent reference to Donald Trump Jr. [redacted] confirmed "sent." As discussed below, Trump Jr. did, in fact, retweet a related article several days later. Moreover, President Trump retweeted one of the links that Parnas sent to [redacted] that same day, on March 20, 2019: an article entitled "As Russia Collusion fades, Ukrainian plot to help Clinton emerges." [redacted] then sent a copy of President Trump's tweet to Parnas.

b. Parnas frequently updated Lutsenko on the success of their March 20, 2019 press blitz. Parnas promptly sent a screenshot of President Trump's tweet to Lutsenko. In an apparent effort to garner more information for Solomon, Parnas asked Lutsenko to send him "the names of the people that she said," which appears to be a reference to Lutsenko's claimed "do not prosecute list." Lutsenko sent Parnas three names ("Leshenko, MP, Navem, MP, Shabunin, ngo") and described them all as "loud NABU activist[s]." As discussed above, based on public reporting, it appears that Lutsenko may have clashed with Yovanovitch regarding NABU in the spring of 2018, and was frustrated by her continued alignment with NABU, which appears to have provided a motive for Lutsenko to claim that Yovanovitch had asked him not to prosecute "loud NABU activist[s]." Parnas congratulated Lutsenko and told him that "Today you become a world-class political figure. Glory to the Ukraine !!!" Lutsenko then asked Parnas if it was "true, that the Ambassador chick and Sytnik [sic] were called to Washington," which appears to be a reference to Yovanovitch and Sytnyk, the head of NABU, to which Parnas replied, "I will call later. We'll talk."

c. Parnas then reported to Lutsenko that President Trump had re-tweeted a story about Yovanovitch. Lutsenko responded, "If I am not going to get invited for an official visit in the nearest future, I will not be able to fight off our or your [people]." Based on my participation in the investigation, it appears that Lutsenko's reference to fighting off "our or your [people]" referred to their perceived enemies in Ukraine and the U.S., respectively.

d. The day after *The Hill* published the Lutsenko interview, on March 21, 2019, Parnas wrote Solomon and Toensing that the top news story in Ukraine was the reporting regarding Ambassador Yovanovitch, which prompted the Ambassador to put out a statement saying that Lutsenko was a "prime example of corruption." Lutsenko was upset about that statement, and the

news coverage he was receiving in Ukraine, and so he complained to Parnas, "why the fuck do I need these kinds of adventures . . . 10 days before the election" in Ukraine. "Moreover," Lutsenko continued, "they are saying in the State Department that my reports work in favor of corrupt officials. Great fucking help to Ukraine." Parnas responded that he would call Lutsenko and had "good news." Then, in an apparent effort to quell the negative press Lutsenko was receiving and further publicize their allegations against Yovanovitch, Parnas offered via text to Solomon and Toensing (at the telephone number assigned to Subject Account-4), "You want me to go on Fox news and talk about it? I would not mention any names if I did that. I would just say a client approached me six months back with allegations that FBI and US Ambassador in Ukraine were playing favorites. And reference Burisma getting free pass and alleged ties to 'high level Obama administration officials'. Maybe mention allegations about setting up Manafort. The media could connect the dots from there." Based on my participation in the investigation and my review of materials obtained pursuant to the May 16 Warrant, I believe Parnas's reference to his "client" is a reference to Lutsenko.

e. Based on my review of public reporting, I have learned that Solomon's article soon received substantially increased press attention. On March 23, 2019, on the Laura Ingraham Show on *Fox News*, Ingraham aired a segment highlighting that former-Congressman Sessions sent Secretary of State Pompeo "an urgent letter" in May 2018, asking that Ambassador Yovanovitch be removed from her position, and published a copy of that letter. DiGenova was a guest on the program, and announced: "I have learned this evening that the President has ordered her dismissal from her post. . . as a result of her activities there which were complained of by Congressman Sessions. She is known and reported by people there to have bad-mouthed the President of the United States Donald Trump, to have told Ukrainians not to listen to him or obey his policy . . .

and finally her activities have caught up with her." Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that the fact that Trump had decided, at least at that point, to fire Yovanovitch appears to be the "good news" that Parnas reported back to Lutsenko two days prior.

f. In an apparent reference to diGenova's *Fox News* interview, Parnas happily wrote via iMessage to Toensing (at the number assigned to Subject Account-4), "I love you and your husband you are the best," and "Tell joe he was awesome my hero." Toensing responded, "We can be really great if we have a retainer signed." Parnas agreed, and Toensing asked if the "Wicket Witch" was gone, which appears to be a reference to Yovanovitch.

g. On March 23, 2019, Correia texted Parnas: "Sessions must be pretty happy!! And grateful?!," Based on my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I believe that Correia's statement appears to be a reference to the possibility that Congressman Sessions would replace Yovanovitch.[11] Correia then wrote, "This is insane! Finally

[11] Based on my review of the materials obtained pursuant to the January 18 and May 16 Warrants, it appears that Parnas and Correia had discussed the possibility that Sessions would replace Yovanovitch at least as early as January 2019. On January 7, 2019, Correia sent Parnas a document entitled "Discussion List," which had a section labeled "Ukraine," which referenced their efforts to remove Yovanovitch. Specifically, Correia noted that the "former Inspector General," which appears to be a reference to Shokin, was waiting on a visa, and that they would "need help if denied." The existing inspector general, which appears to be a reference to Lutsenko, was "coming January 10-15th." With respect to "Ambassador to Ukraine," Correia wrote "Replace with Pete Sessions?" and noted that they "[s]hould be receiving very important info by both [Shokin and Lutsenko]" including information regarding "payoffs and bribes," an "Anti-Trump" room in the embassy, and "Telling current President (and others) that Trump will be impeached." Correia also noted that "We will be returning January 20th, or thereabouts," which appeared to be a reference to Parnas returning to Ukraine. Around this time, in early January 2019, Parnas exchanged messages with Giuliani (using the telephone number assigned to Subject Account-1) regarding securing a visa for a Ukrainian (possibly Shokin) and Giuliani reported that he was trying to get the visa, and passed along the contact information for Jay Sekulow, another of President Trump's personal attorneys. However, it does not appear that Shokin got a visa in January 2019.

the facts come out, Biden, etc., and, looks like she's finally fired . . . This is even better than if it happened before." Parnas replied, "Just the beginning."

h. Around this time, Toensing and Giuliani began frequently posting messages related to Ukraine, Yovanovitch, Biden, and the 2016 election on Twitter, apparently in an effort to further magnify the press attention their claims against Yovanovitch would receive.

i. On March 24, 2019, Donald Trump Jr. retweeted an article summarizing Solomon's reporting in the *Daily Wire*, entitled "Calls Grow to Remove Obama's U.S. Ambassador to Ukraine."

j. Although Parnas, Giuliani, and Toensing appeared to be pleased with the press response in the U.S., the press response in Ukraine appeared to be unfavorable to Lutsenko. On March 26, 2019, Lutsenko sent Parnas pictures of documents that allegedly contained information about Burisma, and noted, "I hope this is enough." He then complained to Parnas that despite the information he was gathering about Biden, the Ambassador had not been fired. In particular, he wrote the "Washington Post is attacking me already . . . Zero results. They want to listen to the tape. I will get the recording device tomorrow and the testimony of the participants of the conversation. My case on [a Ukrainian public figure who allegedly helped Biden] is proceeding along in force. Testimony about B [likely Burisma] monetary transfer is available. And only you are unable to bring down a single, stupid woman ☹." Parnas wrote back, "She is not a simple, stupid woman. Believe me. But she is not going anywhere."

k. On March 29, 2019, Parnas wrote to Lutsenko, "I was asked to tell you personally that America supports you and will not let you get hurt. It does not matter how it looks now. Everything will soon change and everything will go in the right direction. So that you would know, that you are being talked about here as a true hero of the Ukraine." Lutsenko then told

Parnas that he had additional documents related to Burisma, and when Parnas asked Lutsenko to send them to him, Lutsenko replied that he would "pass it along with the new Ambassador ☺."

l. Over the next several days, Parnas continued to feed information to Solomon, who asked Parnas to "eyeball" articles for "accuracy," and continued to publish articles in The Hill. On March 27, 2019, Parnas told Giuliani that "Hannity just canceled on [Solomon]," which prompted Giuliani to say that "[t]hey are scared[,] I will buck them up." Three days later, on March 30, 2019, Giuliani confirmed that he would be appearing on Fox that morning, to which Parnas responded, "Great." Parnas sent some of Solomon's articles to Giuliani, among many other of Parnas's contacts. Solomon also provided at least one advance copy of an article: on April 7, 2019, Solomon wrote Parnas and Giuliani (at the telephone number assigned to Subject Account-2) "Edited draft of column that goes live at 7a tomorrow," and enclosed an article with several draft titles, including "Ukrainian to U.S. prosecutors: Why don't you want our evidence on Democrats?" The article quoted from interviews with Kulyk and Lutsenko. Giuliani "liked" the article in a text back to Solomon and Parnas.

m. However, when Yovanovitch still had not been removed, Lutsenko continued his complaints about Yovanovitch to Parnas. On March 29, 2019, Lutsenko told Parnas that the "ambassador chick organized leak of NABU materials to the TV project financed by you about corruption of those surrounding Poroshenko. Next one is going to be about me." Parnas replied, "I will call you soon with the news." On April 2, 2019, Lutsenko bragged, "I am probably the most famous Ukrainian where you are," to which Parnas replied, "This is going to be a big week." On April 9, 2019, Lutsenko provided the names of "Advisors and public speakers of the presidential candidate" Zelensky, who was running against Poroshenko, and their alleged connections to Yovanovitch (to whom Lutsenko referred by her nickname, "Masha"), and wrote

that the candidate for Prosecutor-General—who would replace Lutsenko in the event Zelensky was elected—was a "Favorite activist of Masha."

35. Based on my participation in the investigation, I have learned that according to a U.S. Department of State Office of Inspector General investigation, in late March or early April 2019, Secretary of State Michael Pompeo received a package that had to do with "Ukraine issues." The package had a return label of "The White House," although it bore no official seal, and contained notes from interviews between Parnas, Fruman, and Giuliani, among others, with Shokin and Lutsenko, dated January 23, 2019, regarding Burisma, Biden, and Yovanovitch. The documents were separated into folders that bore the insignia of the Trump Hotel. The notes from the meeting with Lutsenko include his allegation about the "do not prosecute list," discussed below, and his explanation that the heads of SAPO and NABU "do not like each other" and that the head of NABU favored Clinton over Trump, and that Yovanovitch spent money on "good public relations" for NABU. The package then contained Solomon's March 20, 2019 articles (discussed below) featuring his interview with Lutsenko, along with documents that appeared to be Solomon's notes and emails regarding the articles. On October 2, 2019, Giuliani confirmed to *CNN* that the package originated with him, and that he had "routed" an "outline" of allegations against Biden and Yovanovitch to Pompeo's office. Giuliani claimed that Pompeo told him that Pompeo would refer the documents for an investigation.

36. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that Parnas, Toensing, and Giuliani made efforts to formalize the relationship with Lutsenko in April 2019. On April 13, 2019, Giuliani (using the email assigned to Subject Account-3) sent Parnas three separate versions of a retainer agreement between Toensing and diGenova on the one hand, and Lutsenko and his deputy on the other. The agreement

indicated that Lutsenko was retaining diGenova & Toensing, LLP to represent him "in connection with recovery and return to the Ukraine government of funds illegally embezzled from that country and providing 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." The agreement also noted that the firm's services "may entail activities subject to mandatory public disclosure under . . . the Foreign Agent Registration Act[, which] . . . requires the Firm to register and report certain activities on behalf of foreign political parties or entities." Per the agreement, Lutsenko would pay a $125,000 retainer and $25,000 per month, plus costs. Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that Toensing subsequently signed a copy of each of the three retainer agreements.

37. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that between April 11 and 23, 2019, Parnas worked with Solomon to arrange additional interviews with Ukrainian government officials, and provided the questions that Solomon would ask one official. Specifically, I have learned, among other things, the following:

a. Solomon ran multiple articles during that period. However, during this time period, Lutsenko walked back some of his prior claims and, in particular, told *The Babel* on April 17, 2019, that Ambassador Yovanovitch had never requested a "do not prosecute" list, and it was instead he who had requested that list. In addition, on April 21, 2019, Zelensky won the Ukrainian presidential runoff against Poroshenko. Based on my participation in the investigation and my review of materials obtained pursuant to the May 16 Warrant and public reporting, I believe that Lutsenko may have walked back his comments due to the negative press attention his unfounded allegations had garnered, or in an effort to maintain credibility with the incoming Zelensky administration, so that he would not be removed by any incoming administration.

b. On April 23, 2019, Giuliani texted Parnas (using the telephone assigned to Subject Account-1), "He fired her again." Parnas wrote in response, "I pray it happens this time I'll call you tomorrow." But on May 4, 2019, Giuliani joked to Parnas via iMessage (using the telephone assigned to Subject Account-1), "Boy I'm so powerful I can intimidate the entire Ukrainian government. Please don't tell anyone I can't get the crooked Ambassador fired or I did three times and she's still there." That same day, Lutsenko told Parnas that "People here are talking that there will be a very high level coming from you to the inauguration," to which Parnas replied "You do understand Who is dealing with this." Two days later, on May 6, 2019, according to public reporting, the State Department confirmed that Ambassador Yovanovitch would leave her post on May 20, 2019.[12]

38. Based on my review of public reporting, I have learned that on May 9, 2019, Giuliani publicly confirmed that he had met with Lutsenko on multiple occasions, and stated his intention to travel to Ukraine to meet with newly-elected President Zelensky to push him to press ahead with two investigations he hoped would benefit President Trump in his reelection campaign: (i) the origin of the Special Counsel's investigation into Russian interference in the 2016 election; and (ii) Hunter Biden's involvement in Burisma. According to the *New York Times*, Giuliani was to be accompanied by Parnas and Toensing.

39. Based on my review of materials obtained pursuant to the August 14 Warrant, I have learned that on May 10, 2019, Giuliani wrote to President-Elect Zelensky to request a meeting

[12] On or about October 28, 2019, Parnas's counsel proffered to the USAO and FBI that all of Parnas's efforts to remove Yovanovitch were done at the direction of President Trump and/or Giuliani, who was himself acting at the direction of President Trump. For the reasons discussed herein, the USAO and FBI do not regard this claim as credible, and believe the evidence provides probable cause to believe that Giuliani and Parnas were acting at the request and/or under the direction of one or more foreign principals.

with Zelensky, Giuliani, and Toensing to discuss a "matter." Specifically, I have learned the following:

a. On May 10, 2019, Giuliani's secretary forwarded a copy of a letter from Giuliani to President-Elect Zelensky to a Ukrainian government email address. Giuliani's secretary then forwarded that email, including the attached letter, to the email assigned to Subject Account-3 and to Lev Parnas. In his letter to Zelensky, which was dated May 10, 2019, Giuliani wrote:

> I am a 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. This is quite common under American law because the duties and privileges of a President and a private citizen are not the same. Separate representation is usual process. Congratulations on a truly impressive victory in the recent election. . . . Anything I can do to help you or your country would be a great honor. However, I have a more specific request. 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. Please have your office let me know what time or times are convenient for you, Victoria and I will be there.

b. Based on my participation in the investigation and my review of materials obtained pursuant to the May 16 Warrant and August 14 Warrant, as well as Giuliani's May 9, 2019 interview with the *New York Times* described above, it appears that Giuliani and Toensing sought to solicit President Zelensky's assistance in moving ahead with the Burisma and 2016 election interference investigations, which they believed would benefit President Trump's reelection campaign. However, based on my review of public reporting, I have learned that on May 15, 2019, Giuliani announced that his trip to Ukraine was cancelled.

c. On July 22, 2019, articles were published by *BuzzFeed News* and the *Organized Crime and Corruption Reporting Project* regarding Parnas and Fruman's campaign for the removal of Yovanovitch. Parnas and Sessions were interviewed for the articles. Parnas said that

he and Fruman were not "acting at the behest of anyone." Parnas also said that he and Fruman were not paid by anyone for their work in Ukraine, and that "[a]ll we were doing was passing along information. Information coming to us—either I bury it or I pass it along. I felt it was my duty to pass it along." Sessions claimed that "he raised the issue of Yovanovitch in the meeting—not Parnas or Fruman," and that he "sought their input." This claim is not credible for several reasons, not the least of which is because Sessions's own letter to Secretary Pompeo noted that others had brought the issue of Yovanovitch to his attention; Sessions wrote the letter after his first meeting with Parnas; and Sessions's staff later forwarded the letter to Parnas and solicited his input on what to discuss with the State Department regarding the letter.

40. Based on my review of public reporting, I have learned that on July 25, 2019, President Trump spoke to Ukrainian President Zelensky. According to a memorandum of the call, which the White House released publicly, President Trump noted that "[t]he former ambassador from the United States, the woman, was bad news and the people she was dealing with in the Ukraine were bad news." He also praised a "very good prosecutor," which appears to be a reference to Lutsenko, who was still in place at that time following Zelensky's election but subsequently removed from office, or possibly Shokin, the former prosecutor.

41. As noted above, based on my review of Department of Justice records, I have learned that Parnas, Fruman, Giuliani, and Giuliani Partners have never registered with the FARA unit of the Department of Justice or provided the required notice to the Attorney General. The firm of diGenova & Toensing LLP previously registered on behalf of the Kurdistan Democratic Party, but diGenova & Toensing LLP, or diGenova or Toensing individually, never made a filing related to Ukraine or provided notice to the Attorney General.

42. Based on my review of public reporting, it appears that Giuliani has been aware of the FARA registration requirements for some time but has publicly stated that he believes that he is not required to register because he contends he has never lobbied the U.S. government on behalf of his clients. According to a July 10, 2018 article in the *Washington Post*, Giuliani reported that he was working with clients in, among other places, Ukraine, Brazil, and Columbia, and had given a paid speech to an Iranian dissident group, but that he has never registered with the Justice Department on behalf of his foreign clients because he does not directly lobby the U.S. government on behalf of his clients and was not charging President Trump for his legal services. In particular, Giuliani explained that he had never lobbied President Trump on "anything." According to a September 6, 2018 article in the *Wall Street Journal*, seven Senators wrote the Department of Justice to ask that Giuliani's lobbying on behalf of foreign clients be investigated, after Giuliani wrote a letter to the president of Romania on behalf of a Romanian client, in which Giuliani took a position contrary to that of the State Department's. In an interview, Giuliani stated that he "did nothing to invoke FARA either now or ever" because he had never represented his foreign client's interests before the U.S. government. As discussed above, however, Giuliani repeatedly lobbied the U.S. government, including President Trump and Secretary of State Pompeo, as part of a scheme to seek Yovanovitch's removal at the request of a Ukrainian government official.

43. Based on the above, there is probable cause to believe that the efforts by Giuliani, Toensing, Parnas, and Fruman to lobby for the removal of Ambassador Yovanovitch were done at the direction and/or request of Ukrainian officials, particularly Lutsenko, in violation of the Subject Offenses. Specifically, there is probable cause to believe that Giuliani and Toensing committed the Subject Offenses in at least two ways. First, according to a draft retainer agreement circulated in February 2019, and final retainer agreements circulated in April 2019 (which were signed by

Toensing), Lutsenko retained Giuliani Partners and diGenova & Toensing to represent him. Giuliani and Toensing took numerous steps in furtherance of Lutsenko's desire to remove Yovanovitch after the retainer agreements were circulated, including engaging in a public media campaign to remove Yovanovitch and privately lobbying President Trump and Secretary Pompeo to remove Yovanovitch. Notably, the subsequent long-form retainer agreements between diGenova & Toensing and Lutsenko specifically referenced FARA, and that language that would be unnecessary if Giuliani and Toensing did not appreciate that they were acting at the request of one or more foreign nationals. Second, Giuliani and Toensing worked with Parnas and Fruman—who were themselves working at Lutsenko's request—to remove Yovanovitch. There is probable cause to believe that Giuliani and Toensing knew that Parnas was working closely with Lutsenko, and that Lutsenko's primary objective was to remove Yovanovitch. Giuliani and Toensing undertook activities, including lobbying government officials and participating in a media campaign, in coordination with Parnas, who was acting at the request of Lutsenko. Accordingly, I respectfully submit that there is probable cause the Subject Accounts will contain evidence of the Subject Offenses.

A. Probable Cause Regarding the Subject Accounts

44. Based on the foregoing, the facts set forth below, and my training and experience, there is probable cause to believe that the Subject Accounts will contain evidence and instrumentalities of the Subject Offenses, including communications related to Giuliani's and Toensing's efforts to cause the removal of the U.S. Ambassador to the Ukraine, which appear to have been done at the request or direction of a foreign government or individual. In particular:

a. As set forth above, there is probable cause to believe that Giuliani and Toensing are the users of the Subject Accounts, and that they used and appear to continue to use iPhones

registered to the Subject Accounts, to communicate with each other and other co-conspirators, including Parnas, by email and iMessages, in furtherance of the Subject Offenses, see ¶¶ 3, 23-39.

b. More specifically, and as described above, based on my review of returns from the May 16 Warrant and August 14 Warrant, Giuliani used the devices associated with Subject Account-1 through -3 to, among other things: (i) communicate with Parnas regarding the payment of the retainer agreement for Giuliani Partners, *see* ¶ 23 (using the telephone number assigned to Subject Account-1 and the email address assigned to Subject Account-3), and for the draft retainer between Giuliani Partners, diGenova & Toensing, and Yuriy Lutsenko, *see* ¶¶ 26, 36 (using the telephone number assigned to Subject Account-1 and the email address assigned to Subject Account-3); (ii) correspond with Pete Sessions and Parnas, *see* ¶ 24 (using the telephone assigned to Subject Account-2); (iii) receive the May 2018 Sessions letter from Parnas, *see* ¶ 24 (using the telephone assigned to Subject Account-1); (iv) correspond with Parnas and Toensing regarding meetings between them, and/or with Ukrainian nationals and government officials, including Lutsenko, *see* ¶¶ 24-27, 33 (using the telephone assigned to Subject Account-1); (v) correspond with Parnas and Toensing regarding Giuliani's efforts to lobby Secretary of State Pompeo and President Trump regarding the removal of Yovanovitch; *see* ¶¶ 24-39 (using the telephone number assigned to Subject Account-1 and the email address assigned to Subject Account-3); (vi) draft and send copies of retainer agreements with Lutsenko, *see* ¶¶ 26, 36 (using the telephone number assigned to Subject Account-1 and the email address assigned to Subject Account-3); and (vii) communicate with Solomon regarding articles publicizing Lutsenko's allegations prior to their publication *see* ¶¶ 33-37 (using the telephone number assigned to Subject Account-1). Thus, there is probable cause to believe that Giuliani used the iPhones assigned to Subject Account-1 through -3 in furtherance of the Subject Offenses.

c. With respect to Toensing, as described above, and based on my review of returns from the May 16 Warrant and August 14 Warrant, Toensing used the device(s) associated with Subject Account-4 to, among other things: (i) communicate with Parnas about Giuliani's drafting of retainer agreements between diGenova & Toensing and Lutsenko, including the fact that the retainer agreement was "need[ed] for FARA," *see* ¶¶ 26, 36; (ii) communicate with Giuliani and Parnas about Giuliani's efforts to lobby Secretary of State Pompeo and President Trump regarding the removal of Yovanovitch, *see* ¶¶ 24-39, (iii) receive a copy of the May 2018 Sessions letter from Parnas, and pass along John Solomon's contact information to Parnas in exchange, *see* ¶ 33 (iv) arrange meetings with Parnas, Giuliani, Solomon, and diGenova in furtherance of their efforts to remove Yovanovitch, and communicate about Giuliani's efforts to lobby Secretary of State Pompeo and President Trump regarding the removal of Yovanovitch; *see* ¶¶ 25-27; and (v) communicate with Parnas regarding their efforts to publicize Lutsenko's allegations *see* ¶¶ 30-35, 37. Thus, there is probable cause to believe that Toensing used the iPhone(s) assigned to Subject Account-4 in furtherance of the Subject Offenses.

d. Based on my training and experience, iPhones like those linked to the Subject Accounts, which have been used to communicate with others in furtherance of the Subject Offenses often contain records of that activity, including call logs, voicemail messages, text messages, email correspondence, payment records, documents and multimedia (such as videos and photographs of documents or other evidence of criminality), contact information of co-conspirators and/or witnesses, notes about calls and meetings, internet search history relating to unlawful conduct, and logs of communication with co-conspirators and/or witnesses over messaging applications. Specifically, as described above, and based on my review of the May 16 Warrant returns, Giuliani and Toensing used the iPhones linked to the Subject Accounts to

exchange text messages, documents, emails, photographs (including photographs of co-conspirators together and pictures of articles), and videos (including news videos) in furtherance of the Subject Offenses. Based on my training and experience, participation in the investigation, and review of the May 16 Warrant returns, I believe the Subject Accounts will also contain evidence of voicemails, call records, contact information, and notes of meetings regarding, among others, Ukrainian nationals, and U.S. government officials whom Giuliani lobbied to remove Yovanovitch. In addition, based in my participation in the investigation and review of the May 16 Warrant returns, I have learned that Parnas and Fruman regularly use WhatsApp and other end-to-end encrypted secure messaging applications and providers to correspond in furtherance of the Subject Offenses, and that individuals engaged in offenses such as the Subject Offenses regularly use encrypted messaging applications because they are perceived to be more secure. I have also learned that users can set their WhatsApp messages to back up to their iCloud accounts, or their iCloud accounts will contain records of the third party applications installed on a user's device, such as WhatsApp.

e. In addition, based on my training and experience and participation in the investigation, I have learned that individuals engaged in criminal activity often store such records in order to, among other things, keep track of co-conspirator's contact information, keep a record of requests for payments or of payments made, and follow-up on requests for payments, contributions, or other aspects of the schemes. As described above, Giuliani and Toensing used the iPhones assigned to the Subject Accounts to exchange financial information or correspond regarding payments from Parnas and/or Lutsenko. In addition as described above, Giuliani and Toensing used the Subject Accounts to set up meetings in furtherance of the Subject Offenses, and Giuliani met with Ukrainian nationals, including Lutsenko. Accordingly, there is probable cause

to believe that evidence of Giuliani's and Toensing's location data and web search history will lead to evidence of their locations during those meetings, and at other times relevant to their commission of the Subject Offenses. In addition, web search histories for the Subject Accounts will likely contain evidence of searches for the relevant individuals and locations described above, which would lead to evidence of the Subject Offenses.

f. Based on my training and experience, I also know that once records are backed up to an iCloud, they can exist there for months or even years after they were created, even if a user replaces an iPhone or removes files from an iPhone device. Indeed, I have learned from publicly-available information from Apple that, depending on a user's settings, even if a user removes files from an iPhone, that user would need to log into their iCloud account and manually delete those same files in order for them to be removed from the iCloud account. Based on my training and experience and my review of publicly-available information provided by Apple, described above, I have learned that iCloud automatically backs up an iPhone on a daily basis, unless the backup feature is disabled. Thus, the Subject Accounts are likely to contain evidence of the subscriber and billing information, device information and settings, and device backups for iPhones currently and previously assigned to the Subject Accounts. Accordingly, there is probable cause to believe that the Subject Accounts contain records that are, or previously were, on iPhones used by Giuliani and Toensing. Accordingly, there is reason to believe that records will be found in the Subject Accounts that date back years.

g. Temporal Limitation. With respect to Subject Account-1 through -3, this application is limited to content created, sent, or received after May 1, 2018, which is shortly prior to Giuliani's initial correspondence with Parnas, to the present. With respect to Subject Account-

4, this application is limited to content created, sent, or received after December 1, 2018, which is shortly prior to Toensing's initial correspondence with Parnas and Giuliani, to the present.

B. Evidence, Fruits and Instrumentalities

45. Based upon the foregoing, I respectfully submit there is probable cause to believe that information stored on the Provider's servers associated with the Subject Accounts will contain evidence, fruits, and instrumentalities of the Subject Offenses, as more fully described in Section III of Attachment A to the proposed warrant. In particular, I believe the Subject Accounts are likely to contain the following information:

a. Communications with Lev Parnas, Igor Fruman, David Correia, Victor Shokin, Nazar Kholodnytsky, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian national.

b. Evidence relating to Marie Yovanovitch, including but not limited to the May 9, 2018 letter from Congressman Pete Sessions to Secretary of State Mike Pompeo regarding Yovanovitch, attempts to remove Yovanovitch from her position as U.S. Ambassador to Ukraine, or communications with U.S. government officials regarding Yovanovitch or Ukraine.

c. Evidence relating to any funds received directly or indirectly from Parnas, Fruman, Correia or any entity or individual associated with them, into any account controlled by or associated with Victoria Toensing or Rudolph Giuliani.

d. Evidence of the motives of Giuliani, Toensing, Parnas, and Fruman in seeking the removal of Yovanovitch.

e. Evidence of money, actions, or information requested by, or offered or provided to Giuliani, Toensing, Parnas, or Fruman, by any Ukrainian national in connection with efforts to remove Yovanovitch, including but not limited to any Ukrainian investigation of Burisma Holdings Ltd., Hunter Biden, or potential interference in the 2016 U.S. presidential election.

f. Evidence that Giuliani and/or Toensing were acting at the direction, control, or request of any Ukrainian national, government official, corporation or political party, including but not limited to agreements with such an individual or entity, records of meetings, written instructions, payment records, and documents provided by such individuals or entities.

g. Evidence that Giuliani and/or Toensing had meetings with Parnas, Fruman, Correia, Victor Shokin, Nazar Kholodnytsy, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian government official, corporation, or political party, including but not limited to travel records, and location and IP records that establish or aid in establishing Giuliani's or Toensing's presence in the vicinity of those individuals.

h. Evidence of any contemplated, planned, or actual lobbying efforts relevant to Ukraine, including any press interviews or media strategies, or meetings with U.S. government officials.

i. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

j. Evidence of efforts or attempts to conceal meetings or communications with individuals acting on behalf of or associated with any Ukrainian national or government official.

k. Passwords or other information needed to access user's online accounts.

IV. Review of the Information Obtained Pursuant to the Warrant

46. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for service of a search warrant issued under § 2703, or for the collection or production of responsive records. Accordingly, the warrant requested herein will be transmitted to the Provider,

which shall be directed to produce a digital copy of any responsive records to law enforcement personnel within 10 days from the date of service. Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) will retain the records and review them for evidence, fruits, and instrumentalities of the Subject Offenses as specified in Section III of Attachment A to the proposed warrant.

47. In conducting this review, law enforcement personnel may use various methods to locate evidence, fruits, and instrumentalities of the Subject Offenses, including but not limited to undertaking a cursory inspection of all records within the Subject Accounts. This method is analogous to cursorily inspecting all the files in a file cabinet in an office to determine which paper evidence is subject to seizure. Although law enforcement personnel may use other methods as well, particularly including keyword searches, I know that keyword searches and similar methods are typically inadequate to detect all information subject to seizure. As an initial matter, keyword searches work only for text data, yet many types of files commonly associated with emails, including attachments such as scanned documents, pictures, and videos, do not store data as searchable text. Moreover, even as to text data, keyword searches cannot be relied upon to capture all relevant communications in an account, as it is impossible to know in advance all of the unique words or phrases that investigative subjects will use in their communications, and consequently there are often many communications in an account that are relevant to an investigation but that do not contain any keywords that an agent is likely to search for.

48. Additionally, because Giuliani and Toensing are attorneys, the review of evidence from the Subject Accounts will be conducted pursuant to the USAO's screening procedures to ensure

that the law enforcement personnel involved in the investigation, including attorneys for the Government, collect evidence in a manner reasonably designed to protect any attorney-client or other applicable privilege. The USAO will use a designated "filter team," separate and apart from the investigative team, in order to review potentially privileged communications and determine which communications to release to the investigation and prosecution team.

V. Request for Non-Disclosure and Sealing Order

49. While Parnas, Fruman, and others have been publicly indicted with respect to separate charges, and there has been some public reporting about the existence of a criminal investigation into the removal of Ambassador Yovanovitch, the scope and focus of this criminal investigation are not publicly known. As a result, premature public disclosure of this affidavit or the requested warrant could alert potential criminal targets that they are under investigation and/or to the scope and focus of the investigation, causing them to destroy evidence, flee from prosecution, or otherwise seriously jeopardize the investigation. Specifically, from my experience investigating public corruption offenses, I know that individuals who participate in offenses such as the Subject Offenses may communicate about known government investigations and tailor their stories to be consistent, and tamper with or hide potential evidence. Accordingly, premature disclosure of the scope of this investigation would undermine efforts to obtain truthful statements from relevant witnesses, and could lead to witness tampering and/or obstruction of justice. In addition, the investigation relates to financial transactions involving foreign bank accounts, and premature disclosure of the focus of this investigation could lead to efforts to hide or conceal foreign funds or transactions. Lastly, if the subjects of this investigation were alerted to the existence of a criminal investigation, it may prompt them to delete electronic records, including in e-mail accounts or other electronic media not presently known to the government. Accordingly, there is

reason to believe that, were the Provider to notify the subscriber or others of the existence of the warrant, the investigation would be seriously jeopardized. Pursuant to 18 U.S.C. § 2705(b), I therefore respectfully request that the Court direct the Provider not to notify any person of the existence of the warrant for a period of one year from issuance, subject to extension upon application to the Court, if necessary.

50. For similar reasons, I respectfully request that this affidavit and all papers submitted herewith be maintained under seal until the Court orders otherwise, except that the Government be permitted without further order of this Court to provide copies of the warrant and affidavit as need be to personnel assisting it in the investigation and prosecution of this matter, and to disclose those materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

VI. Conclusion

51. Based on the foregoing, I respectfully request that the Court issue the warrant sought herein pursuant to the applicable provisions of the Stored Communications Act, 18 U.S.C. § 2703(b)(1)(A) (for contents) and § 2703(c)(1)(A) (for records and other information), and the relevant provisions of Federal Rule of Criminal Procedure 41.

[redacted]
Special Agent
Federal Bureau of Investigation

Sworn to before me this
4th day of November, 2019

HONORABLE J. PAUL OETKEN
United States Magistrate Judge
Southern District of New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

19 MAG 10364

In the Matter of a Warrant for All Content and Other Information Associated with the iCloud Accounts assigned to Telephone Numbers [redacted], and Email [redacted], Maintained at Premises Controlled by Apple, Inc. USAO Reference No. 2018R01226

SEARCH WARRANT AND NON-DISCLOSURE ORDER

TO: Apple Inc. ("Provider")

United States Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation (collectively, the "Investigative Agencies")

1. Warrant. Upon an affidavit of Special Agent [redacted] of the Federal Bureau of Investigation, and pursuant to the provisions of the Stored Communications Act, 18 U.S.C. § 2703(b)(1)(A) and § 2703(c)(1)(A), and the relevant provisions of Federal Rule of Criminal Procedure 41, the Court hereby finds there is probable cause to believe the Apple iCloud Accounts assigned to telephone numbers [redacted], and email and iCloud account [redacted], maintained at premises controlled by Apple Inc., contain evidence, fruits, and instrumentalities of crime, all as specified in Attachment A hereto. Accordingly, the Provider is hereby directed to provide to the Investigative Agencies, within 10 days of the date of service of this Warrant and Order, the records specified in Section II of Attachment A hereto, for subsequent review by law enforcement personnel as authorized in Section III of Attachment A. The Government is required to serve a copy of this Warrant and Order on the Provider within 14 days of the date of issuance. The Warrant and Order may be served via electronic transmission or any other means through which the Provider is capable of accepting service.

2. Non-Disclosure Order. Pursuant to 18 U.S.C. § 2705(b), the Court finds that there is reason to believe that notification of the existence of this warrant will result in destruction of or tampering with evidence, and/or tamping with potential witnesses, or otherwise will seriously jeopardize an ongoing investigation. Accordingly, it is hereby ordered that the Provider shall not disclose the existence of this Warrant and Order to the listed subscriber or to any other person for a period of one year from the date of this Order, subject to extension upon application to the Court if necessary, except that Provider may disclose this Warrant and Order to an attorney for Provider for the purpose of receiving legal advice.

3. Sealing. It is further ordered that this Warrant and Order, and the Affidavit upon which it was issued, be filed under seal, except that the Government may without further order of this Court serve the Warrant and Order on the Provider; provide copies of the Affidavit or Warrant and Order as need be to personnel assisting the Government in the investigation and prosecution of this matter; and disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

Dated: New York, New York

Nov. 4, 2019 — Date Issued

10:47 a.m. — Time Issued

HONORABLE J. PAUL OETKEN
UNITED STATES DISTRICT JUDGE
Southern District of New York

iCloud Search Warrant Attachment A

I. Subject Accounts and Execution of Warrant

This warrant is directed to Apple Inc. (the "Provider"), headquartered at 1 Infinite Loop, Cupertino, California 95014, and applies to all content and other information within the Provider's possession, custody, or control associated with the iCloud accounts assigned to telephone numbers [redacted] ("Subject Account-1"), [redacted] ("Subject Account-2"), [redacted] ("Subject Account-4"), and the email and iCloud account [redacted] ("Subject Account-3"), Maintained at Premises Controlled by Apple, Inc. (the "Subject Accounts"). The Provider is directed to produce the information described below associated with the Subject Accounts for the following time periods through the date of this Warrant. With respect to Subject Account-1 through -3, this application is limited to content created, sent, or received after May 1, 2018. With respect to Subject Account-4, this application is limited to content created, sent, or received after December 1, 2018.

A law enforcement officer will serve this warrant by transmitting it via email or another appropriate manner to the Provider. The Provider is directed to produce to the law enforcement officer an electronic copy of the information specified in Section II below. Upon receipt of the production, law enforcement personnel will review the information for items falling within the categories specified in Section III below.

II. Information to be Produced by the Provider

To the extent within the Provider's possession, custody, or control, the Provider is directed to produce the following information associated with the Subject Accounts:

a. *Subscriber and payment information.* All subscriber and payment information regarding the Subject Accounts, including but not limited to name, username, address, telephone

number, alternate email addresses, registration IP address, account creation date, account status, length of service, types of services utilized, means and source of payment, and payment history.

b. *Device information and settings*. All information about the devices associated with the Subject Accounts, including but not limited to the Integrated Circuit Card ID ("ICCID") number, the Media Access Control address ("MAC address"), the unique device identifier ("UDID"), the serial number, customer device settings, and repair history.

c. *Transactional records*. All transactional records associated with the Subject Accounts, including any IP logs or other records of session times and durations.

d. *Address book information.* All address book, contact list, or similar information associated with the Subject Accounts.

e. *Call history and voicemails*. All call histories, logs for FaceTime calls, audio voicemails, and visual voicemails associated with the Subject Accounts.

f. *Text message content.* All text messages (including iMessages, Short Message Service ("SMS") messages, and Multimedia Messaging Service ("MMS") messages) sent to or from, stored in draft form in, or otherwise associated with the Subject Accounts, including all message content, attachments, and header information (specifically including the source and destination addresses associated with each text message, and the date and time at which each text message was sent).

g. *Email content.* All emails sent to or from, stored in draft form in, or otherwise associated with the Subject Accounts, including all message content, attachments, and header information (specifically including the source and destination addresses associated with each email, the date and time at which each email was sent, and the size and length of each email).

h. *Photos and videos.* All photographs or videos associated with the Subject Accounts, including any photographs or videos found on any iCloud Photo Library, My Photo Stream, or iCloud Photo Sharing service linked to the Subject Accounts. All associated metadata with any photograph or video including the time and date of creation, the author or creator, the means of its creation, and the GPS location information for where a photo or video was taken.

i. *Documents.* All documents stored in or otherwise associated with the Subject Accounts, including all documents in iCloud Drive, and iWork Apps.

j. *Search and web histories.* All search history, web history, bookmarks, and iCloud Tabs.

k. *Third-party application data.* All records, messages, and data relating to third-party applications, including WhatsApp and other third-party messaging applications, stored in or otherwise associated with the Subject Accounts.

l. *Location data.* All location data associated with the Subject Accounts.

m. *iOS Device Backups.* All device backups, and the contents of those backups, including but not limited to messages, web history, and preferences.

III. Review of Information by the Government

Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) are authorized to review the records produced by the Provider in order to locate any evidence, fruits, and instrumentalities of violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 951 (acting as an agent of a foreign government), 18 U.S.C. § 2 (willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (together, the "Subject Offenses"), including the following:

a. Communications with Lev Parnas, Igor Fruman, David Correia, Victor Shokin, Nazar Kholodnytsky, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian national.

b. Evidence relating to Marie Yovanovitch, including but not limited to the May 9, 2018 letter from Congressman Pete Sessions to Secretary of State Mike Pompeo regarding Yovanovitch, attempts to remove Yovanovitch from her position as U.S. Ambassador to Ukraine, or communications with U.S. government officials regarding Yovanovitch or Ukraine.

c. Evidence relating to any funds received directly or indirectly from Parnas, Fruman, Correia or any entity or individual associated with them, into any account controlled by or associated with Victoria Toensing or Rudolph Giuliani.

d. Evidence of the motives of Giuliani, Toensing, Parnas, and Fruman in seeking the removal of Yovanovitch.

e. Evidence of money, actions, or information requested by, or offered or provided to Giuliani, Toensing, Parnas, or Fruman, by any Ukrainian national in connection with efforts to remove Yovanovitch, including but not limited to any Ukrainian investigation of Burisma Holdings Ltd., Hunter Biden, or potential interference in the 2016 U.S. presidential election.

f. Evidence that Giuliani and/or Toensing were acting at the direction, control, or request of any Ukrainian national, government official, corporation or political party, including but not limited to agreements with such an individual or entity, records of meetings, written instructions, payment records, and documents provided by such individuals or entities.

g. Evidence that Giuliani and/or Toensing had meetings with Parnas, Fruman, Correia, Victor Shokin, Nazar Kholodnytsy, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian government official, corporation, or political party, including but not limited to travel

records, and location and IP records that establish or aid in establishing Giuliani's or Toensing's presence in the vicinity of those individuals.

h. Evidence of any contemplated, planned, or actual lobbying efforts relevant to Ukraine, including any press interviews or media strategies, or meetings with U.S. government officials.

i. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

j. Evidence of efforts or attempts to conceal meetings or communications with individuals acting on behalf of or associated with any Ukrainian national or government official.

k. Passwords or other information needed to access user's online accounts.

19MAG11704

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant for All Content and Other Information Associated with the Email Account [redacted], Maintained at Premises Controlled by Google, LLC, USAO Reference No. 2018R01226

SEARCH WARRANT AND NON-DISCLOSURE ORDER

TO: Google, LLC ("Provider")

Federal Bureau of Investigation and United States Attorney's Office for the Southern District of New York

1. Warrant. Upon an affidavit of Special Agent [redacted] of the Federal Bureau of Investigation, and pursuant to the provisions of the Stored Communications Act, 18 U.S.C. § 2703(b)(1)(A) and § 2703(c)(1)(A), and the relevant provisions of Federal Rule of Criminal Procedure 41, the Court hereby finds there is probable cause to believe the email account [redacted], maintained at premises controlled by Google, LLC, contains evidence, fruits, and instrumentalities of crime, all as specified in Attachment A hereto. Accordingly, the Provider is hereby directed to provide to the Investigative Agency, within 30 days of the date of service of this Warrant and Order, the records specified in Section II of Attachment A hereto, for subsequent review by law enforcement personnel as authorized in Section III of Attachment A. The Government is required to serve a copy of this Warrant and Order on the Provider within 14 days of the date of issuance. The Warrant and Order may be served via electronic transmission or any other means through which the Provider is capable of accepting service.

2. Non-Disclosure Order. Pursuant to 18 U.S.C. § 2705(b), the Court finds that there is reason to believe that notification of the existence of this warrant will result in destruction of or

tampering with evidence, flight, and/or intimidation of potential witnesses, or otherwise will seriously jeopardize an ongoing investigation. Accordingly, it is hereby ordered that the Provider shall not disclose the existence of this Warrant and Order to the listed subscriber, the enterprise account subscriber or representative, or to any other person for a period of one year from the date of this Order, subject to extension upon application to the Court if necessary, except that Provider may disclose this Warrant and Order to an attorney for Provider for the purpose of receiving legal advice.

3. Sealing. It is further ordered that this Warrant and Order, and the Affidavit upon which it was issued, be filed under seal, except that the Government may without further order of this Court serve the Warrant and Order on the Provider; provide copies of the Affidavit or Warrant and Order as need be to personnel assisting the Government in the investigation and prosecution of this matter; and disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

Dated: New York, New York

Dec. 13, 2019 3:07 PM

Date Issued Time Issued

UNITED STATES MAGISTRATE JUDGE
Southern District of New York

Email Search Attachment A

I.Subject Account and Execution of Warrant

This warrant is directed to Google, LLC (the "Provider"), headquartered at 1600 Amphitheatre Parkway, Mountain View, California 94043, and applies to all content and other information within the Provider's possession, custody, or control associated with the email account [redacted] (the "Subject Account"). This warrant covers content created, sent, or received on or after December 1, 2018.

A law enforcement officer will serve this warrant by transmitting it via email or another appropriate manner to the Provider. The Provider is directed to produce to the law enforcement officer an electronic copy of the information specified in Section II below. Upon receipt of the production, law enforcement personnel will review the information for items falling within the categories specified in Section III below.

II. Information to be Produced by the Provider

To the extent within the Provider's possession, custody, or control, the Provider is directed to produce the following information associated with the Subject Account:

a. *Email content.* All emails sent to or from, stored in draft form in, or otherwise associated with the Subject Account, including all message content, attachments, and header information (specifically including the source and destination addresses associated with each email, the date and time at which each email was sent, and the size and length of each email).

b. *Address book information.* All address book, contact list, or similar information associated with the Subject Account.

c. *Subscriber and payment information.* All subscriber and payment information regarding the Subject Account, including but not limited to name, username, address, telephone

number, alternate email addresses, registration IP address, account creation date, account status, length of service, types of services utilized, means and source of payment, and payment history.

d. *Transactional records*. All transactional records associated with the Subject Account, including any IP logs or other records of session times and durations.

e. *Google Drive Content.* All Google Drive records associated with the Subject Account, including all documents and other records stored on the Google Drive accounts.

f. *Google Docs*. All Google Docs records associated with the Subject Account, including all documents created or stored in Google Docs.

g. *Google Calendar*. All calendar entries and records associated with the Subject Account.

h. *Location History*. All location records associated with the Subject Account.

i. *Information Regarding Linked Accounts, Including Accounts Linked by Cookie.* Any information identifying accounts that are associated or connected to the Subject Account, including specifically by Cookie, email account, phone number, Google Account ID, Android ID, or other account or device identifier.

j. *Device Information.* Any information identifying the device or devices used to access the Subject Account, including a device serial number, a GUID or Global Unique Identifier, a phone number, serial numbers, MAC addresses, Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"), Mobile Equipment Identifiers ("MEID"), Mobile Identification Numbers ("MIN"), Subscriber Identity Modules ("SIM"), Mobile Subscriber Integrated Services Digital Network Number ("MSISDN"), International Mobile Subscriber Identifiers ("IMSI"), or International Mobile Equipment Identities ("IMEI"), and any other information regarding the types of devices used to access the Subject Account.

k. *Android Services*. All records relating to Android services associated with the Subject Account.

l. *Preserved or backup records.* Any preserved or backup copies of any of the foregoing categories of records, whether created in response to a preservation request issued pursuant to 18 U.S.C. § 2703(f) or otherwise.

III. Review of Information by the Government

Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) are authorized to review the records produced by the Provider in order to locate any evidence, fruits, and instrumentalities of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 951 (acting as an agent of a foreign government), 18 U.S.C. § 2 (willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (together, the "Subject Offenses"), consisting of the following:

a. Communications with Lev Parnas, Igor Fruman, David Correia, Rudolph Giuliani, Roman Nasirov, Victor Shokin, Nazar Kholodnytsky, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian national.

b. Communications with or about John Solomon that relate to Ukraine, Burisma, and/or Marie Yovanovitch.

c. Evidence relating to Marie Yovanovitch, including but not limited to the May 9, 2018 letter from Congressman Pete Sessions to Secretary of State Mike Pompeo regarding Yovanovitch, attempts to remove Yovanovitch from her position as U.S. Ambassador to Ukraine, or communications with U.S. government officials regarding Yovanovitch or Ukraine.

d. Evidence relating to any funds received directly or indirectly from Parnas, Fruman, Correia or any entity or individual associated with them, into any account controlled by or associated with Victoria Toensing or Rudolph Giuliani.

e. Evidence of the motives of Giuliani, Toensing, Parnas, and Fruman in seeking the removal of Yovanovitch.

f. Evidence of money, actions, or information requested by, or offered or provided to Giuliani, Toensing, Parnas, or Fruman, by any Ukrainian, including but not limited to the efforts to remove Yovanovitch and/or any Ukrainian investigation of Burisma Holdings Ltd., Hunter Biden, or potential interference in the 2016 U.S. presidential election.

g. Evidence of requests for action or payment of money by Dmytro Firtash for any matter besides the legal defense of Firtash in extradition or U.S. criminal proceedings.

h. Evidence that Giuliani and/or Toensing were acting at the direction, control, or request of any Ukrainian national, government official, corporation or political party, including but not limited to agreements with such an individual or entity, records of meetings, written instructions, payment records, and documents provided by such individuals or entities.

i. Evidence that Toensing had meetings with Parnas, Fruman, Correia, Victor Shokin, Nazar Kholodnytsy, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian government official, corporation, or political party, including but not limited to travel records, and location and IP records that establish or aid in establishing Toensing's presence in the vicinity of those individuals.

j. Evidence of any contemplated, planned, or actual lobbying efforts relevant to Ukraine, including any press interviews or media strategies, or meetings with U.S. government officials.

k. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

l. Evidence of efforts or attempts to conceal meetings or communications with individuals acting on behalf of or associated with any Ukrainian national or government official.

m. Passwords or other information needed to access user's online accounts.

19MAG11704

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant for All Content and Other Information Associated with the Email Account [redacted].com, Maintained at Premises Controlled by Google, LLC, USAO Reference No. 2018R01226

TO BE FILED UNDER SEAL

AGENT AFFIDAVIT

Agent Affidavit in Support of Application for a Search Warrant for Stored Electronic Communications

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

[redacted], being duly sworn, deposes and states:

I. Introduction

A. Affiant

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). In the course of my experience and training in this position, I have participated in criminal investigations into federal offenses involving public corruption and violations of the federal campaign finance laws. I also have training and experience executing search warrants, including those involving electronic evidence.

B. The Provider, the Subject Account and the Subject Offenses

2. I make this affidavit in support of an application for a search warrant pursuant to 18 U.S.C. § 2703 for all content and other information associated with the email account [redacted].com (the "Subject Account"), maintained and controlled by Google, LLC (the "Provider"), headquartered at 1600 Amphitheatre Parkway, Mountain View, California

94043. The information to be searched is described in the following paragraphs and in Attachment A to the proposed warrant.

3. As detailed below, there is probable cause to believe that the Subject Account contains evidence, fruits, and instrumentalities of violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 951 (acting as an agent of a foreign government), 18 U.S.C. § 2 (willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (together, the "Subject Offenses").

4. This affidavit is based upon my personal knowledge, my review of documents and other evidence, and my conversations with other law enforcement officers, as well as my training and experience concerning the use of email in criminal activity. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts I have learned during my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

C. Services and Records of the Provider

5. I have learned the following about the Provider:

a. The Provider offers email services to the public. In particular, the Provider allows subscribers to maintain email accounts under the domain name gmail.com and under any domain name under the subscriber's control. For example, if a subscriber controls the domain name "xyzbusiness.com," the Provider enables the subscriber to host any email address under this domain name (*e.g.*, "john@xyzbusiness.com"), on servers operated by the Provider. A subscriber using the Provider's services can access his or her email account from any computer connected to the Internet.

b. The Provider maintains the following records and information with respect to every subscriber account:

i. *Email contents.* In general, any email (which can include attachments such as documents, images, and videos) sent to or from a subscriber's account, or stored in draft form in the account, is maintained on the Provider's servers unless and until the subscriber deletes the email. If the subscriber does not delete the email, it can remain on the Provider's computers indefinitely. Even if the subscriber deletes the email, it may continue to be available on the Provider's servers for a certain period of time.

ii. *Address book.* The Provider also allows subscribers to maintain the equivalent of an address book, comprising email addresses and other contact information of other email users.

iii. *Subscriber and billing information.* The Provider collects and maintains (typically unverified) identifying information about each subscriber, including, for example, name, username, address, telephone number, and alternate email addresses. The Provider also maintains records concerning the date on which the account was created, the Internet protocol ("IP") address of the user at the time of account creation, the current status of the account (*e.g.*, active or closed), the length of service, and the types of services utilized by the subscriber. Additionally, for paying subscribers, the Provider maintains records of the subscriber's means and source of payment, including any credit card or bank account number.

iv. *Transactional information.* The Provider also typically retains certain transactional information about the use of each account on its system. This information can include records of login (*i.e.*, session) times and durations and the methods used to connect to the account (such as logging into the account through the Provider's website).

v. *Google Drive Content.* The Provider provides users with a certain amount of free "cloud" storage, currently 15 gigabytes, through a service called "Google Drive" (users can purchase a storage plan through Google to store additional content). Users can purchase enhanced storage capacity for an additional monthly fee. Users can use their Google Drive to store email, attachments, videos, photographs, documents, and other content "in the cloud" (that is, online). A user can access content stored on Google Drive by logging into his subscriber account through any computer or other electronic device connected to the Internet. Users can also share files stored on Google Drive with others, allowing them to view, comment, and/or edit the files.

vi. *Google Docs.* The Provider provides users with the ability to write, edit, and collaborate on various documents with other users through a service called "Google Docs." Users can use Google Docs to create online documents that can be stored on or saved to the user's Google Drive.

vii. *Google Calendar.* The Provider provides users with an online calendar, in which they can add appointments, events, and reminders, which are synchronized across registered computers and mobile devices. Users can share their calendars with other users, allowing the maintenance of joint calendars.

viii. *Location History.* The Provider maintains recent location data, collected periodically, from mobile devices that are logged into or have used applications (or "apps") or services provided by the Provider. For example, the Provider collects information collected from GPS, Wi-Fi networks, cell site locations, and mobile networks to estimate a user's location. Apps and services also allow for location reporting, which allows the Provider to periodically store and use a device's most recent location data in connection with a subscriber account.

ix. *Device Information.* The Provider collects and maintains information identifying devices (including both computers and mobile devices) used to access accounts, including, for example, device serial number, a GUID or Global Unique Identifier, a phone number, MAC addresses, Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"), Mobile Equipment Identifiers ("MEID"), Mobile Identification Numbers ("MIN"), Subscriber Identity Modules ("SIM"), Mobile Subscriber Integrated Services Digital Network Number ("MSISDN"), International Mobile Subscriber Identifiers ("IMSI"), or International Mobile Equipment Identities ("IMEI").

x. *Android Services.* The Provider also maintains information relating to Android, as it relates to an account. Android is a mobile operating system that is developed by the Provider, and is used on a variety of touchscreen mobile devices, such as smartphones and tablet computers. The Provider retains information related to the Android device associated with an account, including the IMEI (International Mobile Station Equipment Identifier), MEID (Mobile Equipment Identifier), device ID, and/or serial number of the device. Each of those identifiers uniquely identifies the device used. One device may be associated with multiple different Google and Android accounts, and one Google or Android account may be associated with multiple devices.

xi. *Linked Accounts.* The Provider uses features to track the activity of users of their accounts, including whether or not the user of an account accesses other accounts at Google using the same computer, or accesses accounts maintained by other companies while logged into an account. One of the ways they do that is by using cookies, a string of characters stored on the user's computer or web browser that is recognized by Google when a computer visits its site or logs into an account.

xii. *Preserved and backup records.* The Provider also maintains preserved copies of the foregoing categories of records with respect to an account, for at least 90 days, upon receiving a preservation request from the Government pursuant to 18 U.S.C. § 2703(f). The Provider may also maintain backup copies of the foregoing categories of records pursuant to its own data retention policy.

D. Jurisdiction and Authority to Issue Warrant

6. Pursuant to 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A), the Government may require a provider of an electronic communications service or a remote computing service, such as the Provider, to disclose all stored content and all non-content records or other information pertaining to a subscriber, by obtaining a warrant issued using the procedures described in the Federal Rules of Criminal Procedure.

7. A search warrant under § 2703 may be issued by "any district court of the United States (including a magistrate judge of such a court)" that "has jurisdiction over the offense being investigated." 18 U.S.C. § 2711(3)(A)(i).

8. When the Government obtains records under § 2703 pursuant to a search warrant, the Government is not required to notify the subscriber of the existence of the warrant. 18 U.S.C. § 2703(a), (b)(1)(A), (c)(2) & (3). Additionally, the Government may obtain an order precluding the Provider from notifying the subscriber or any other person of the warrant, for such period as the Court deems appropriate, where there is reason to believe that such notification will seriously jeopardize an investigation. 18 U.S.C. § 2705(b).

II. Prior Applications Referenced Below

9. On or about January 18, 2019, the United States Attorney's Office for the Southern District of New York ("USAO") and FBI sought and obtained from the Honorable Sarah Netburn, Magistrate Judge for the Southern District of New York, a search warrant (the "January 18

Warrant") for records in email accounts belonging to Lev Parnas, Igor Fruman, and others. On or about October 17, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the January 18 Warrant returns for evidence of additional offenses.

10. On or about May 16, 2019, the USAO and FBI sought and obtained from the Honorable Stewart Aaron, Magistrate Judge for the Southern District of New York, a search warrant (the "May 16 Warrant") for iCloud accounts belonging to Parnas, Fruman, and Van Rensburg. On or about October 21, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the May 16 Warrant returns for evidence of additional offenses.

11. On or about August 14, 2019, the USAO and FBI sought and obtained from the Honorable Henry B. Pitman, Magistrate Judge for the Southern District of New York, a search warrant (the "August 14 Warrant") for email accounts belonging to Parnas, Fruman, and others.

III. Probable Cause

A. Probable Cause Regarding the Subject Offenses

Overview

12. The FBI and USAO are investigating whether Victoria Toensing (the user of the Subject Account) and others – including Rudolph Giuliani, Lev Parnas, and Igor Fruman – undertook actions to cause the removal of the United States Ambassador to the Ukraine, Marie Yovanovitch, and other conduct detailed below at the request and/or under the direction of a foreign government, entity, or person, in violation of the Foreign Agents Registration Act ("FARA").

13. FARA criminalizes acting as an agent of a foreign principal without registering with the Attorney General for certain specified activities. Activities covered by FARA include acting

as a "publicity agent" or engaging in the United States in "political activities." *See* 22 U.S.C. §§ 611-12. "[P]olitical activities" are defined in the statute as "any activity . . . [to] influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party." *Id.* As relevant here, FARA requires any person acting "at the order, request, or under the direction or control" of (i) a foreign principal, or (ii) a person whose activities are "indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign principal," to register with the Attorney General and to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts, and disbursements in support of those activities. *Id.* Similarly, the federal foreign agent statute prohibits non-diplomats from acting within the United States as agents of a foreign government without prior notification to the Attorney General. 18 U.S.C. § 951.

14. There is probable cause to believe that Toensing, Giuliani, Parnas, and Fruman lobbied for the removal of then-Ambassador Yovanovitch, at the direction and request of at least one Ukrainian government official, and that they did so without registering under FARA or providing notice to the Attorney General. Indeed, as described below, it appears that Toensing was retained by, or was in discussions to be retained by, one or more Ukrainian nationals to lobby for the removal of Ambassador Yovanovitch, and aided Parnas, Fruman, and Giuliani in their efforts to remove the Ambassador, in violation of the Subject Offenses. Moreover, as set forth below, based on my review of materials obtained pursuant to the January 18 Warrant, May 16 Warrant, and August 14 Warrant, there is probable cause to believe that Toensing used the Subject Account in

furtherance of the Subject Offenses including by, among other things, communicating about the removal of then-Ambassador Yovanovitch.

Background

15. Parnas is a businessman and entrepreneur who lives in south Florida, and is a naturalized U.S. citizen originally from Ukraine.[1] Based on my review of emails obtained pursuant to the January 18 Warrant, May 16 Warrant, materials obtained pursuant to Grand Jury subpoenas, and my review of public reporting, I have learned that since at least 2016, Parnas has had close relationships with Ukrainian government officials, including Roman Nasirov (then-Head of the State Fiscal Service of Ukraine),[2] Victor Shokin (then-General Prosecutor of Ukraine), and Petro Poroshenko (then-President of Ukraine). Parnas also appears to have acted as an intermediary on their behalf in the United States. Specifically, I have learned the following with respect to Parnas's activities in 2016 and 2017 related to Ukrainian officials:

a. On or about December 16, 2016, according to records obtained pursuant to a grand jury subpoena to Ballard Partners, Parnas introduced Brian Ballard of the lobbying firm Ballard Partners to Nasirov, and it appears that the purpose of that meeting, at least in part, was to discuss Nasirov retaining Ballard Partners to lobby on his behalf.

[1] On October 9, 2019, a grand jury sitting in the Southern District of New York returned an indictment charging Parnas with conspiring to make unlawful straw donations, making and willfully causing false statements to be made to the FEC, fabricating documents to impede, obstruct, and influence the proper administration of a matter within the FEC's jurisdiction, and conspiring to make unlawful foreign contributions in 52 U.S.C. §§ 30121, 30122 and 18 U.S.C. §§ 371, 1001, 2, and 1519.

[2] Based on my review of public reporting and participation in the investigation, I have learned that the State Fiscal Service of Ukraine is a governmental agency that combines the powers of tax authorities, customs, and financial police, and is responsible for, among other things, implementing state tax and customs policy.

b. Based on my review of materials obtained from Ballard Partners and pursuant to the January 18 Warrant and May 16 Warrant, I have learned that throughout January 2017, Parnas served as an intermediary between Ballard and Nasirov, and received a referral fee from Ballard after Ballard was retained by Nasirov. It appears that Ballard and Parnas took efforts to hide the fact that Nasirov was the ultimate client. Although the earliest draft of the retainer agreement listed the client as the "Government of Ukraine," in a subsequent draft of a retainer agreement circulated in early January 2017, the client was listed as a British law firm "acting in the interests of Roman Nasirov, a citizen of Ukraine."

c. Based on my review of materials obtained from Ballard Partners and pursuant to the January 18 Warrant and May 16 Warrant, I have learned that the final agreement between Ballard and Nasirov omitted any reference to Nasirov, and described the client simply as the British law firm. Nonetheless, email correspondence between Parnas and Nasirov makes clear that Nasirov was the ultimate client. The contract memorialized an agreement for Ballard to "consult with the Client and advocate on its behalf" on any issues "before the Federal government of the United States" in exchange for $100,000 per month, plus costs. Based on my review of materials obtained pursuant to the May 16 Warrant and from Ballard Partners, I have learned that in January 2017, Nasirov subsequently wired $100,000 to Ballard Partners, from a bank in Armenia, to the British law firm, and then onto Ballard Partners.

d. Nasirov subsequently began to solicit Parnas and Ballard's assistance in lobbying the U.S. government on his behalf. Based on my review of WhatsApp messages obtained pursuant to the May 16 Warrant, I have learned that Ballard appears to have assisted Parnas and Nasirov in getting tickets to then 58th Presidential Inauguration in January 2017. Then, on or about January 30, 2017, Nasirov texted Parnas that he was traveling to New York and Washington, and Parnas

reported that he had let Ballard know. On or about February 2, 2017, Nasirov forwarded Parnas a Russian-language article entitled "Nasirov predicts increased cooperation with the US under Trump's presidency," and a second article announcing that Trump and Poroshenko would hold a phone conversation in the coming days. Nasirov wrote, "I sent to Brian as well. I think u need to talk to him and he needs to try to talk to mr. T," in an apparent reference to President Trump. Nasirov added, ". . . I think Brian has to say in advance that he involved with Ukrainian situation and wants to participate more !!! … We just need to stay on top of it! And can't loose [sic] control." Parnas confirmed "I agree I'm on [it] I will speak with him in the morning."

e. In February 2017, Parnas acted again as an intermediary between Ballard and the Ukrainian government. On February 10, 2017, Ballard emailed Parnas a copy of a contract for services between the "Government of Ukraine" and Ballard Partners, which appeared to be separate from Ballard's work for Nasirov (which was already subject to a paid retainer and signed contract); Parnas sent the contract to Nasirov by WhatsApp the next day. On February 14, 2017, Ballard sent Parnas a copy of a letter from Ballard to President Poroshenko, in which Ballard apologized for not being able to travel to meet Poroshenko, but looked forward to meeting him in New York to "discuss the issues of importance to Ukraine in its relations with the United States." Parnas then forwarded a copy of the letter to Nasirov by WhatsApp.

f. However, Ballard terminated his work on behalf of these Ukrainian clients shortly thereafter: on February 19, 2017, Parnas forwarded Ballard a copy of an article in the New York Times entitled "A Back-Channel Plan for Ukraine and Russia, Courtesy of Trump Associates." Sylvester Lukis, the managing partner of Ballard's Washington office, wrote back "Not good." On March 14, 2017, Lukis emailed Parnas in reference to Ballard's "representation of the [British law firm]," and wrote that because they have not "received any direction" in the three months they

have been under contract, Ballard was terminating the agreement. Parnas replied, "Got it. I will let them know."

g. Based on my review of Department of Justice filings related to FARA, I have learned that neither Ballard nor Parnas registered under FARA in connection with any work performed in 2017 for Nasirov, the British law firm, or the government of Ukraine.[3]

Efforts to Cause the U.S. Ambassador to Ukraine to be Removed

16. Beginning in early 2018, it appears that Parnas and others undertook efforts to cause Ambassador Yovanovitch to be removed from her posting. As described below, it appears that Parnas lobbied for Yovanovitch's removal at the direction and request of Shokin and Yuriy Lutsenko, who was at that point the Ukrainian Prosecutor-General and an ally of then-President Poroshenko.[4]

17. It appears from public reporting that Lutsenko and others allied with then-President Poroshenko were motivated to seek the removal of Ambassador Yovanovitch for multiple reasons, which were subsequently refereneed by Lutsenko in his communications with Parnas regarding Yovanovitch's removal in the spring of 2019. Specifically, based on my review of materials obtained pursuant to the May 16 Warrant and public reporting, I have learned the following:

a. According to public reporting, on April 4, 2018, Ukraine's National Anti-Corruption Bureau ("NABU") released an audio recording of Nazar Kholodnytsky, the head of the

[3] Based on public reporting, I have learned that on March 3, 2017, Nasirov was relieved of his duties after he was accused of embezzling in excess of $80 million, and was subsequently indicted in November 2017, however his conviction was subsequently overturned in December 2018 and he was formally reinstate as the head of the State Fiscal Service, however he did not assume that position.

[4] Based on my review of public reporting, I have learned that in 2016, former Prosecutor-General, Victor Shokin, was removed from his office by Ukraine's parliament. After Shokin's removal, on or about May 12, 2016, President Poroshenko appointed Lutsenko as Prosecutor-General.

Special Anti-Corruption Office ("SAPO") implicating Kholodnytsky in corruption. According to public reporting, NABU receives funding from the U.S. and European Union aid programs, and has worked with U.S. law enforcement to share information in the past. In the recordings, Kholodnytsky tipped off corruption targets that they were going to be searched, and pressured anti-corruption prosecutors and judges. As discussed below, Yovanovitch referenced this episode the following year, when she called for Kholodnytsky's removal. Based on subsequent messages between Lutsenko and Parnas which are discussed below, in which Lutsenko arranged for Kholodnytsky to be interviewed by a journalist as part of their efforts to remove Yovanovitch, it appears that Lutsenko and Kholodnytsky were aligned, or at the very least, were aligned in their opposition to NABU and Yovanovitch.

b. According to public reporting, in early 2018 Lutsenko led an investigation into corruption within the State Migration Service ("SMS"), which led to the arrests of NABU agents. Lutsenko used this episode to attack the head of NABU (Artem Sytnyk) as incompetent, and introduced an anti-NABU piece of legislation. However, Sytnyk announced that Lutsenko's arrests had thwarted a joint FBI-NABU investigation into the SMS allowing Iranians to obtain Ukrainian passports. According to public reporting, Yovanovitch and officials from the European Union used this incident (the thwarted investigation) to stop lawmakers from passing the anti-NABU legislation introduced by Lutsenko. Lutsenko subsequently sent documents related to this incident to Parnas in the spring of 2019, as their efforts to remove Yovanovitch intensified, and his messages evinced a belief that Sytnyk and Yovanovitch were aligned against Lutsenko.

c. According to an interview with Lutsenko published in the *New York Times* on October 5, 2019, Lutsenko frequently clashed with Ambassador Yovanovitch beginning in as early as 2016. For instance, Lutsenko stated that in his first meeting with Yovanovitch in 2016,

Lutsenko told Yovanovitch that "no one is going to dictate to me who is going to be investigated," with respect to Lutsenko's investigations into anti-corruption activists, and that Yovanovitch left the meeting.

18. Based on my participation in the investigation to date, it appears that the push to remove Yovanovitch began in the spring of 2018. In March and April 2018, Parnas and Fruman began attending a number of political fundraising events and making large contributions to congressional candidates and political action committees with the apparent purpose of enhancing their influence in Republican circles. Based on my participation in the investigation as well as my review of materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I have learned that Parnas and Fruman appear to have used their newfound political access to seek Yovanovitch's removal. Specifically, I have learned the following:

a. During an April 20, 2018 roundtable at Mar-a-Lago sponsored by the House Majority Trust PAC (to which Fruman contributed $100,000), Parnas met then-Congressman Pete Sessions (R-TX), and subsequently scheduled a meeting with Sessions for May 9, 2018. On May 9, 2018, in Washington, D.C., Parnas had the first of what would be multiple meetings with Sessions.

b. It appears that in that first meeting, Parnas discussed Yovanovitch with Sessions, and advocated for her removal from that position. In a letter dated that same day—May 9, 2018—Sessions wrote to Secretary of State Michael Pompeo:

> I wanted to bring to your attention an interaction that I recently had with individuals regarding the current U.S. Ambassador to Ukraine. As you likely know, Marie Yovanovitch is the U.S. Ambassador to Ukraine. . . . I have received notice of concrete evidence from close companions that Ambassador Yovanovitch has spoken privately and repeatedly about her disdain for the current Administration in a way that might call for the expulsion of Ms. Yovanovitch as U.S. Ambassador to Ukraine immediately. I kindly ask you to consider

terminating her ambassadorship and find a replacement as soon as possible.

c. On or about June 15, 2018, a member of Sessions's staff forwarded that letter to Parnas's assistant, who then forwarded it to Parnas and Fruman, and Sessions' staff noted, "Please don't distribute, this is only for your records."

d. Parnas had multiple other meetings with Sessions in May and June 2018. It also appears that on May 9, 2018, or at one of the subsequent meetings, Parnas committed to raising $21,000 for Sessions's reelection campaign. Based on my review of FEC data, I have learned that Fruman and Parnas each subsequently made $2,700 contributions to Sessions, who was running for reelection in November 2018, which were funded by Fruman.

e. Parnas's efforts to remove Yovanovitch continued into July 2018. Based on my review of emails obtained pursuant to the January 18 Warrant and May 16 Warrant, I have learned that around July 6, 2018, Parnas and Fruman traveled to Ukraine and met with then-President Poroshenko of Ukraine. Later that month, Sessions's staff arranged a call with the State Department regarding Ambassador Yovanovitch. Prior to that call, Sessions's chief of staff asked Parnas if there was anything else he wanted to discuss before she spoke to the State Department. Despite Sessions's letter and subsequent efforts, Ambassador Yovanovitch was not removed from her posting at that time.

Parnas Enlisted Rudolph Giuliani and Others to Lobby for Yovanovitch's Removal

19. After efforts to lobby Sessions to cause the State Department to remove or recall Yovanovitch did not, themselves, result in her removal, it appears that Parnas soon enlisted Giuliani in his efforts to remove Yovanovitch. Based on my review of emails obtained pursuant to the January 18 Warrant and my review of public reporting, I have learned, among other things, the following:

a. Parnas appeared to have met Giuliani at a Republican fundraising event, and they subsequently had a meeting in or around July 2018 to discuss a number of matters, including Parnas's fledgling insurance business, Fraud Guarantee.

b. In September 2018, Parnas retained Giuliani, through his consulting firm Giuliani Partners LLC, ostensibly to act as a consultant and spokesman for Fraud Guarantee.[5] As part of that initial agreement, Giuliani requested a $500,000 retainer and a total $900,000 payment, of which at least the retainer appears to have been paid, according to my review of the text messages between Giuliani and Parnas. Parnas and Giuliani exchanged a number of messages regarding the payment of Giuliani's retainer, but it did not appear from the messages that Parnas himself directly paid Giuliani. Instead, it appears that Parnas and Correia solicited third parties to invest in Fraud Guarantee, and directed at least one third party to wire $500,000 to a bank account in the name of Giuliani Partners with the notation "Credit towards Fraud Guarantee Holdings, LLC agreement."

c. It appears that Giuliani Partners performed minimal, if any, work for Fraud Guarantee in October and November 2018, and did not provide the work or reports that were specified in the agreement between Fraud Guarantee and Giuliani Partners. Additionally, it does not appear that Giuliani Partners performed any work for Fraud Guarantee after November 2018.

[5] FARA contains a narrow exemption from the registration requirement for attorneys engaged in the practice of law on behalf of a foreign client. However, based on my review of the January 18 Warrant, I have learned that while Giuliani is an attorney, it does not appear that he was performing legal work and therefore it does not appear the attorney exemption applies. Indeed, Giuliani's contract with Parnas included a detailed description of the scope of work to be performed by Giuliani Partners, none of which was legal in nature. To the contrary, the terms of the contract expressly state that Giuliani Partners was being retained "as a consultant" and described a series of non-legal tasks to be completed in that capacity. Thus, based on my participation in the investigation, it does not appear that Giuliani was representing Fruman or Parnas as an attorney, and it does not appear that Giuliani was performing legal work.

20. Instead, it appears that Giuliani's assistance on the efforts to remove the Ambassador began in December 2018. Specifically, it appears that on or around December 7, 2018, Parnas forwarded Giuliani a copy of the May 9, 2018, Sessions letter, and then Parnas began attempting to facilitate meetings between Giuliani and Lutsenko and/or Shokin. Specifically, based on my review of public reporting and materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I have learned, among other things, the following:

a. In or about December 2018, Parnas, Fruman, and Correia traveled to Ukraine and met with Nasirov. Following the trip, based on my review of WhatsApp messages between Nasirov and Parnas, it appears that Parnas and Nasirov discussed getting a U.S. visa for Shokin so that Shokin could travel to the United States.

b. On or about January 7, 2019, Correia sent Parnas a document entitled "Discussion List," which had a section labeled "Ukraine," which referenced their efforts to remove Yovanovitch. On the document Correia noted that the "former Inspector General," which appears to be a reference to Shokin, was waiting on a visa, and that they would "need help if denied." The existing inspector general, which appears to be a reference to Lutsenko, was "coming January 10-15th." With respect to "Ambassador to Ukraine," Correia noted that they "[s]hould be receiving very important info by both [Shokin and Lutsenko]" including information regarding "payoffs and bribes," an "Anti-Trump" room in the embassy, and "Telling current President (and others) that Trump will be impeached."

c. Shokin did not obtain the visa. Rather, it appears that on or around January 9, 2019, the U.S. Embassy in Ukraine denied the visa. As a result, according to a memorandum dated January 23, 2019, which appears to have been provided to the State Department by Giuliani, Parnas and Giuliani interviewed Shokin by telephone in January. On the call, according to the

memorandum, Shokin provided information about his Burisma investigation and claimed that President Poroshenko had put an end to the investigation at the request of then-Vice-President Joe Biden.

d. Additionally, it also appears that in January 2019, Giuliani and Parnas met with Lutsenko at the offices of Giuliani Partners in New York. According to a memorandum regarding the meeting, dated January 25-26, 2019, which appears to have been subsequently provided to the State Department by Giuliani, they discussed Ambassador Yovanovitch, who Lutsenko asserted "protects" the "ineffective" Specialized Anticorruption Prosecutor's Office in Ukraine – an apparent reference to NABU and Artem Sytnyk – and who Lutsenko claimed asked him to close three cases, including a case against the member of Ukraine's Parliament who was involved in the disclosure of Paul Manafort-related information. According to the memorandum, Lutsenko also reported that he had re-initiated an investigation his predecessor, Shokin, had opened into Burisma, in which Hunter Biden, a board member, was implicated.

21. In or about February 2019, it appears that Giuliani formalized his representation of a Ukrainian principal by entering into consulting agreement between Giuliani, Victoria Toensing (the user of the Subject Account), and her partner and spouse, former Washington D.C. United States Attorney Joe diGenova, on the one side, and the Government of Ukraine, on the other. As described below, the arrangement was facilitated by Parnas. Specifically, based on my review of materials obtained pursuant to the January 18 Warrant, the May 16 Warrant, and the August 14 Warrant, as well as public sources and travel records, I have learned, among other things, the following:

a. On or about February 11, 2019, Giuliani and Parnas met with Lutsenko in Warsaw, Poland. In the days that followed the meeting, Parnas communicated with Giuliani and Toensing

via text about a retainer agreement. For instance, on or about February 14, 2019, Toensing texted Parnas: "Welcome back. . . . How is Retainer Agreement coming? Our hands are pretty tied about doing much until we have it in place as we need it for FARA."[6] Parnas responded on February 15, 2019, that Giuliani was working on the retainer. Parnas reiterated to Toensing on or about February 16, 2019, that he would follow up with Giuliani about the retainer.

b. On or about February 16, 2019, Giuliani sent Parnas and Fruman a draft retainer agreement between "Yuriy Lutsenko, as the General Prosecutor of Ukraine," and Giuliani Partners, Toensing, and diGenova. The retainer amount was $200,000 and, according to the draft retainer, was ostensibly for Giuliani, Toensing, and diGenova's assistance in recovering "sums of money in various financial institutions outside Ukraine." It is not clear what this phrase refers to, and may simply have been an effort to legitimize, or give the appearance of legitimacy to, what were in truth their efforts to cause the U.S. Government to remove the U.S. ambassador to Ukraine. The agreement also stated that it was a temporary agreement to be superseded "by a long term agreement."

c. On or about February 18, 2019, Parnas texted Giuliani: "This is who the retainer should be me out to: ministry of justice of Ukraine, Att: minster Pavlo Petrenko." Based on my review of public sources, it appears that Pavlo Petrenko was the Minister of Justice of Ukraine

[6] "FARA" appears to be a reference to the Foreign Agents Registration Act, *i.e.*, one of the Subject Offenses. Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that, in addition to Toensing, who referenced FARA, Parnas is familiar with FARA from this and prior conversations. For instance, on March 5, 2019, Parnas texted with [redacted], and [redacted] sent Parnas a FARA registration for a different individual, and Parnas confirmed "Got it." Notably, that FARA registration was completed on behalf of two embassies (the Embassy of Japan and Liberia) and on behalf of a foreign individual. Similarly, in April 2019, Parnas texted with [redacted], a naturalized Ukrainian-American who resides in Brooklyn, Israel, and Ukraine, regarding Solomon and Lutsenko. On April 24, 2019, Parnas asked [redacted] to send him the "fara registration," and [redacted] responded with a FARA registration completed by a public relations firm on behalf of Ukrainian President Volodymyr Zelensky.

(from in or about 2014 to in or about July 2019), and was a political ally of Poroshenko and Lutsenko.

d. On or about February 19, 2019, Parnas texted Giuliani, "Hi my brother let me know when to expect the retainer agreement." Giuliani responded, "It will be there in ten minutes." Parnas responded that he got it and would "deliver it tomorrow." Parnas also asked Giuliani for wiring instructions and to "please send me a signed copy by you Victoria and joe so they can execute and wire funds." Giuliani texted back, in substance, that he would do so the next day.[7]

e. On or about February 20, 2019, the office manager at Giuliani Partners emailed Parnas (copying Giuliani) a copy of a retainer agreement signed by Giuliani. Pursuant to the terms of the agreement, "Pavlo Petrenko for the Ministry of Justice of the Republic of Ukraine . . . retains Giuliani Partners LLC and Victoria Toensing and Joseph DiGenova to advise on Ukrainian claims for the recovery of sums of money in various financial institutions outside Ukraine." The agreement also stated that the Ministry of Justice agreed to pay $300,000 to Giuliani Partners as a retainer, and that the agreement would be superseded by a later agreement. Parnas subsequently confirmed to Giuliani by text message that he had received the retainer.

f. On or about February 21, 2019, Giuliani texted Parnas, "How's it going???" Parnas responded, "Meeting with yuri now everything good," which appears to be a reference to the fact that, based on public reports, Parnas was meeting with Lutsenko, who was originally identified as the client in the draft retainer agreement described above. Three days later, Giuliani again asked

[7] Based on my review of materials obtained pursuant to the May 16 Warrant, it is not clear whether Parnas or Giuliani forwarded a copy of the February 2019 draft retainer agreement to Toensing. Around that time, Toensing repeatedly asked Parnas what the status of the retainer agreement was, and asked him to forward her a copy. Parnas responded that he was trying but it was not going through, although it is not clear whether Parnas ultimately succeeded in forwarding the draft retainer to Toensing.

how things were going, and Parnas explained that he was "meeting with [Y]uri [Lutsenko] in 2 hours he has some paperwork to give us I'll call you after the meeting."[8]

22. At or around the same time that Parnas, Giuliani, and Toensing were formalizing an agreement with Ukrainian government officials, it appears that Giuliani privately lobbied high-level officials—including, apparently, Secretary of State Pompeo and President Trump—for the removal of Ambassador Yovanovitch. Specifically, based on my review of materials obtained from the May 16 Warrant, I have learned, among other things, the following:

a. On or about February 11, 2019, the same day that Giuliani and Parnas met with Lutsenko, Toensing asked Parnas and Giuliani in a text message "Is there absolute commitment for HER to be gone this week?" Giuliani replied, "Yes not su[r]e how absolute [w]ill get a reading in morning and call you. Pompe[o] is now aware of it. Talked to him on Friday."

b. On or about February 14, 2019, the same day that Toensing asked Parnas if he had heard from Giuliani about a retainer, Parnas encouraged Toensing to "nudge [Giuliani] about the Mrs. A.," which appears to be a reference to Ambassador Yovanovitch.

c. On or about February 16, 2019, Parnas texted Toensing that he "really need[ed] to know [the] status of madam A. [w]hile I'm here." It appears Parnas was in Ukraine at the time. Toensing responded, "That's for Rudy to get tonight."

d. On or about February 17, 2019, Toensing asked Parnas if Giuliani "me[]t with the guy re Amb?" to which Parnas replied, "I am still waiting on that[, m]eeting with big guy in 4

[8] It is currently unclear whether these meetings between Parnas and Lutsenko regarded Lutsenko's desire to have the Ambassador removed; Giuliani's desire for information about Hunter Biden and Burisma; both; or another topic. Nonetheless, as reflected in text messages below, it does appear that Parnas's efforts to have Ambassador Yovanovitch removed were done at the request of Lutsenko.

hours," an apparent reference to President Trump. Later that day, Toensing asked "Was he successful re Amb?" to which Parnas replied "this week."

The Public Press Campaign to Remove Yovanovitch

23. Following Parnas's meeting with Lutsenko in February 2019, and since Giuliani's private lobbying efforts appeared to have failed, Parnas, Toensing, Giuliani, and Lutsenko worked with a journalist, John Solomon at *The Hill*, to mount an aggressive public media campaign to remove Yovanovitch. Their media campaign began within days of Lutsenko complaining to Parnas about actions that Yovanovitch had taken in Ukraine against an ally of Lutsenko's. Specifically, based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned the following:

a. On or around March 5, 2019, Yovanovitch gave a speech in which she called for Kholodnytsky's removal from SAPO. As discussed above, NABU had previously called for the removal of Kholodnytsky (who, according to public reporting, was an ally of Lutsenko and Poroshenko), and claimed that Kholodnytsky had leaked information about corruption cases to corruption targets; yet a year later, Kholodnytsky was still in his position. Yovanovitch also criticized the Ukrainian court system, which she described as riddled with compromised judges.

b. Lutsenko immediately complained about Yovanovitch's statements to Parnas. Specifically, on March 5, 2019, Lutsenko texted Parnas "Ambassador openly called to fire head of the SAPO," which was a reference to Kholodnytsky. Parnas asked Lutsenko to call him, and it appears Lutsenko reported that the Ambassador had also criticized Ukrainian Supreme Court judges.

c. On or about March 8, 2019, Parnas sent Toensing a photograph of Sessions's letter, and she replied by sending the contact information for John Solomon, a reporter at *The Hill*. That

same day, according to text messages, it appears that Parnas, Toensing, diGenova, and possibly Giuliani met with Solomon about Ambassador Yovanovitch, and the next day Parnas sent Solomon information about the Ambassador.

d. On or about March 8, 2019, Lutsenko wrote Parnas again, and referred to a statement Yovanovitch made in which she called for Kholodnytsky's removal; Parnas replied "we are all in the loop," and wrote to confirm that they were setting up an interview with Lutsenko and a journalist (Solomon, as discussed below). Lutsenko then sent Parnas the contact info for Kholodnytsky, and Lutsenko wrote: "Nazar [Kholodnytsky] is waiting I explained everything. Ready to talk about the l[a]ck of impartiality." Parnas and Lutsenko discussed setting up an interview between Solomon and Poroshenko, but Lutsenko told Parnas that Poroshenko could not answer questions about "the Ambassador, Biden" in the "middle of the campaign." Based on my review of public reporting, I have learned that at the time, Poroshenko was running for re-election, which he would ultimately lose.

24. Lutsenko appeared to grow impatient with Parnas's failure to secure Yovanovitch's removal. Specifically, based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that on March 11, 2019, Lutsenko asked Parnas when he would be receiving an invitation from the "General Attorney," which appears to be a reference to the U.S. Attorney General. On March 13, 2019, Lutsenko wrote Parnas "I am fucking sick of everything. I did not get the visit. My First did not get shit. I am ready to screw your opponents. But you want even more. We – everything. You – later. This is not fair." Based on my participation in the investigation, this appears to be a reference to Lutsenko and others' willingness to share information about Burisma and Hunter Biden and frustration that Parnas could not similarly deliver on issues to include the removal of Ambassador Yovanovitch and meeting with the Attorney

General. On March 14, 2019, Parnas responded "I just spoke with our [people]. I think there is good news. When you get a chance, call me regarding your visit here." Based on my participation in the investigation, it appears that "our people" refers to Giuliani and/or Toensing.

25. Parnas, Solomon, and Toensing continued to work together to publicize Lutsenko's allegations through Solomon. Specifically, based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned the following:

a. On or about March 12, 2019, Parnas received from Shokin a written narrative and answers to questions posed by Solomon about Yovanovitch, Vice-President Biden, and Hunter Biden. Parnas forwarded Shokin's answers to Solomon. Around that time, Parnas also spoke to Lutsenko and conveyed additional information back to Solomon. Solomon indicated that he needed President Poroshenko and Lutsenko "on the record about the ambassador and Biden," and so Parnas set up an interview between Solomon and Lutsenko.

b. Based on my review of public reporting, I have learned that on March 20, 2019, a portion of Solomon's video interview with Lutsenko and an accompanying article entitled "Senior Ukrainian Official Says He's Opened Probe into US Election Interference" were published in *The Hill*. In his interview, Lutsenko claimed he would open an investigation into whether the director of NABU, Sytnyk, attempted to "influence the 2016 vote to the benefit of Democratic presidential nominee Hillary Clinton." In a second video interview published on March 20, 2019, by Solomon in *The Hill*, Lutsenko told Solomon that Ambassador Yovanovitch had given him "a list of people whom we should not prosecute" during their first in-person meeting in or about January 2017. *The Hill* reported that Lutsenko was not "the only person complaining about the U.S. Embassy in Kiev," and noted that Congressman Sessions wrote a "private letter asking Secretary of State Mike Pompeo to recall the current U.S. ambassador, alleging that she made disparaging statements about

President Trump." *The Hill* also posted a copy of the letter. The article quoted Sytnyk as describing Lutsenko's allegations as untrue and an "absurd attempt" to discredit NABU.

26. Parnas continued working to publicize Lutsenko's allegations against Yovanovitch and texted links to Solomon's articles to many of his contacts. Specifically, based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned the following:

a. On March 20, 2019, Parnas sent [redacted], the development director of [redacted] (to which Parnas and Fruman had previously contributed) links to both of Solomon's articles in *The Hill*, along with links to tweets by Laura Ingraham and Sean Hannity. Parnas instructed [redacted], "have jr retweet it," an apparent reference to Donald Trump Jr. [redacted] confirmed "sent." As discussed below, Trump Jr. did, in fact, retweet a related article several days later. Moreover, President Trump retweeted one of the links that Parnas sent to [redacted] that same day, on March 20, 2019: an article entitled "As Russia Collusion fades, Ukrainian plot to help Clinton emerges." [redacted] then sent a copy of President Trump's tweet to Parnas.

b. Parnas frequently updated Lutsenko on the success of their March 20, 2019 press blitz. Parnas promptly sent a screenshot of President Trump's tweet to Lutsenko. In an apparent effort to garner more information for Solomon, Parnas asked Lutsenko to send him "the names of the people that she said," which appears to be a reference to Lutsenko's claimed "do not prosecute list." Lutsenko sent Parnas three names ("Leshenko, MP, Navem, MP, Shabunin, ngo") and described them all as "loud NABU activist[s]." As discussed above, based on public reporting, it appears that Lutsenko may have clashed with Yovanovitch regarding NABU in the spring of 2018, and was frustrated by her continued alignment with NABU, which appears to have provided a motive for Lutsenko to claim that Yovanovitch had asked him not to prosecute "loud NABU activist[s]." Parnas congratulated Lutsenko and told him that "Today you become a world-class

political figure. Glory to the Ukraine !!!" Lutsenko then asked Parnas if it was "true, that the Ambassador chick and Sytnik [sic] were called to Washington," which appears to be a reference to Yovanovitch and Sytnyk, the head of NABU, to which Parnas replied, "I will call later. We'll talk."

c. Parnas then reported to Lutsenko that President Trump had re-tweeted a story about Yovanovitch. Lutsenko responded, "If I am not going to get invited for an official visit in the nearest future, I will not be able to fight off our or your [people]." Based on my participation in the investigation, it appears that Lutsenko's reference to fighting off "our or your [people]" referred to their perceived enemies in Ukraine and the U.S., respectively.

d. The day after *The Hill* published the Lutsenko interview, on March 21, 2019, Parnas complained to Solomon and Toensing that the top news story in Ukraine was the reporting regarding Ambassador Yovanovitch, which prompted the Ambassador to put out a statement saying that Lutsenko was a "prime example of corruption." Lutsenko was upset about that statement, and the news coverage he was receiving in Ukraine. He complained to Parnas, "why the fuck do I need these kinds of adventures . . . 10 days before the election" in Ukraine. "Moreover," Lutsenko continued, "they are saying in the State Department that my reports work in favor of corrupt officials. Great fucking help to Ukraine." Parnas responded that he would call Lutsenko and had "good news." Then, in an apparent effort to quell the negative press Lutsenko was receiving and further publicize their allegations against Yovanovitch, Parnas offered via text to Solomon and Toensing, "You want me to go on Fox news and talk about it? I would not mention any names if I did that. I would just say a client approached me six months back with allegations that FBI and US Ambassador in Ukraine were playing favorites. And reference Burisma getting free pass and alleged ties to 'high level Obama administration officials'. Maybe mention

allegations about setting up Manafort. The media could connect the dots from there." Based on my participation in the investigation and my review of materials obtained pursuant to the May 16 Warrant, Parnas's reference to his "client" appears to refer to Lutsenko.

e. Based on my review of public reporting, I have learned that Solomon's article soon received substantially increased press attention. On March 23, 2019, on the Laura Ingraham Show on *Fox News*, Ingraham aired a segment highlighting that former-Congressman Sessions sent Secretary of State Pompeo "an urgent letter" in May 2018, asking that Ambassador Yovanovitch be removed from her position, and published a copy of that letter. DiGenova was a guest on the program, and announced: "I have learned this evening that the President has ordered her dismissal from her post. . . as a result of her activities there which were complained of by Congressman Sessions. She is known and reported by people there to have bad-mouthed the President of the United States Donald Trump, to have told Ukrainians not to listen to him or obey his policy . . . and finally her activities have caught up with her." Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that the fact that Trump had decided, at least at that point, to fire Yovanovitch appears to be the "good news" that Parnas reported back to Lutsenko two days prior.

f. In an apparent reference to diGenova's *Fox News* interview, Parnas happily wrote via text message to Toensing, "I love you and your husband you are the best," and "Tell joe he was awesome my hero." Toensing responded, "We can be really great if we have a retainer signed." Parnas agreed, and Toensing asked if the "Wicket Witch" was gone, which appears to be a reference to Yovanovitch.

g. Around this time, Toensing and Giuliani began frequently posting messages related to Ukraine, Yovanovitch, Biden, and the 2016 election on Twitter, apparently in an effort to further magnify the press attention their claims against Yovanovitch would receive.

h. On March 24, 2019, Donald Trump Jr. retweeted an article summarizing Solomon's reporting in the *Daily Wire*, entitled "Calls Grow to Remove Obama's U.S. Ambassador to Ukraine."

i. Although Parnas, Giuliani, and Toensing appeared to be pleased with the press response in the U.S., the press response in Ukraine appeared to be unfavorable to Lutsenko. On March 26, 2019, Lutsenko sent Parnas pictures of documents that allegedly contained information about Burisma, and noted, "I hope this is enough." He then complained to Parnas that despite the information he was gathering about Biden, the Ambassador had not been fired. In particular, he wrote the "Washington Post is attacking me already . . . Zero results. They want to listen to the tape. I will get the recording device tomorrow and the testimony of the participants of the conversation. My case on [a Ukrainian public figure who allegedly helped Biden] is proceeding along in force. Testimony about B [likely Burisma] monetary transfer is available. And only you are unable to bring down a single, stupid woman ☹." Parnas wrote back, "She is not a simple, stupid woman. Believe me. But she is not going anywhere."

j. On March 29, 2019, Parnas wrote to Lutsenko, "I was asked to tell you personally that America supports you and will not let you get hurt. It does not matter how it looks now. Everything will soon change and everything will go in the right direction. So that you would know, that you are being talked about here as a true hero of the Ukraine." Lutsenko then told Parnas that he had additional documents related to Burisma, and when Parnas asked Lutsenko to send them to him, Lutsenko replied that he would "pass it along with the new Ambassador ☺."

k. Over the next several days, Parnas continued to feed information to Solomon, who asked Parnas to "eyeball" articles for "accuracy," and continued to publish articles in The Hill. On March 27, 2019, Parnas told Giuliani that "Hannity just canceled on [Solomon]," which prompted Giuliani to say that "[t]hey are scared[,] I will buck them up." Three days later, on March 30, 2019, Giuliani confirmed that he would be appearing on Fox that morning, to which Parnas responded, "Great." Parnas sent some of Solomon's articles to Giuliani.

l. However, when Yovanovitch still had not been removed, Lutsenko continued his complaints about Yovanovitch to Parnas. On March 29, 2019, Lutsenko told Parnas that the "ambassador chick organized leak of NABU materials to the TV project financed by you about corruption of those surrounding Poroshenko. Next one is going to be about me." Parnas replied, "I will call you soon with the news." On April 2, 2019, Lutsenko bragged, "I am probably the most famous Ukrainian where you are," to which Parnas replied, "This is going to be a big week." On April 9, 2019, Lutsenko provided the names of "Advisors and public speakers of the presidential candidate" Zelensky, who was running against Poroshenko, and their alleged connections to Yovanovitch (to whom Lutsenko referred by her nickname, "Masha"), and wrote that the candidate for Prosecutor-General—who would replace Lutsenko in the event Zelensky was elected—was a "Favorite activist of Masha."

27. Based on my participation in the investigation, I have learned that according to a U.S. Department of State Office of Inspector General investigation, in late March or early April 2019, Secretary of State Michael Pompeo received a package that had to do with "Ukraine issues." The package had a return label of "The White House," although it bore no official seal, and contained notes from interviews between Parnas, Fruman, and Giuliani, among others, with Shokin and Lutsenko, dated January 23, 2019, regarding Burisma, Biden, and Yovanovitch. The documents

were separated into folders that bore the insignia of the Trump Hotel. The notes from the meeting with Lutsenko include his allegation about the "do not prosecute list" and his explanation that the heads of SAPO and NABU "do not like each other" and that the head of NABU favored Clinton over Trump, and that Yovanovitch spent money on "good public relations" for NABU. The package then contained Solomon's March 20, 2019 articles featuring his interview with Lutsenko, along with documents that appeared to be Solomon's notes and emails regarding the articles. On October 2, 2019, Giuliani confirmed to *CNN* that the package originated with him, and that he had "routed" an "outline" of allegations against Biden and Yovanovitch to Pompeo's office. Giuliani claimed that Pompeo told him that Pompeo would refer the documents for an investigation.

28. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that Parnas, Toensing, and Giuliani entered, or attempted to enter, into a second, more formal agreement with Lutsenko in April 2019. On April 13, 2019, Giuliani sent Parnas three separate versions of a retainer agreement between Toensing and diGenova, on the one hand, and Lutsenko and his deputy, on the other hand.[9] The agreement indicated that Lutsenko was retaining diGenova & Toensing, LLP to represent him "in connection with recovery and return to the Ukraine government of funds illegally embezzled from that country and providing 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."[10] The

[9] Lutsenko's deputy was Kostiantyn Kulyk. According to an article published on October 5, 2019 in the *New York Times*, Yovanovitch asked Lutsenko to remove Kulyk at a meeting in 2016 due to Kulyk's corruption.

[10] Based on my participation in the investigation, I believe that "embezzlement of funds" may be a reference to an allegation that Hunter Biden misappropriated money from Ukraine or Burisma. "Interference in the 2016 U.S. election" may be a reference to the allegation that there was a plot to turn up information about then-candidate Trump and individuals working with him, including Paul Manafort.

agreement also noted that the firm's services "may entail activities subject to mandatory public disclosure under . . . the Foreign Agent Registration Act[, which] . . . requires the Firm to register and report certain activities on behalf of foreign political parties or entities." Per the agreement, Lutsenko would pay a $125,000 retainer and $25,000 per month, plus costs.[11] Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that Toensing subsequently signed a copy of each of the three retainer agreements.[12]

29. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that between April 11 and 23, 2019, Parnas worked with Solomon to arrange additional interviews with Ukrainian government officials, and provided the questions that Solomon would ask one official. Specifically, I have learned, among other things, the following:

a. Solomon ran multiple articles during that period. However, during this time period, Lutsenko walked back some of his prior claims and, in particular, told *The Babel* on April 17, 2019, that Ambassador Yovanovitch had never requested a "do not prosecute" list, and it was instead he who had requested that list. In addition, on April 21, 2019, Zelensky won the Ukrainian presidential runoff against Poroshenko. Based on my participation in the investigation and my review of materials obtained pursuant to the May 16 Warrant and public reporting, I believe that Lutsenko may have walked back his comments due to the negative press attention his unfounded

[11] Based on the investigation to date, it is unclear whether Lutsenko, Kulyk, or any member of the Ukrainian government countersigned the proposed retainer agreements with Toensing and Giuliani, or paid Toensing or Giuliani in connection with their purported representation. (And according to press reports, Toensing and Giuliani have denied ever working as lobbyists on their behalf.) However, FARA does not require there to be a retainer agreement in place, or a foreign principal to have paid an unregistered agent, for the law to apply.

[12] Despite the fact that Toensing signed the agreements, based on my review of Department of Justice records related to FARA filings, I have learned that none of Parnas, Fruman, Giuliani, Toensing or diGenova registered under FARA or provided notice to the Attorney General at any point in 2018 or 2019.

allegations had garnered, or in an effort to maintain credibility with the incoming Zelensky administration, so that he would not be removed by any incoming administration.

b. On April 23, 2019, Parnas asked Giuliani to "text me or call me if you have any news," and Giuliani responded, "He fired her again." Parnas wrote, "I pray it happens this time I'll call you tomorrow." But on May 4, 2019, Giuliani joked, "Boy I'm so powerful I can intimidate the entire Ukrainian government. Please don't tell anyone I can't get the crooked Ambassador fired or I did three times and she's still there." That same day, Lutsenko told Parnas that "People here are talking that there will be a very high level coming from you to the inauguration," to which Parnas replied "You do understand Who is dealing with this." Two days later, on May 6, 2019, according to public reporting, the State Department confirmed that Ambassador Yovanovitch would leave her post on May 20, 2019.

c. Based on my review of public reporting, I have learned that on May 9, 2019, Giuliani publicly confirmed that he had met with Lutsenko on multiple occasions, and stated his intention to travel to Ukraine to meet with newly-elected President Zelensky to push him to press ahead with two investigations he hoped would benefit President Trump in his reelection campaign: (i) the origin of the Special Counsel's investigation into Russian interference in the 2016 election; and (ii) Hunter Biden's involvement in Burisma. According to the *New York Times*, Giuliani was to be accompanied by Parnas and Toensing.

30. Based on my review of materials obtained pursuant to the August 14 Warrant, I have learned that on May 10, 2019, Giuliani wrote to President-Elect Zelensky to request a meeting with Zelensky, Giuliani, and Toensing to discuss a "matter." Specifically, I have learned the following:

a. On May 10, 2019, Giuliani's secretary forwarded a copy of a letter from Giuliani to President-Elect Zelensky to a Ukrainian government email address. Giuliani's secretary then forwarded that email, including the attached letter, to Giuliani and Parnas. In his letter to Zelensky, which was dated May 10, 2019, Giuliani wrote:

> I am a 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. This is quite common under American law because the duties and privileges of a President and a private citizen are not the same. Separate representation is usual process. Congratulations on a truly impressive victory in the recent election. . . . Anything I can do to help you or your country would be a great honor. However, I have a more specific request. 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. Please have your office let me know what time or times are convenient for you, Victoria and I will be there.

b. Based on my participation in the investigation and my review of materials obtained pursuant to the May 16 Warrant and August 14 Warrant, as well as Giuliani's May 9, 2019 interview with the *New York Times* described above, it appears that Giuliani and Toensing sought to solicit President Zelensky's assistance in moving ahead with the Burisma and 2016 election interference investigations, which they believed would benefit President Trump's reelection campaign. However, based on my review of public reporting, I have learned that on May 15, 2019, Giuliani announced that his trip to Ukraine was cancelled.

31. On July 22, 2019, articles were published by *BuzzFeed News* and the *Organized Crime and Corruption Reporting Project* regarding Parnas and Fruman's campaign for the removal of Yovanovitch. Parnas and Sessions were interviewed for the articles. Parnas said that he and Fruman were not "acting at the behest of anyone." Parnas also said that he and Fruman were not

paid by anyone for their work in Ukraine, and that "[a]ll we were doing was passing along information. Information coming to us—either I bury it or I pass it along. I felt it was my duty to pass it along." Sessions claimed that "he raised the issue of Yovanovitch in the meeting—not Parnas or Fruman," and that he "sought their input." This claim is not credible for several reasons, not the least of which is because Sessions's own letter to Secretary Pompeo noted that others had brought the issue of Yovanovitch to his attention; Sessions wrote the letter after his first meeting with Parnas; and Sessions's staff later forwarded the letter to Parnas and solicited his input on what to discuss with the State Department regarding the letter.

32. Based on my review of public reporting, I have learned that on July 25, 2019, President Trump spoke to Ukrainian President Zelensky. According to a memorandum of the call, which the White House released publicly, President Trump noted that "[t]he former ambassador from the United States, the woman, was bad news and the people she was dealing with in the Ukraine were bad news." He also praised a "very good prosecutor," which appears to be a reference to Lutsenko, who was still in place at that time following Zelensky's election but subsequently removed from office, or possibly Shokin, the former prosecutor.

33. It appears that efforts to remove Ambassador Yovanovitch were encouraged by Dmytro Firtash, a Ukrainian oligarch who is involved in the natural gas business in Ukraine, and who was previously criticized for his involvement in corruption by Ambassador Yovanovitch. First, based on my review of bank records, it appears that Firtash has paid Parnas over $1 million through third parties. Specifically, according to public reports, Firtash is currently litigating extradition to the United States on bribery charges and in or about June 2019, he hired Toensing and diGenova, at the suggestion of Parnas and Fruman, to assist in his defense. Firtash, according to public reports, agreed to pay Toensing and diGenova $300,000 a month, which included a referral fee to Parnas

totaling $200,000. From my review of bank records, I have learned that in or about August 2019, Parnas received $200,000 in payments from diGenova & Toensing LLP, which is Toensing's law firm, as a "monthly retainer payment." Second, in addition to the referral fee that it appears Firtash paid Parnas through diGenova & Toensing LLP, it also appears that between September 3 and September 23, 2019, Parnas was paid $1,000,000 in five $200,000 installments from a bank account in Russia in the name of Ralph Oswald Isenegger. Isenegger is a Geneva-based attorney who represents Firtash, and the memo line on the transfers indicate they were made pursuant to a "loan agreement." While, based on the investigation to date, it is unclear why Firtash paid Parnas an additional $1,000,000, it appears from my review of bank records and emails obtained pursuant to the August 14 Warrant that at least some of that money was used to fund travel to Ukraine and other locations in Europe for meetings relating to, among other things, Ambassador Yovanovitch. Accordingly, it appears that Firtash may have been involved in funding or facilitating unlawful lobbying efforts, including those relating to the removal of Ambassador Yovanovitch.

34. As noted above, Parnas, Fruman, Giuliani, and Giuliani Partners have never registered with the FARA unit of the Department of Justice or provided the required notice to the Attorney General. The firm of diGenova & Toensing LLP previously registered on behalf of the Kurdistan Democratic Party, but diGenova & Toensing LLP, or diGenova or Toensing individually, never made a filing related to Ukraine or provided notice to the Attorney General. Based on my review of public reporting, it appears that Giuliani has been aware of the FARA registration requirements for some time but has publicly stated that he believes that he is not required to register because he contends he has never lobbied the U.S. government on behalf of his clients. According to a July 10, 2018 article in the *Washington Post*, Giuliani reported that he was working with clients in, among other places, Ukraine, Brazil, and Columbia, and had given a paid speech to an Iranian

dissident group, but that he has never registered with the Justice Department on behalf of his foreign clients because he does not directly lobby the U.S. government on behalf of his clients and was not charging President Trump for his legal services. In particular, Giuliani explained that he has never lobbied President Trump on "anything." According to a September 6, 2018 article in the *Wall Street Journal*, seven Senators wrote the Department of Justice to ask that Giuliani's lobbying on behalf of foreign clients be investigated, after Giuliani wrote a letter on behalf of a Romanian client, in which Giuliani took a position contrary to that of the State Department's. In an interview, Giuliani stated that he "did nothing to invoke FARA either now or ever" because he had never represented his foreign client's interests before the U.S. government. As discussed above, however, Giuliani repeatedly lobbied the U.S. government, including President Trump and Secretary of State Pompeo, as part of a scheme to seek Yovanovitch's removal at the request of a Ukrainian government official.

35. Based on the above, there is probable cause to believe that the efforts by Parnas, Fruman, Giuliani, and Toensing to lobby for the removal of Ambassador Yovanovitch were done at the direction and/or request of Lutsenko and likely other Ukrainian officials, in violation of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent); 18 U.S.C. § 951 (acting as an agent of a foreign government), and 18 U.S.C. § 371 (conspiracy to commit the same). Specifically, there is probable cause to believe that Toensing committed the Subject Offenses in at least two ways. First, according to the retainer agreements in February and April, Lutsenko contemplated retaining Giuliani Partners and diGenova & Toensing to represent him. Toensing took numerous steps in furtherance of Lutsenko's desire to remove Yovanovitch after the retainer agreements were circulated, including engaging in a public media campaign to remove Yovanovitch and privately encouraging Giuliani to lobby President Trump and Secretary Pompeo

to remove Yovanovitch. Notably, the draft long-form retainer agreements between diGenova & Toensing and Lutsenko specifically referenced FARA, and that language would be unnecessary if Toensing did not appreciate that they were acting at the request of one or more foreign nationals. Second, Toensing worked with Parnas and Fruman—who were themselves working at Lutsenko's request—to remove Yovanovitch. There is probable cause to believe that Toensing knew that Parnas was working closely with Lutsenko, and that Lutsenko's primary objective was to remove Yovanovitch. Toensing undertook activities, including assisting Giuliani and Parnas in lobbying government officials, and participating in a media campaign, in coordination with Parnas, who was acting at the request of Lutsenko. Accordingly, I respectfully submit that there is probable cause to believe that Toensing has acted in violation of the Subject Offenses.

B. Probable Cause Regarding the Subject Account

36. Based on the foregoing, the facts set forth below, and my training and experience, there is probable cause to believe that the Subject Account will contain evidence and instrumentalities of the Subject Offenses, including communications related to Toensing's efforts to cause the removal of the U.S. Ambassador to the Ukraine, which appear to have been done at the request or direction of a foreign government or individual.

37. First, as described above, Toensing communicated via electronic message with Parnas and Giuliani about the removal of Ambassador Yovanovitch. Some of those communications took the form of text and/or WhatsApp messaging, and as detailed in the next paragraph, others occurred via e-mail. With respect to text and WhatsApp, Toensing, (i) communicated with Parnas about Giuliani's drafting of retainer agreements between diGenova & Toensing and Lutsenko, including the fact that the retainer agreement was "need[ed] for FARA," *see* ¶ 21; (ii) communicated with Giuliani and Parnas about Giuliani's efforts to lobby Secretary of State Pompeo and President Trump regarding the removal of Yovanovitch, *see* ¶ 27; (iii) received a copy of the May 2018

Sessions letter from Parnas, and passed along John Solomon's contact information to Parnas, *see* ¶ 23; (iv) arranged meetings with Parnas, Giuliani, Solomon, and diGenova in furtherance of their efforts to remove Yovanovitch, and communicated about Giuliani's efforts to lobby Secretary of State Pompeo and President Trump regarding the removal of Yovanovitch, *see* ¶¶ 27; and (v) communicated with Parnas regarding their efforts to publicize Lutsenko's allegations, *see* ¶¶ 23-28. While those communications were sent by text and WhatsApp message, based on my training and experience, I have learned that individuals use text in a similar manner as they use email, and regularly communicate with the same contacts on both methods of communication relating to the same subjects. Accordingly, there is reason to believe that Toensing also used email to communicate about the removal of Ambassador Yovanovitch.

38. Second, with respect to e-mails, based on my review of e-mails obtained pursuant to the August 14 Warrant, I have learned that Toensing used the Subject Account in furtherance of the Subject Offenses. For instance, I have learned the following:

a. On or about March 8, 2019, Parnas emailed Toensing at the Subject Account a copy of the May 9, 2018 letter from Congressman Sessions to Secretary Pompeo. As noted above, on the same day, Parnas communicated with Toensing via text message about meeting with Solomon about Ambassador Yovanovitch.

b. On or about March 12, 2019, Solomon emailed Parnas, diGenova, and Toensing at the Subject Account a number of interview questions for Lutsenko, including questions about Ambassador Yovanovitch.

c. On or about March 24, 2019, Parnas emailed Toensing at the Subject Account a link to an article published in the *Daily Wire* entitled "Calls Grow to Remove Obama's U.S.

Ambassador to Ukraine." The article summarized Solomon's reporting about Ambassador Yovanovitch. As noted above, on the same day Donald Trump Jr. retweeted the article.

39. Additionally, based on my training and experience, email accounts like the Subject Account, which have been used to communicate with others in furtherance of the Subject Offenses, often contain records of that activity, including email correspondence, address books with contact information for co-conspirators, and documents saved as email attachments or to Google Docs or Google Drive folders. Indeed, as described above, Parnas and Toensing exchanged emails and documents in furtherance of the Subject Offenses. Additionally, based on my training and experience, and my participation in the investigation, it appears that Toensing had communications and meetings with Giuliani, Parnas, and Solomon about the removal of the Ambassador, and therefore I believe the Subject Account will contain evidence of such communications.

40. Based on my training and experience, and my participation in this investigation, it also appears that Toensing had meetings with Parnas and Giuliani, among others, and that evidence in the Subject Account will corroborate the existence of such meetings. Specifically, location data, IP transaction records, and calendar entries may contain evidence to establish Toensing's location at relevant dates set forth above. Furthermore, device and Android information, and cookie data for linked accounts, may contain evidence of other email accounts or electronic devices that could contain evidence of the Subject Offenses, including correspondence with co-conspirators or location information to corroborate the existence of meetings. Indeed, from my participation in this investigation, I have learned that the individuals involved in the commission of the Subject Offenses have used multiple email or iCloud accounts, and/or multiple cellphones, to communicate with co-conspirators.

41. Temporal Limitation. This application is limited to content created, sent, or received after December 1, 2018, which is shortly prior to Toensing's initial correspondence with Parnas and Giuliani, to the present.

C. Evidence, Fruits and Instrumentalities

42. Based upon the foregoing, I respectfully submit there is probable cause to believe that information stored on the Provider's servers associated with the Subject Account will contain evidence, fruits, and instrumentalities of the Subject Offenses, as more fully described in Section III of Attachment A to the proposed warrant. In particular, I believe the Subject Account is likely to contain the following information:

a. Communications with Lev Parnas, Igor Fruman, David Correia, Rudolph Giuliani, Roman Nasirov, Victor Shokin, Nazar Kholodnytsky, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian national.

b. Communications with or about John Solomon that relate to Ukraine, Burisma, and/or Marie Yovanovitch.

c. Evidence relating to Marie Yovanovitch, including but not limited to the May 9, 2018 letter from Congressman Pete Sessions to Secretary of State Mike Pompeo regarding Yovanovitch, attempts to remove Yovanovitch from her position as U.S. Ambassador to Ukraine, or communications with U.S. government officials regarding Yovanovitch or Ukraine.

d. Evidence relating to any funds received directly or indirectly from Parnas, Fruman, Correia or any entity or individual associated with them, into any account controlled by or associated with Toensing or Giuliani.

e. Evidence of the motives of Giuliani, Toensing, Parnas, and Fruman in seeking the removal of Yovanovitch.

f. Evidence of money, actions, or information requested by, or offered or provided to Giuliani, Toensing, Parnas, or Fruman, by any Ukrainian, including but not limited to the efforts to remove Yovanovitch and/or any Ukrainian investigation of Burisma Holdings Ltd., Hunter Biden, or potential interference in the 2016 U.S. presidential election.

g. Evidence of requests for action or payment of money by Dmytro Firtash for any matter besides the legal defense of Firtash in extradition or U.S. criminal proceedings.

h. Evidence that Giuliani and/or Toensing were acting at the direction, control, or request of any Ukrainian national, government official, corporation or political party, including but not limited to agreements with such an individual or entity, records of meetings, written instructions, payment records, and documents provided by such individuals or entities.

i. Evidence that Toensing had meetings with Parnas, Fruman, Correia, Victor Shokin, Roman Nasirov, Nazar Kholodnytsy, Kostiantyn Kulyk, Yuriy Lutsenko, or any other Ukrainian government official, corporation, or political party, including but not limited to travel records, and location and IP records that establish or aid in establishing Toensing's presence in the vicinity of those individuals.

j. Evidence of any contemplated, planned, or actual lobbying efforts relevant to Ukraine, including any press interviews or media strategies, or meetings with U.S. government officials.

k. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

l. Evidence of efforts or attempts to conceal meetings or communications with individuals acting on behalf of or associated with any Ukrainian national or government official.

m. Passwords or other information needed to access user's online accounts.

IV. Review of the Information Obtained Pursuant to the Warrant

43. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for service of a search warrant issued under § 2703, or for the collection or production of responsive records. Accordingly, the warrant requested herein will be transmitted to the Provider, which shall be directed to produce a digital copy of any responsive records to law enforcement personnel within 30 days from the date of service. Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) will retain the records and review them for evidence, fruits, and instrumentalities of the Subject Offenses as specified in Section III of Attachment A to the proposed warrant.

44. In conducting this review, law enforcement personnel may use various methods to locate evidence, fruits, and instrumentalities of the Subject Offenses, including but not limited to undertaking a cursory inspection of all emails within the Subject Account. This method is analogous to cursorily inspecting all the files in a file cabinet in an office to determine which paper evidence is subject to seizure. Although law enforcement personnel may use other methods as well, particularly including keyword searches, I know that keyword searches and similar methods are typically inadequate to detect all information subject to seizure. As an initial matter, keyword searches work only for text data, yet many types of files commonly associated with emails, including attachments such as scanned documents, pictures, and videos, do not store data as searchable text. Moreover, even as to text data, keyword searches cannot be relied upon to capture

all relevant communications in an account, as it is impossible to know in advance all of the unique words or phrases that investigative subjects will use in their communications, and consequently there are often many communications in an account that are relevant to an investigation but that do not contain any keywords that an agent is likely to search for.

45. Additionally, because Toensing is an attorney, the review of evidence from the Subject Account will be conducted pursuant to the USAO's screening procedures to ensure that the law enforcement personnel involved in the investigation, including attorneys for the Government, collect evidence in a manner reasonably designed to protect any attorney-client or other applicable privilege. The USAO will use a designated "filter team," separate and apart from the investigative team, in order to review potentially privileged communications and determine which communications to release to the investigation and prosecution team.

V. Request for Non-Disclosure and Sealing Order

46. While Parnas, Fruman, and others have been publicly indicted with respect to separate charges, and there has been some public reporting about the existence of a criminal investigation into the removal of Ambassador Yovanovitch, the scope and focus of this criminal investigation, including any focus on Toensing, are not publicly known. As a result, premature public disclosure of this affidavit or the requested warrant could alert potential criminal targets that they are under investigation and/or to the scope and focus of the investigation, causing them to destroy evidence, flee from prosecution, or otherwise seriously jeopardize the investigation. Specifically, from my experience investigating public corruption offenses, I know that individuals who participate in offenses such as the Subject Offenses may communicate about known government investigations and tailor their stories to be consistent, and tamper with or hide potential evidence. Accordingly, premature disclosure of the scope of this investigation would undermine efforts to obtain truthful statements from relevant witnesses, and could lead to witness tampering and/or obstruction of

justice. In addition, the investigation relates to financial transactions involving foreign bank accounts, and premature disclosure of the focus of this investigation could lead to efforts to hide or conceal foreign funds or transactions. Lastly, if certain subjects of this investigation named herein were alerted to the scope of the criminal investigation, it may prompt them to delete electronic records, including in e-mail accounts or other electronic media not presently known to the government.

47. Additionally, notice is not appropriate to the law firm of diGenova & Toensing, LLP, which is the entity that appears to control the email enterprise account [redacted]. Toensing and diGenova, whose involvement is described above, are two of the three apparent employees of the law firm, and it appears that they direct the firm's operations. Therefore, there does not appear to be any person who works for the firm that could be notified without jeopardizing the investigation. Accordingly, there is reason to believe that, were the Provider to notify the subscriber, the enterprise subscriber, or others of the existence of the warrant, the investigation would be seriously jeopardized. Pursuant to 18 U.S.C. § 2705(b), I therefore respectfully request that the Court direct the Provider not to notify any person of the existence of the warrant for a period of one year from issuance, subject to extension upon application to the Court, if necessary.

48. For similar reasons, I respectfully request that this affidavit and all papers submitted herewith be maintained under seal until the Court orders otherwise, except that the Government be permitted without further order of this Court to provide copies of the warrant and affidavit as need be to personnel assisting it in the investigation and prosecution of this matter, and to disclose those materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

VI. Conclusion

49. Based on the foregoing, I respectfully request that the Court issue the warrant sought herein pursuant to the applicable provisions of the Stored Communications Act, 18 U.S.C. § 2703(b)(1)(A) (for contents) and § 2703(c)(1)(A) (for records and other information), and the relevant provisions of Federal Rule of Criminal Procedure 41.

[redacted]
Special Agent
Federal Bureau of Investigation

Sworn to before me this
13th day of December, 2019

HONORABLE J. PAUL OETKEN
United States Magistrate Judge
Southern District of New York

AO 93C (08/18) SDNY Rev. Warrant by Telephone or Other Reliable Electronic Means ☒ Original ☐ Duplicate Original

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)
an Apple iPhone 7 with serial number [redacted], and all storage media contained therein.

Case No. **21 MAG 4591**

WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search and seizure of the following person or property located in the Southern District of New York
(identify the person or describe the property to be searched and give its location):
an Apple iPhone 7 with serial number [redacted] and all storage media contained therein

The search and seizure are related to violation(s) of *(insert statutory citations)*:

22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 2 (attempting to and willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes)

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized)*:

See Attachment A

YOU ARE COMMANDED to execute this warrant on or before May 12, 2021 *(not to exceed 14 days)*
☑ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____.
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*
☐ for _____ days *(not to exceed 30)* ☐ until, the facts justifying, the later specific date of _____.

Date and time issued: April 28, 2021 2:15 p.m.

City and state: New York, New York

J. PAUL OETKEN
United States District Judge

Return

Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:

Inventory made in the presence of :

Inventory of the property taken and name(s) of any person(s) seized:

Certification

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: _____

_____
Executing officer's signature

_____
Printed name and title

ATTACHMENT A

I. Subject Device to be Searched

This warrant authorizes the search and forensic examination of the following device, and all storage media contained therein: (1) an Apple iPhone 7 with serial number [redacted] (the "Subject Device"). To the extent materials are dated, this warrant authorizes the seizure of materials created, accessed, or dated January 1, 2019 to December 31, 2019.

II. Review of ESI on the Subject Device

A. Evidence of the Subject Offenses

Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) are authorized to review the electronically stored information ("ESI") contained within the Subject Device for evidence and instrumentalities of violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 2 (attempting to and willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (the "Subject Offenses"), for the time period January 1, 2019 to December 31, 2019, described as follows:

1. Evidence relating to, including but not limited to communications with or regarding, Lev Parnas, Igor Fruman, David Correia, Rudy Giuliani, John Solomon, Petro Poroshenko, Yuriy Lutsenko, Kostiantyn Kulyk, Victor Shokin, Gyunduz Mamedov, or Glib Zagorii.

2. Evidence relating to Marie Yovanovitch and the position of U.S. Ambassador to Ukraine, including but not limited to any communications with any U.S. Government official or employee regarding Yovanovitch or the position of U.S. Ambassador to Ukraine.

3. All retainer agreements, including any drafts or partially executed agreements, with any Ukrainian government entity, official, or national, including but not limited to Lutsenko.

4. Evidence relating to any work or potential work concerning Franklin Templeton or the recovery of assets stolen from Ukraine.

5. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

B. Methods of Review of ESI

In conducting the review of ESI on the Subject Device, law enforcement personnel may use various techniques to locate information responsive to the warrant, including, for example:

- surveying various file "directories" and the individual files they contain (analogous to looking at the outside of a file cabinet for the markings it contains and opening a drawer believed to contain pertinent files);

- opening or cursorily reading the first few "pages" of such files in order to determine their precise contents;

- scanning storage areas to discover and possibly recover recently deleted files or deliberately hidden files;

- performing keyword searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are intimately related to the subject matter of the investigation; and

- reviewing metadata, system information, configuration files, registry data, and any other information reflecting how, when, and by whom the computer was used.

Law enforcement personnel will make reasonable efforts to search only for files, documents, or other electronically stored information within the categories identified in Sections II.A of this Attachment. However, law enforcement personnel are authorized to conduct a complete review of all the ESI from seized devices or storage media if necessary to evaluate its contents and to locate all data responsive to the warrant.

Additionally, review of the items described in this Attachment shall be conducted pursuant to established procedures designed to collect evidence in a manner reasonably designed to protect any attorney-client or other applicable privilege. When appropriate, the procedures shall include use of a designated "filter team," separate and apart from the investigative team, in order to address potential privileges.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)

an Apple iPhone 7 with serial number [redacted], and all storage media contained therein.

21 MAG 4591

Case No.

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location):*

an Apple iPhone 7 with serial number [redacted]L and all storage media contained therein

located in the Southern District of New York, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment A

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☑ evidence of a crime;
- ☑ contraband, fruits of crime, or other items illegally possessed;
- ☑ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	*Offense Description*
22 U.S.C. §§ 612 and 618	Acting as an unregistered foreign agent
18 U.S.C. § 2	Attempting to and willfully causing a violation of the foregoing statutes
18 U.S.C. § 371	Conspiracy to violate the foregoing statutes

The application is based on these facts:

See Attached Affidavit and its Attachment A

- ☐ Continued on the attached sheet.
- ☐ Delayed notice of _____ days *(give exact ending date if more than 30 days:* _____ *)* is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

[redacted]

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by FaceTime *(specify reliable electronic means)*.

Date: April 28, 2021

City and state: New York, New York

J. PAUL OETKEN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

21 MAG 4591

In the Matter of the Application of the United States of America for a Search Warrant for the contents of an Apple iPhone 7 with serial number [redacted] and all storage media contained therein;
USAO Ref. No. 2018R01228

TO BE FILED UNDER SEAL

Agent Affidavit in Support of Application for Search and Seizure Warrant

SOUTHERN DISTRICT OF NEW YORK) ss.:

[redacted] being duly sworn, deposes and says:

I. Introduction

A. Affiant

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). In the course of my experience and training in this position, I have participated in criminal investigations into federal offenses involving public corruption and violations of the foreign agent registration laws. I also have training and experience executing search warrants, including those involving electronic evidence such as cellphones and computers.

2. This affidavit is based upon my personal knowledge; my review of documents and other evidence; my conversations with other law enforcement personnel; and my training, experience and advice received concerning the use of computers in criminal activity and the forensic analysis of electronically stored information ("ESI"). Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

B. The Subject Device to be Searched

3. I make this Affidavit, pursuant to Federal Rule of Criminal Procedure 41, in support of an application for a warrant to search the contents of the Subject Device particularly described as follows:

a. An Apple iPhone 7 with serial number [redacted] (which, according to records obtained from AT&T, appears to have been used between approximately December 2, 2018, and at least December 13, 2019), which was registered to the telephone number [redacted] ("Toensing Number") and to an Apple iCloud account (the "Toensing iCloud").[1]

4. The Subject Device was seized on April 28, 2021, pursuant to search warrants authorized by the Honorable Gina L. Simms, United States Magistrate Judge for the District of Maryland, to search the person of Victoria Toensing and her residence located at [redacted] (the "Toensing Residence") for and to seize the Subject Device.[2]

5. The Subject Device is presently located in the Southern District of New York.

6. The requested warrant would authorize the forensic examination of the Subject Device for the purpose of identifying electronically stored data or other evidence, fruits, or instrumentalities of the Subject Offenses, as particularly described in Attachment A.

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[1] Based on my review of materials obtained from Apple, I have learned that the email account [redacted] is registered to the Toensing iCloud, which is registered to both her cellphone (assigned the Toensing Number), and a silver iPad Pro 9.7 (the "Toensing iPad"), meaning that text messages, emails, and other materials found on her iCloud account are located on either her cellphone or her iPad or both. Based on my review of the Prior Search Warrant Returns (as the term is defined herein), it appears that the messages sent from the Toensing iCloud were sent from the Toensing iPad, but messages sent to the Toensing iCloud were delivered to her cellphone (assigned the Toensing Number), the Toensing iPad, or both.

[2] During the execution of the warrants, which also authorized the search for and seizure of the Toensing iPad, the FBI did not identify or seize the Toensing iPad.

C. The Subject Offenses

7. For the reasons detailed below, I believe that there is probable cause to believe that the Subject Device contains evidence, fruits, and instrumentalities of violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 2 (attempting and willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (together, the "Subject Offenses").

D. Prior Search Warrant Applications Referenced Below

8. In the course of the investigation discussed below, the United States Attorney's Office for the Southern District of New York ("USAO") and FBI sought and obtained search warrants that have yielded evidence that is described below. As is relevant for the instant application, the following search warrants were previously obtained:

a. On or about January 18, 2019, the USAO and FBI sought and obtained from the Honorable Sarah Netburn, Magistrate Judge for the Southern District of New York, a search warrant (the "January 18 Warrant") for records in email accounts belonging to Lev Parnas, Igor Fruman, and others. On or about October 17, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the January 18 Warrant returns for evidence of additional offenses.

b. On or about May 16, 2019, the USAO and FBI sought and obtained from the Honorable Stewart Aaron, Magistrate Judge for the Southern District of New York, a search warrant (the "May 16 Warrant") for records in iCloud accounts belonging to Parnas and Fruman, among others. On or about October 21, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the May 16 Warrant returns for evidence of additional offenses.

c. On or about August 14, 2019, the USAO and FBI sought and obtained from the Honorable Henry B. Pitman, Magistrate Judge for the Southern District of New York, a search warrant (the "August 14 Warrant") for email accounts belonging to Parnas, Fruman, and others.

d. On or about November 4, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant (the "November 4 Warrant") for records in iCloud accounts belonging to Giuliani and Victoria Toensing.

e. On or about December 13, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant (the "December 13 Warrant") for records in an email account belonging to Toensing.

f. Together, the records obtained pursuant to the January 18 Warrant, May 16 Warrant, August 14 Warrant, November 4 Warrant, and December 13 Warrant are referred to as the "Prior Search Warrant Returns."

g. On or about April 13, 2021, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant for historical and prospective location information for the Toensing Number (the "GPS Warrant").

h. On or about April 22, 2021, the USAO and FBI sought and obtained from the Honorable Gina L. Simms, United States Magistrate Judge for the District of Maryland, warrants to search Toensing's person and the Toensing Residence for and to seize the Subject Device.

II. Probable Cause

A. Probable Cause Regarding Subjects' Commission of the Subject Offenses

Overview

9. The FBI and USAO are investigating whether Rudolph Giuliani, Victoria Toensing, and Lev Parnas and others undertook actions to cause the removal of the United States Ambassador to the Ukraine, Marie Yovanovitch, including actions detailed below at the request and/or under the direction of a foreign government, entity, or person, in violation of the Foreign Agents Registration Act ("FARA").[3] Specifically, as discussed below, there is probable cause to believe that starting in at least January 2019, Giuliani, Toensing, and Parnas engaged in a multi-pronged lobbying effort aimed at causing Ambassador Yovanovitch's removal, all while hiding the fact that they were doing so at the request and direction of Yuriy Lutsenko, a Ukrainian official from whom Giuliani, Toensing, and Parnas sought personal compensation and gain. As discussed below, after meeting with Lutsenko on two occasions in January and February 2019, Giuliani lobbied then-President Donald J. Trump on at least three occasions and lobbied then-Secretary of State Michael Pompeo on at least two occasions for the Ambassador's removal. When those efforts appeared to have failed, Giuliani, Toensing, and Parnas appear to have devised and

[3] FARA criminalizes acting as an agent of a foreign principal without registering with the Attorney General for certain specified activities. Activities covered by FARA include acting as a "publicity agent" or engaging in the United States in "political activities." *See* 22 U.S.C. §§ 611-12. "[P]olitical activities" are defined in the statute as "any activity . . . [to] influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party." *Id.* As relevant here, FARA requires any person acting "at the order, request, or under the direction or control" of (i) a foreign principal, or (ii) a person whose activities are "indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign principal," to register with the Attorney General and to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts, and disbursements in support of those activities. *Id*.

participated in a coordinated media campaign aimed at using and publicizing disinformation from Lutsenko. It appears that Giuliani, together with Toensing and Parnas, were incentivized to undertake these efforts on behalf of Lutsenko in at least two different ways. First, in the same discussions in which Lutsenko raised the firing of Ambassador Yovanovitch, he mentioned the possibility of retaining Giuliani to aid in a legal matter or lawsuit in the United States to recover purportedly stolen Ukrainian assets. As discussed below, Giuliani was interested in being engaged to do that work, and proposed a retainer with a $200,000 upfront payment. Thus, it appears that Giuliani and Toensing took steps to cause the firing of the Ambassador to prove to Lutsenko what they could achieve in order to, among other things, secure the legal representation. Giuliani also involved Toensing in that retainer, and she too eagerly anticipated being retained by Lutsenko. Second, as discussed below, it appears that Giuliani and Toensing were also motivated to act at Lutsenko's direction and on Lutsenko's request so that Lutsenko would provide derogatory information about, among other things, Joseph and Hunter Biden, which would potentially be politically valuable to Giuliani and Toensing. The efforts were successful: the Ambassador was removed from her post in late April 2019. Moreover, despite all these efforts to lobby for the removal of the Ambassador on behalf of Lutsenko, Giuliani, Parnas, and Toensing never filed a FARA registration.

10. As set forth below, based on my review of the Prior Search Warrant Returns, as well as subpoena returns and public sources, there is probable cause to believe that the Subject Device will contain, fruits, evidence and instrumentalities of the Subject Offenses.

Giuliani's Involvement with Parnas in 2018

11. Parnas is a Florida-based Ukrainian-American businessman.[4] Giuliani first met Parnas in or around July 2018, and based on my review of materials obtained pursuant to the May 16 Warrant, it appears that over the next several months they started communicating and spending time together on a regular basis. Among other things, based on my review of records obtained pursuant to the January 18 Warrant, it appears that in or around August 2018, Parnas raised with Giuliani the prospect of being hired by Parnas's nascent insurance business, Fraud Guarantee. On or about August 16, 2018, Giuliani emailed Parnas's business partner, David Correia,[5] a one-page draft agreement between Fraud Guarantee and Giuliani's consulting and management firm, Giuliani Partners, which contemplated that Fraud Guarantee would pay Giuliani Partners $500,000 upon signing the agreement, and $100,000 per month thereafter. Based on my review of the materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I know that Giuliani repeatedly requested that Parnas complete the engagement and pay Giuliani Partners the $500,000,

[4] Parnas has been charged alongside co-defendants Igor Fruman, David Correia, and Andrey Kukushkin in a seven-count indictment which charges Parnas with (i) conspiring to make straw donations, in violation of 18 U.S.C. § 371, 52 U.S.C §§ 30122, 30109(d)(1)(A) & (D); (ii) making false statements to the Federal Election Commission, in violation of 18 U.S.C. § 1001(a)(2) and 2; (iii) falsification of records, in violation of 18 U.S.C. § 1519 and 2; (iv) conspiring to violate the foreign donor ban, in violation of 18 U.S.C. § 371, 52 U.S.C §§ 30121, 30122, and 30109(d)(1)(A) & (D); (v) soliciting a contribution from a foreign national, in violation of 52 U.S.C. § 30121, 30109(d)(1)(A), and 18 U.S.C. § 2; (vi) aiding and abetting the making of a contribution from a foreign national, in violation of 52 U.S.C. § 30121, 30109(d)(1)(A), and 18 U.S.C. § 2; and (vii) conspiring to commit wire fraud in connection with his business "Fraud Guarantee," in violation of 18 U.S.C. § 1349. Parnas has pleaded not guilty and is scheduled to proceed to trial in October 2021. *See United States v. Parnas, Fruman, Correia, and Kukushkin*, S1 19 Cr. 725 (JPO).

[5] Correia was charged alongside Parnas in indictment S1 19 Cr. 725 (JPO), and has since pleaded guilty and been convicted of (i) making false statements to the Federal Election Commission, in violation of 18 U.S.C. § 1001(a)(2) and 2; and (ii) conspiring to commit wire fraud in connection with "Fraud Guarantee," in violation of 18 U.S.C. § 1349. In February 2021, Correia was sentenced to a term of one year and one day's imprisonment, and is currently serving his sentence.

and in or about September and October 2018, Parnas induced a third party to make two payments totaling $500,000. While Giuliani stayed in regular contact with Parnas after receiving the payments, it appears that he did little to no work for Fraud Guarantee.

12. It appears based on my review of the Prior Search Warrant Returns that in or around November or December 2018, Parnas started providing Giuliani with information about Ukraine. For instance, based on my review of those materials, on or about December 7, 2018, Parnas forwarded Giuliani a copy of a letter dated May 9, 2018, which it appears Parnas had caused Congressman Pete Sessions to write and send to Secretary Pompeo, and which called for the firing of Ambassador Yovanovitch. On or about December 14, 2018, Parnas told Giuliani that he was traveling to Ukraine the following day, and texted Giuliani a link to a Ukrainian news article alleging that two Ukrainian government officials broke Ukrainian law in revealing Paul Manafort "black ledgers," which were relevant to the Special Counsel's Office ("SCO") investigation.[6]

13. Based on my review of the Prior Search Warrant Returns, I have learned that while in Ukraine, Parnas met with multiple current and former Ukrainian government officials, including Viktor Shokin, the former Prosecutor General, which is the position equivalent in Ukraine of the United States Attorney General. Based on my review of materials obtained via the Prior Search Warrant Returns, I have learned that Correia created notes during or shortly after the Ukraine trip that reflected that Ambassador Yovanovitch was a topic of conversation, and that Shokin and Lutsenko (the then-Prosecutor General) would each provide information regarding alleged corruption by now-President Biden and Ambassador Yovanovitch. Based on my review of those same materials, it appears that Correia went to meet with Giuliani shortly after returning to the

[6] Based on my involvement in this investigation to date, it is not clear whether Giuliani requested the materials from Parnas because he was interested in Ukraine as a result of the SCO investigation or for other reasons, or if Parnas provided them to Giuliani unprompted.

United States to discuss, among other things, the topics contained in those notes. Additionally, based on my review of the Prior Search Warrant Returns, I have learned that upon returning to the United States, Parnas solicited Giuliani's assistance in arranging a visa for Shokin to come to the United States and, among other things, meet with Giuliani. Based on my review of the Prior Search Warrant Returns, as well as records provided by the State Department and my participation in interviews with officials at the State Department, Giuliani did, in fact, make requests to officials at the State Department that they grant a visa to Shokin, but Giuliani was ultimately unsuccessful in securing a visa.

14. Notwithstanding the negative information that was provided by Parnas to Giuliani in 2018 about Ambassador Yovanovitch, and Giuliani's inability to obtain a visa for Shokin—which from my review of the Prior Search Warrant Returns and participation in the investigation it appears that Parnas and Shokin, if not Giuliani, blamed at least in part on Ambassador Yovanovitch—Giuliani did not seek the Ambassador's removal until after meeting with Lutsenko in late January and early February 2019, as discussed below.

Giuliani's January 2019 Meetings with Lutsenko and Shokin

15. On or about January 25 and 26, 2019, Giuliani, George Boyle (who works for Giuliani Partners), Parnas, and Fruman met with Lutsenko, Gyunduz Mamedov, and Glib Zagorii (both of whom worked with Lutsenko) at the Offices of Giuliani Partners in Manhattan. I have reviewed a three and a half page memorandum prepared by Boyle regarding the two-day, multi-hour meeting. The memorandum was obtained from the State Department, and was provided to the State Department by Giuliani, as discussed below. From my review of that memorandum, as well as public statements subsequently made by Parnas and Lutsenko, I have learned, among other things, the following:

a. According to the memorandum, during the January 25 and 26 meetings, Lutsenko stated, in sum and substance, that his predecessor, Shokin, had opened an investigation into Burisma, in which Hunter Biden, a board member, was implicated. According to the memorandum, Lutsenko also provided information regarding the Manafort "black book." The memorandum also indicated that Lutsenko raised two issues of potential importance to himself. First, it appears from the memorandum that Lutsenko and Giuliani discussed Ambassador Yovanovitch, whom Lutsenko asserted "protects" the "ineffective" Specialized Anticorruption Prosecutor's Office in Ukraine, who Lutsenko claimed asked him to close three cases. According to the memorandum, Lutsenko stated that, in his then-capacity as Prosecutor General of Ukraine, he had re-initiated an investigation into Hunter Biden. Second, it appears from the memorandum that Lutsenko raised allegations that the global investment firm Franklin Templeton held approximately $7 billion dollars in money that had been embezzled from Ukraine since 2010 to benefit pro-Russian Ukrainians. A separate memorandum that appears to also have been prepared by Boyle indicates that Giuliani also spoke by phone with Shokin, who was in Ukraine at that time, on January 23, 2019 regarding some of the same allegations regarding Burisma.

b. Based on my review of statements subsequently made by Lutsenko that were quoted in an article published by the *New Yorker*, Lutsenko claimed that in 2018, his office sent a letter to the legal attaché at Embassy Kiev, requesting the Americans' assistance in recovering assets from Franklin Templeton, but that his office did not receive the requested assistance in pursuing these funds. Accordingly, it appears that Lutsenko was seeking assistance in recovering assets from or bringing legal action against Franklin Templeton, and after he was unsuccessful through formal channels, he raised the issue with Giuliani.

c. Based on my review of the transcript of a televised January 16, 2020 interview of Parnas by Rachel Maddow, I have learned that Parnas stated, among other things, that Lutsenko wanted Yovanovitch removed for "his own career reasons" and that "both Lutsenko and Shokin (the former Prosecutor General) had an interest in getting rid of" Yovanovitch. While it is not clear from Parnas's statements the timing of when these messages were conveyed by Lutsenko, Parnas was also asked whether "Lutsenko [was] saying in effect, listen, if you want me to make these Biden allegations, you're going to have to get rid of this ambassador," to which Parnas replied, "absolutely."[7]

16. Based on my review of materials obtained via the Prior Search Warrant Returns, including text messages between Parnas and Giuliani, I have learned that Giuliani and Parnas exchanged several messages about Lutsenko following those meetings in New York. Specifically, on or about February 4, 2019, Giuliani texted Parnas to have a safe flight to D.C., and said "need to lock up law suit for AG [o]f Ukraine," which appears to be a reference to Lutsenko retaining Giuliani to file a lawsuit to recover the Franklin Templeton assets. On or about February 10, 2019, Giuliani texted Parnas, "Any word on guy [Lutsenko] coming here" and in connection with their

[7] Based on my conversations with the prosecutors assigned to this investigation, I have learned that on or about October 28, 2019, Parnas's counsel proffered to the USAO and FBI that all of Parnas's efforts to remove Yovanovitch were done at the direction of President Trump and/or Giuliani, who was himself acting at the direction of President Trump. For the reasons discussed herein, the USAO and FBI do not regard this claim as credible, and believe the evidence provides probable cause to believe that Giuliani and Parnas were acting at the request and/or under the direction and request of one or more foreign principals, including Lutsenko.

I am also aware that on or about March 4, 2020 Parnas himself provided information to the USAO and FBI, in a proffer session. That information is not being set forth herein as a basis for probable cause. Nonetheless, I am aware that Parnas described ulterior motives for his efforts to seek Ambassador Yovanovitch's removal, in addition to the fact that Lutsenko had requested her removal, including among other things his desire to ingratiate himself with Giuliani and President Trump.

upcoming trip to Poland and Ukraine, "Any progress on plane tomorrow[.]" Parnas responded by text that "[t]hey," in sum and substance, were calling him shortly and Parnas would find out the details. Shortly thereafter, Parnas texted Giuliani, in sum and substance, that Lutsenko would meet Giuliani and Parnas on or about February 12, 2019 in Warsaw, Poland. Based on my review of U.S. border crossing records, materials obtained pursuant to the May 16 Warrant, and public reporting, it appears that Giuliani and Parnas did then travel to Poland.

Anticipated Retention of Giuliani, Toensing, and diGenova by Lutsenko and Continued Lobbying for Ambassador Yovanovitch's Removal

17. Based on my review of materials obtained via the Prior Search Warrant Returns, I have learned that in or around February 2019, Parnas, Giuliani, and Toensing exchanged messages and a draft retainer agreement reflecting Giuliani Partners and Toensing's anticipated representation of Lutsenko in connection with what appears to be the Franklin Templeton allegations. Based on my review of the Prior Search Warrant Returns, as discussed below, it appears that Giuliani, Parnas, and Toensing undertook efforts to cause the removal of Ambassador Yovanovitch from her post at or around the same time they were drafting a retainer agreement to represent Lutsenko. Additionally, as discussed below, it appears from the same materials that those efforts to cause the Ambassador's removal were undertaken at Lutsenko's request or direction, at least in part, in order to secure the retainer agreement to represent Lutsenko in the Franklin Templeton matter. Moreover, as discussed below, based on my review of the Prior Search Warrant Returns, it appears that Lutsenko also incentivized Giuliani, Toensing, and Parnas to cause the Ambassador to be fired by agreeing to provide negative information about now-President Joseph Biden and Hunter Biden, in addition to information Giuliani could use to attack the SCO investigation, all of which appears, from text messages and emails, to have been of significant

interest and value to them. Specifically, with respect to the foregoing, I have learned the following, based on my review of materials obtained via the Prior Search Warrant Returns:

a. Toensing became involved in Giuliani and Parnas's efforts to remove Ambassador Yovanovitch on or around February 9, 2019. Based on my review of materials obtained from the Prior Search Warrant Returns, I have learned that Giuliani invited Toensing to participate in the matter, with what appears to be the expectation that in exchange for Toensing, Giuliani, and Parnas's efforts to remove Ambassador Yovanovitch from her post, Lutsenko would reward Toensing and Giuliani with a several-hundred thousand dollar retainer agreement which expressly contemplated future paid work by Toensing and Giuliani.[8] Based on my review of materials obtained via the Prior Search Warrant Returns, including text messages between Toensing (who was using both the Toensing Number and/or the Subject Device and/or the Toensing iPad linked to the Toensing iCloud) and Giuliani, I have learned that Toensing and Giuliani had a preexisting relationship and discussed matters related to press appearances and the SCO investigation (they both represented individuals in connection with that inquiry), and that Giuliani introduced Toensing to Parnas in or around February 2019.

b. On or about February 9, 2019, Toensing texted Parnas from the Toensing Number, "Anything happening? My emails to you have come back." As discussed above, based

[8] Based on my review of a financial analysis prepared based on bank records and public reports, it appears that around this time, Giuliani had a financial interest in receiving a retainer agreement from Lutsenko. Specifically, in May 2018, Giuliani left his former law firm and its substantial compensation package. Based on my review of a financial analysis of bank records that have been collected to date (which may not include all of Giuliani's checking and credit card accounts), on or around January 25, 2018, Giuliani had approximately $1.2 million cash on hand, and approximately $40,000 in credit card debt. By contrast, on or around January 25, 2019, right before he met with Lutsenko, Giuliani had approximately $400,000 cash on hand in those same accounts and approximately $110,000 in credit card debt. By on or around February 16, 2019, his account balances had dropped to approximately $288,000 and his credit card debt remained over $110,000.

on my review of travel records, I have learned that Parnas and Giuliani traveled to Warsaw, Poland and met with Lutsenko, on February 11, 2019.[9] On or about February 11, 2019, Toensing texted Giuliani and Parnas from the Toensing Number: "Is there absolute commitment for HER to be gone this week?" On or about the same day, Giuliani texted back, "Yes not su[r]e how absolute [w]ill get a reading in morning and call you. Pompe[o] is now aware of it. Talked to him on Friday [February 8, 2019]."

c. Toensing, Giuliani, and Parnas exchanged numerous messages following the meeting with Lutsenko regarding Giuliani's drafting of a retainer agreement for Lutsenko, and Parnas's need for information on the status of Ambassador Yovanovitch while he was in Ukraine and meeting with Lutsenko. Specifically, on or about February 14, 2019, Toensing, appearing to use the Toensing iPad linked to the Toensing iCloud, texted Giuliani: "How is Retainer Agreement coming? Our hands are pretty tied about doing much until we have it in place as we need it for FARA." Toensing then texted Parnas from the Toensing Number a copy of what she described in a text as her "nudge to Rudy." Parnas then texted Toensing at the Toensing Number to "nudge [Giuliani] about the Mrs A.," which appears to be a reference to Ambassador Yovanovitch. Toensing and Parnas exchanged several messages (using the Toensing Number) stating, in sum

[9] Based on my review of public reporting, I have learned that according to an article published on September 29, 2019 in *Reuters*, Giuliani admitted that he met Lutsenko in Warsaw in February 2019 after first meeting him in New York in January, but that the meeting with Lutsenko in Warsaw was "really social . . . I think it was either dinner or cigars after dinner. Not opportune for substantive discussion." However, this does not appear to be accurate, as described herein, Giuliani circulated a draft retainer agreement between Lutsenko, Giuliani Partners, and diGenova & Toensing (a law firm owned by Toensing and her husband Joseph diGenova) only five days after meeting with Lutsenko, and communicated with Parnas and Toensing about lobbying Pompeo and Trump to remove Yovanovitch on the same day, and in the days following, his meeting with Lutsenko.

and substance, that they had followed up with Giuliani about the retainer agreement and complaining about the delay.

d. It appears that Parnas continued to press Toensing and Giuliani for movement on the retainer agreement and the Ambassador's removal while he was in Ukraine meeting with Lutsenko. On or about February 15, 2019, Toensing texted Parnas from the Toensing Number that she had "[t]alked to Rudy" but "[d]id not bring up Retainer as I figured you are on ground in need of it." On or about February 16, 2019, Parnas texted back that he was waiting to hear from Giuliani, and stated to Toensing by text to the Toensing Number that he "really need[ed] to know [the] status of madam A. [w]hile I'm here." Based on my review of travel records for Parnas, it appears that "here" was a reference to Ukraine. Toensing responded from the Toensing Number, "That's for Rudy to get tonight." Later that day, Giuliani texted Toensing at the Toensing iCloud: "I'm heading for Florida. Lev meeting with our friend and going over retainer will get it to him today." Based on my involvement in this investigation and review of text messages, I believe that "our friend" was a reference to Lutsenko. Toensing sent Giuliani's message to Parnas and asked if "Rudy c[a]me through," and Parnas confirmed to Toensing that he had received a draft.

e. On or about February 16, 2019, Giuliani sent Parnas and Fruman a draft retainer agreement between "Yuriy Lutsenko, as the General Prosecutor of Ukraine," and Giuliani Partners, Toensing, and diGenova. The retainer amount was $200,000 for services by Giuliani, Toensing, and diGenova in recovering "sums of money in various financial institutions outside Ukraine." Based on my involvement in this investigation, I believe that the description in the agreement of recovering "sums of money in various financial institutions outside Ukraine" was a reference to recovering allegedly stolen assets from Franklin Templeton, which Lutsenko had

raised with Giuliani at their first meeting. The agreement also stated that it was a temporary agreement to be superseded "by a long term agreement." Parnas told Giuliani that same day that he had just met with "the other gentleman," in an apparent reference to Shokin, and that it "went great call me when you can I'll update you."

f. On or about February 17, 2019, Parnas texted Toensing at the Subject Device and/or the Toensing iPad linked to the Toensing iCloud to confirm that Giuliani had sent the retainer agreement. Toensing asked Parnas by text from the Toensing Number if Giuliani "me[]t with the guy re Amb?" to which Parnas replied, "I am still waiting on that[, m]eeting with big guy in 4 hours," an apparent reference to Giuliani meeting with President Trump to lobby for Ambassador Yovanovitch's removal. Toensing also texted Giuliani using the Toensing iCloud, which is linked to the Subject Device and the Toensing iPad, "What happened with the big Guy re Amb." And Giuliani replied "It is in process." Later that day, Toensing asked Parnas from the Toensing Number, "Was he successful re Amb?" to which Parnas replied "this week." On February 18, 2019, Parnas told Giuliani to make out the retainer agreement to the Ministry of Justice of Ukraine, attention to Minister Pavlo Petrenko. Giuliani asked "How much?" and Parnas promised to call him shortly, and then followed up regarding the retainer agreement again.

g. Based on my review of materials obtained from the May 16 Warrant, public reporting and U.S. border crossing records, I have learned that Parnas met with Lutsenko regarding the retainer agreement on or around February 21, 2019, and then appears to have met again with Lutsenko several days later to obtain paperwork. On or about February 20, 2019, Parnas texted Giuliani to send wire instructions and a "signed copy by you Victoria and joe so they can execute and wire funds." Based on my involvement in this investigation, I believe that "joe" is a reference to Joseph diGenova, Toensing's husband and law partner who, as discussed herein, later made

media appearances promoting the removal of the Ambassador. Later that day, Parnas confirmed that he "received signed retainer." On the day of the meeting between Parnas and Lutsenko, on or about February 21, 2019, Giuliani texted Parnas "How is it going????" to which Parnas replied, "Meeting with [Y]uri [Lutsenko] now everything good." Three days later, Giuliani again asked how things were going, and Parnas responded that he was "meeting with [Y]uri [Lutsenko] in 2 hours he has some paperwork to give us I'll call you after the meeting." On or about the same day, Toensing texted Giuliani from the Toensing iCloud, "What happened with discussion," to which Giuliani replied, "Told today getting done Saturday I said no need a confirmation and will get it tomorrow." Based on my involvement in this investigation and my review of text messages, it appears that Giuliani was referring to the execution of Lutsenko's retainer agreement and the wiring of funds. However, based on my review of bank records, it does not appear that Lutsenko wired funds to Giuliani at that time, or any subsequent time.

h. On or about February 24, 2019, Toensing texted Giuliani, appearing to use the Toensing iPad linked to the Toensing iCloud, "Was the deed done?" On or about February 25, 2019, Toensing, appearing to use the Toensing iPad linked to the Toensing iCloud, texted Parnas to ask, "Is she still there?" Parnas texted back, "Yes." On or about February 25, 2019, Toensing also texted Giuliani from the Toensing iCloud, which is linked to the Subject Device and the Toensing iPad, "Is she still there?" Based on my involvement in this investigation and my review of text messages from the Prior Search Warrant Returns, it appears that Toensing was asking whether Ambassador Yovanovitch had been removed from her post.

Public Media Campaign to Remove Ambassador Yovanovitch

18. Based on my review of the Prior Search Warrant Returns and public sources, I have learned that following Parnas's meeting with Lutsenko in February 2019, and in light of the fact

that Giuliani's lobbying efforts up until that point appeared to have been unsuccessful, Parnas, Toensing, Giuliani, and Lutsenko worked with a journalist, John Solomon at *The Hill*, to mount an aggressive and coordinated public media campaign aimed at discrediting and causing the removal of Ambassador Yovanovitch.[10] It appears from my review of the materials that their media campaign began within days of Lutsenko complaining, in early March 2019, to Parnas about actions that Yovanovitch had taken in Ukraine. Specifically, based on my participation in the investigation, my participation in an interview with Ambassador Yovanovitch, my review of public statements made by Lutsenko, Giuliani, and diGenova, and my review of materials obtained via the Prior Search Warrant Returns, I have learned, among other things, the following:

a. Based on my review of articles published on or around March 6, 2019, I have learned that on or about March 5, 2019, Ambassador Yovanovitch gave a speech in which she called for the removal of an ally of Lutsenko's, Nazar Kholodnytsky, from his government position in Ukraine because he had been accused by the National Anti-corruption Bureau of Ukraine ("NABU"), a separate prosecutor's office, of leaking information about corruption investigations to the targets of those investigations. Yovanovitch also criticized the Ukrainian court system, which she described as riddled with compromised judges.

b. Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that Lutsenko immediately complained about Yovanovitch's statements to Parnas. Specifically, on or about March 5, 2016, the day of Yovanovitch's speech, Lutsenko texted Parnas

[10] Informational materials that an agent disseminates or causes to be disseminated in interstate commerce on behalf of a foreign principal must contain labeling as required by Section 614(b) of FARA. *See* 22 U.S.C. § 614; 28 C.F.R. § 5.400 and 5.402. The articles published in *The Hill* and the subsequent tweets disseminating that information did not contain such labeling.

"Ambassador openly called to fire [Kholodnytsky]."[11] Parnas asked Lutsenko to call him, and Lutsenko texted back, in sum and substance, that the Ambassador had also criticized Ukrainian Supreme Court judges.

c. Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that in response to Lutsenko's complaint, on March 8, 2019, Parnas sent Toensing at the Toensing Number a text message containing a photograph of the May 2018 letter written by Congressman Sessions, and she replied by sending the contact information for Solomon. Toensing, appearing to use the Toensing iPad linked to the Toensing iCloud, also texted Giuliani to "Contact John Solomon re interview this am."

d. On or about March 8, 2019, Lutsenko texted Parnas and referred to a statement Yovanovitch made in which she called for Kholodnytsky's removal. Parnas texted back, "we are all in the loop," and wrote, in sum and substance, that they were setting up an interview between Lutsenko and a journalist – a reference to Solomon. Lutsenko then sent Parnas the contact info for Kholodnytsky, and Lutsenko wrote: "Nazar [Kholodnytsky] is waiting[,] I explained everything. Ready to talk about the l[a]ck of impartiality." Parnas and Lutsenko also discussed setting up an interview between Solomon and then-President Petro Poroshenko of Ukraine, but Lutsenko told Parnas that Poroshenko could not answer questions about "the Ambassador, Biden" in the "middle of the campaign." Based on my review of public reporting, I have learned that at the time, Poroshenko was running for re-election, which he would ultimately lose.

[11] Parnas's text messages with Lutsenko were in Russian, and my description of these messages herein are based on preliminary translations of those messages by FBI Russian language linguists.

e. On or about March 9, Parnas texted Giuliani information about the press campaign, and stated, in sum and substance, that he had just spoken with Solomon and Lutsenko. Parnas also asked Giuliani to call Parnas so he could "update you very good stuff."

f. However, it appears that Lutsenko grew impatient with Parnas's failure to secure Ambassador Yovanovitch's removal. On or about March 11, 2019, Lutsenko texted Parnas about when he would be receiving an invitation from the "General Attorney," which appears to be a reference to the U.S. Attorney General. On or about March 13, 2019, Lutsenko texted Parnas, "I am fucking sick of everything. I did not get the visit. My Number One did not get shit. I am ready to shaft your competitor. But you want even more. We do everything. You do later. This is dishonest." Based on my participation in the investigation, this appears to be a reference to Lutsenko and others' willingness to share information about Burisma and the Bidens and frustration that Parnas could not similarly deliver on issues to include the removal of Ambassador Yovanovitch or a meeting with then-Attorney General Barr. On or about March 14, 2019, Parnas texted back, "I just spoke with our [people]. I think there is good news. When you get a chance, call me regarding your visit here." Based on my participation in the investigation, it appears that "our people" refers to Giuliani and/or Toensing.

g. At the same time, based on my review of the Prior Search Warrant Returns, it appears that Parnas, Solomon, and Toensing worked together to publicize Lutsenko's allegations through Solomon. On or about March 12, 2019, Parnas received from Shokin a written narrative and answers to questions posed by Solomon about Yovanovitch and the Bidens. Parnas forwarded Shokin's answers to Solomon. Parnas also texted with Lutsenko and conveyed additional information back to Solomon.

h. On or about March 19, 2019, Toensing texted Solomon (appearing to use the Toensing iPad linked to the Toensing iCloud) that she had spoken with "Rudy and Lev" and stated "I have the plan. So call when you can." Based on my review of the Prior Search Warrant Returns and public reporting, it appears that Parnas set up an interview between Solomon and Lutsenko. On or about March 20, 2019, a portion of Solomon's video interview with Lutsenko and an accompanying article entitled "Senior Ukrainian Official Says He's Opened Probe into US Election Interference" were published in *The Hill*. In his interview, Lutsenko claimed he would open an investigation into whether the director of NABU, Artem Sytnyk, attempted to "influence the 2016 vote to the benefit of Democratic presidential nominee Hillary Clinton." In a second video interview published on March 20, 2019, by Solomon in *The Hill*, Lutsenko told Solomon that Ambassador Yovanovitch had given him "a list of people whom we should not prosecute" during their first in-person meeting. *The Hill* reported that Lutsenko was not "the only person complaining about the U.S. Embassy in Kiev," and noted that Congressman Sessions wrote a "private letter asking Secretary of State Mike Pompeo to recall the current U.S. ambassador, alleging that she made disparaging statements about President Trump." *The Hill* also posted a copy of the letter. The article quoted Sytnyk as describing Lutsenko's allegations as untrue and an "absurd attempt" to discredit NABU.[12]

i. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that Parnas continued working to publicize Lutsenko's allegations

[12] Based on my participation in an interview with Ambassador Yovanovitch, I have learned that each of Lutsenko's claims were either false or fabrications. Ambassador Yovanovitch did not give Lutsenko a "do not prosecute" list or direct him to prosecute, or not prosecute, anyone. Similarly, Ambassador Yovanovitch and the U.S. embassy did not show any political bias, but were focused on implementing U.S. policy in Ukraine. Indeed, Lutsenko himself retracted or otherwise walked back many of these claims in subsequent interviews and statements.

against Yovanovitch and texted links to Solomon's articles to many of his contacts. On or about March 20, 2019, Parnas sent [redacted], the development director of [redacted] (to whom Parnas had previously donated in the name of a corporation), links to both of Solomon's articles in *The Hill*, along with links to tweets by Laura Ingraham and Sean Hannity. Parnas instructed [redacted], "have jr retweet it," in reference to Donald Trump Jr. [redacted] did so, and confirmed to Parnas, "sent." Trump, Jr. subsequently retweeted an article summarizing Solomon's reporting in the *Daily Wire*, entitled "Calls Grow to Remove Obama's U.S. Ambassador to Ukraine." Moreover, while it is not known how he came across the article, on March 20, 2019, then-President Trump also retweeted one of the links that Parnas had sent to [redacted]: an article entitled "As Russia Collusion fades, Ukrainian plot to help Clinton emerges." [redacted] sent a copy of President Trump's tweet to Parnas.

j. Parnas frequently updated Lutsenko on the success of their press blitz in Russian-language text messages. In particular, Parnas promptly sent a screenshot of then-President Trump's tweet to Lutsenko. In an apparent effort to garner more information for Solomon, Parnas asked Lutsenko to send him "the names of the people that she said," which appears to be a reference to Yovanovitch and the "do not prosecute list" Lutsenko claimed she had given him. Lutsenko sent Parnas three names and described them all as "loud NABU activist[s]." Based on public reporting and my participation in this investigation, including my interview with Ambassador Yovanovitch, it appears that Lutsenko may have clashed with Yovanovitch regarding what he perceived to be a rival prosecutor's office in Ukraine, NABU in the spring of 2018, and was frustrated by her continued alignment with NABU, which appears to have provided a motive for Lutsenko to falsely claim that Yovanovitch had asked him not to prosecute "loud NABU activist[s]." Parnas congratulated Lutsenko and told him that "Today you become a world-class

political figure. Glory to the Ukraine !!!" Lutsenko then texted Parnas if it was "true, that the Ambassador chick and [the head of NABU] were called to Washington," to which Parnas replied, "I will call later. We'll talk." Parnas then reported to Lutsenko by text message, in sum and substance, that then-President Trump had re-tweeted a story about Yovanovitch. Lutsenko responded, "If I am not going to get invited for an official visit in the nearest future, I will not be able to fight off our or your [people]." Based on my participation in the investigation, it appears that Lutsenko's reference to fighting off "our or your [people]" referred to their perceived enemies in Ukraine and the U.S., respectively.

k. The day after *The Hill* published the Lutsenko interview, on or about March 21, 2019, Parnas wrote Solomon and Toensing that the top news story in Ukraine was the reporting regarding Ambassador Yovanovitch, which according to Parnas prompted the Ambassador to put out a statement saying that Lutsenko was a "prime example of corruption." Based on my review of text messages, Lutsenko was upset about that statement, and the news coverage he was receiving in Ukraine. He complained to Parnas, "why the fuck do I need these kinds of adventures . . . 10 days before the election" in Ukraine. "Moreover," Lutsenko continued, "they are saying in the State Department that my reports work in favor of corrupt officials. Great fucking help to Ukraine." Parnas responded that he would call Lutsenko and had "good news."

l. Lutsenko continued to complain to Parnas about the lack of results with respect to Yovanovitch's removal. On or about March 22, 2019, Lutsenko wrote that "It is simply that if you do not make a decision regarding the madam, you cast doubt on all of my statements, including regarding B." Based on my review of a January 16, 2020 interview with Rachel Maddow, Parnas confirmed that the "madam" was Yovanovitch and "B" was "Biden," and that Parnas understood Lutsenko to be saying, in sum and substance, that if Parnas wanted Lutsenko to

make Biden allegations (and for those allegations to be taken seriously), he needed to have Yovanovitch removed. Meanwhile, Giuliani continued to lobby then-President Trump for Ambassador Yovanovitch's removal, and on or about March 22, 2019, Giuliani texted Toensing via the Subject Device and/or the Toensing iPad linked to the Toensing iCloud, apparently in reference to then-President Trump and the letter from Congressman Sessions calling for Yovanovitch's removal, that "he has letter says she's gone no more screwing around[.]"

m. Based on my review of public reporting, Solomon's articles soon received substantially increased press attention. On or about March 22, 2019, on *The Ingraham Angle* on Fox News, Ingraham aired a segment highlighting that former-Congressman Sessions sent Secretary of State Pompeo "an urgent letter" in May 2018, asking that Ambassador Yovanovitch be removed from her position, and published a copy of that letter. DiGenova was a guest on the program, and announced: "I have learned this evening that the President has ordered her dismissal from her post. . . as a result of her activities there which were complained of by Congressman Sessions. She is known and reported by people there to have bad-mouthed the President of the United States Donald Trump, to have told Ukrainians not to listen to him or obey his policy . . . and finally her activities have caught up with her." Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that the fact that then-President Trump had decided, at least at that point, to fire Yovanovitch appears to be the "good news" that Parnas reported back to Lutsenko two days prior.

n. Later that day, in an apparent reference to diGenova's *Fox News* interview, Parnas texted Toensing at the Toensing Number, "I love you and your husband you are the best," and "Tell joe he was awesome my hero." Toensing responded from the Toensing Number, "We can be really great if we have a retainer signed." Based on my participation in the investigation as

well as my review of the Search Warrant Returns, I believe that Toensing was telling Parnas, in sum and substance, that her and her husband's efforts to seek the Ambassador's removal were an indicator of how "great" they could be for Lutsenko, and how much more they could do for him, if he signed the retainer agreement and paid them. Parnas agreed, and Toensing (from the Toensing Number) asked if the "Wicket [sic] Witch" was gone, which appears to be a reference to Yovanovitch. Giuliani separately texted Toensing at the Subject Device and/or the Toensing iPad linked to the Toensing iCloud to say that "Joe is my hero and you too." Based on my review of public statements made by Giuliani and Toensing, I have learned that around this time, Toensing and Giuliani frequently posted messages related to Ukraine, Yovanovitch, Biden, and the 2016 election on Twitter, apparently in an effort to further magnify the press attention Lutsenko's allegations against Yovanovitch would receive.

o. Based on my participation in an interview with [redacted], a public relations strategist with whom Parnas had previously worked (and to whom he owed money), I have learned that on or about March 22, 2019, Parnas met or spoke with [redacted] and asked him to help Parnas in his efforts to disseminate negative information about the Ambassador. Based on my review of the Prior Search Warrant Returns it appears that after the meeting, at Parnas's instruction, Correia sent [redacted] a copy of Congressman Sessions's letter, links to *The Hill* articles, and a number of tweets about the Ambassador. Parnas then texted [redacted], "Please send it to me when it goes out." [redacted] sent the materials forwarded by Correia to Ryan Saavedra, a reporter for *The Daily Wire*, as well as a number of conservative social media influencers such as Seb Gorka and Arthur Schwartz, among others. Saavedra published an article in *The Daily Wire* and those influencers tweeted about the Ambassador. On or about March 24, 2019, as discussed above, Donald Trump Jr. retweeted *The Daily Wire* article.

p. Although Parnas, Giuliani, and Toensing appeared to have been pleased with the press response in the U.S., as noted above, the press response in Ukraine was unfavorable to Lutsenko. On or about March 26, 2019, Lutsenko texted Parnas pictures of documents that allegedly contained information about Burisma, and noted, "I hope this is enough." He then complained to Parnas, in sum and substance, that despite the information he was gathering about Biden, the Ambassador had not been fired. In particular, he stated: the "Washington Post is attacking me already . . . Zero results. They want to listen to the tape. I will get the recording device tomorrow and the testimony of the participants of the conversation. My case on Zlochevskyy [the head of Burisma] is moving along nicely. There is evidence about transfers to B [Biden]. And only you cannot get rid of that fool of a woman ☹." Parnas wrote back, "She is not a simple fool of a woman. Believe me. Well, she will have nowhere to go."

q. On or about March 29, 2019, Parnas wrote to Lutsenko, "I was asked to tell you personally that America supports you and will not let you get hurt. It does not matter how it looks now. Everything will soon change and everything will go in the right direction. So that you would know, that you are being talked about here as a true hero of the Ukraine." Lutsenko then told Parnas that he had additional documents related to Burisma's payments to Hunter Biden, and when Parnas asked Lutsenko to send them to him, Lutsenko replied that he would "forward through the new Ambassador ☺."

r. Over the next several days, Parnas continued to feed information to Solomon, who asked Parnas by text to "eyeball" articles for "accuracy," and continued to publish articles in *The Hill*. On or about March 27, 2019, Parnas told Giuliani that "Hannity just canceled [on Solomon]," which prompted Giuliani to say that "[t]hey are scared[,] I will buck them up." Three days later, on or about March 30, 2019, Giuliani confirmed that he would be appearing on

Fox News that morning, to which Parnas responded, "Great." Parnas sent some of Solomon's articles to Giuliani, among many other contacts. Solomon also texted with Toensing via the Subject Device and/or the Toensing iPad linked to the Toensing iCloud to talk about Sean Hannity's show canceling on him. Solomon texted Toensing, "I think everything will be fine once we get Biden reported next [w]eek" and said that "Pompeo told [Giuliani] that ambassador under criminal investigation." Toensing texted back, "Geez. So what could possibly be the rationale to keep her? Makes no sense."

s. When Yovanovitch still had not been removed, Lutsenko continued his complaints about Yovanovitch to Parnas. On or about March 29, 2019, Lutsenko told Parnas that the "ambassador chick organized leak of NABU materials to the TV project financed by you about corruption of those surrounding Poroshenko. Next one is going to be about me." Parnas replied, "I will call you soon with the news." On or about April 2, 2019, Lutsenko texted Parnas, "I am probably the most famous Ukrainian where you are," to which Parnas replied, "This is going to be a big week." On or about April 9, 2019, Lutsenko provided the names of "Advisors and public speakers of the presidential candidate" Volodymyr Zelensky, who was running against Poroshenko, and their alleged connections to Yovanovitch (to whom Lutsenko referred by her nickname, "Masha"), and wrote that the candidate for Prosecutor-General—who would replace Lutsenko in the event Zelensky was elected—was a "Favorite activist of Masha."

Giuliani's Continued Lobbying of the State Department for Ambassador Yovanovitch's Removal

19. Around this time, based on my review of materials obtained from the State Department as well as public statements made by Giuliani, I have learned that Giuliani facilitated the delivery of a package of materials to Secretary Pompeo in furtherance of his effort to seek Ambassador Yovanovitch's removal. According to a U.S. Department of State Office of Inspector

General investigation, in late March or early April 2019, Pompeo received a package that had to do with "Ukraine issues." The package had a return label of "The White House," although it bore no official seal, and contained notes from interviews between Parnas, Fruman, and Giuliani with Shokin and Lutsenko from January 2019 regarding Burisma, Biden, and Yovanovitch. The documents were separated into folders that bore the insignia of the Trump Hotel. The package also contained Solomon's March 20, 2019 articles (discussed above) featuring his interview with Lutsenko, along with documents that appeared to be Solomon's notes and emails regarding the articles.

20. On or about October 2, 2019, Giuliani confirmed to CNN that the package originated with him, and that he gave the documents to the White House, which then passed them to Secretary Pompeo. Giuliani claimed that Pompeo told him that Pompeo would refer the matters detailed in the documents for further investigation.

Continued Efforts to Formalize Relationship with Lutsenko and Seek Ambassador Yovanovitch's Removal

21. Parnas, Toensing, and Giuliani made continued efforts to formalize the relationship with Lutsenko in April 2019. Specifically, based on my review of materials obtained via the Prior Search Warrant Returns, I have learned, among other things, the following:

a. On or about April 13, 2019, Giuliani sent Parnas a message, which contained a new retainer agreement, this one between Toensing and diGenova and Lutsenko and his deputy, Kulyk.[13] The agreement indicated that Lutsenko was retaining diGenova & Toensing, LLP to represent him "in connection with recovery and return to the Ukraine government of funds

[13] Based on my review of publicly available material, I have learned that Kulyk worked under Lutsenko at that time as the deputy head of International Legal Cooperation. According to an article published on October 5, 2019 in the *New York Times*, Yovanovitch asked Lutsenko to remove Kulyk at a meeting in 2016 due to Kulyk's corruption.

illegally embezzled from that country and providing 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." The agreement also noted that the firm's services "may entail activities subject to mandatory public disclosure under . . . the Foreign Agent Registration Act[, which] . . . requires the Firm to register and report certain of its activities on behalf of foreign political parties or entities." Per the agreement, Lutsenko would pay a $125,000 retainer and $25,000 per month, plus costs. Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that Toensing subsequently signed a copy of each of the three retainer agreements. Lutsenko did not ultimately pay Giuliani or Toensing any money. Shortly after receiving the retainer, Toensing wrote to Solomon appearing to use the Toensing iPad linked to the Toensing iCloud to nudge him on questions for additional Ukrainian interviews because "Lev wanted me to work with you," and reported, presumably about the retainer, that "Lev says Yuri should be client."

b. Between in or around April 11 and 23, 2019, Parnas worked with Solomon to arrange additional interviews with Ukrainian government officials, and provided the questions that Solomon would ask one official. Solomon ran multiple articles during that period. However, Lutsenko walked back some of his claims and told *The Babel* on or about April 17, 2019 that Ambassador Yovanovitch had never provided him with a "do not prosecute" list, and it was instead he who had requested that list. In addition, on or about April 21, 2019, Zelensky won the Ukrainian presidential runoff against Poroshenko.

c. On or about April 23, 2019, Parnas texted Giuliani to "text me or call me if you have any news," and Giuliani responded, "He fired her again." Parnas wrote, "I pray it happens this time I'll call you tomorrow." But on or about May 4, 2019, Giuliani texted Parnas,

"Boy I'm so powerful I can intimidate the entire Ukrainian government. Please don't tell anyone I can't get the crooked Ambassador fired or I did three times and she's still there." That same day, Lutsenko told Parnas that "People here are talking that there will be a very high level coming from you to the [Ukrainian] inauguration,"[14] to which Parnas replied "You do understand Who is dealing with this." Two days later, on or about May 6, 2019, the State Department confirmed that Ambassador Yovanovitch would leave her post on May 20, 2019. That same day, Parnas reported to Giuliani and Solomon that "Lutsenko [] said Ukraine media is saying that the ambassador is being recalled by us."

d. On or about May 9, 2019, Parnas forwarded to Lutsenko three articles entitled "Giuliani previews potential 2020 attack dog role with Biden-Ukraine story," "How Rudy Giuliani's unfounded claims of an anti-Trump conspiracy in Ukraine may have ousted an ambassador," and "Giuliani plans Ukraine Trip to Push for Inquiries That Could Help Trump." However, Toensing appears to have not been pleased with the press coverage regarding her relationship with Lutsenko. On or about May 9, 2019, Toensing texted Giuliani appearing to use the Toensing iPad linked to the Toensing iCloud that if he told the *New York Times* that she had been representing Lutsenko, because "I do not have a client." Giuliani responded "Sorry I thought that's why you were coming?" Toensing wrote, "Pls call. NYT now after me for not registering under FARA. I told you earlier today I had no Retainer with anyone. Now I am being accused of violating FARA. This needs to be corrected ASAP."[15] Giuliani replied by text, "Really." The

[14] Based on my review of public reporting, I have learned that the 2019 Ukrainian election was held on March 31 and April 21 in a two-round system. Volodymyr Zelensky won the election in the second round with 73% of the vote, defeating the incumbent President Poroshenko. Zelensky's inauguration was May 20, 2019.

[15] Based on my review of public statements made by a spokesman for Toensing to the *Washington Post* on or about November 27, 2019, I have learned that Toensing and diGenova had "agreed to represent people they described as 'Ukrainian whistleblowers'" and that those

next day, Toensing wrote Parnas "Pls tell me name of client. What happened? I do not represent Lutsenko. Or anyone else at this moment . . . Who is the person I am supposed to represent? Rudy told NYT I had been representing Lutsenko. I need to get retainer done so this is cleared up." Parnas texted back, "I'm not aware of that but don't worry we will clear everything up [once] you['re] here and will get retainer signed." Toensing asked again for the "complete name so I can have office draft retainer."[16]

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discussions included a possible representation of Lutsenko. However, "all of the retainer letters under consideration included 'the necessary notice of FARA registration,'" which according to the article, "suggest[ed] the couple had planned to register as foreign lobbyists if the agreements had been executed. (*See* https://www.washingtonpost.com/politics/giuliani-was-in-talks-to-be-paid-by-ukraines-top-prosecutor-as-they-together-sought-damaging-information-on-democrats/2019/11/27/636c3e86-112d-11ea-b0fc-62cc38411ebb_story.html). While this statement and the above-referenced text messages reflect a self-professed intention to register for FARA based on Toensing's representation of Lutsenko in the Franklin Templeton matter once there was a signed contract, even assuming those statements are credited, FARA explicitly does not require a written contract. *See* 22 U.S.C. § 612(a)(4). Moreover, the evidence described above indicates that Toensing, Giuliani, and Parnas never had any intention of registering for FARA based on their representation of Lutsenko in connection with their efforts to seek Ambassador Yovanovitch's removal at Lutsenko's direction and request; only that they may have intended to register in connection with the more innocuous sounding "recovery of stolen assets."

[16] Based on my review of public statements made by Giuliani, I have learned, among other things, that Giuliani (i) told the *New York Times* in an interview on November 27, 2019, that, with respect to the proposed contract with Lutsenko, "I thought it would be too complicated. I never received a penny." (*See* https://www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html); and (ii) stated on Twitter on November 27, 2019, that "I did NOT pursue a business opportunity in Ukraine, as [the *New York Times*] misrepresented. I could have helped them recover $7B in stolen money, but I didn't. Was paid ZERO." (*See* https://twitter.com/RudyGiuliani/status/1199823401663258624). As noted above, Toensing made similar statements, distancing herself from representation of Lutsenko, after the relationship became public in May 2019 reporting in the *New York Times*. However, based on my review of the information described herein, Giuliani's and Toensing's statements, made after intense media focus on their relationship with Lutsenko and role in Ambassador Yovanovitch's removal, appear to be inconsistent with the materials described herein and indeed intended to distance them from the conduct under investigation. For instance, as described herein, Giuliani appeared close to going forward with the representation of Lutsenko in late February 2019, having sent a retainer agreement and Parnas having requested wiring instructions from Giuliani to send to Lutsenko, and it appears the only reason it did not go forward is because Lutsenko did not wire the money.

e. On or about May 13, 2019, Giuliani texted Parnas a public statement Giuliani intended to make calling for the Bidens to be investigated. Parnas responded "Awesome." Around that time, Parnas sent Lutsenko a copy of a statement issued by Giuliani. On or about June 21, 2019, Lutsenko wrote Parnas, "I think it is time for us to talk with the Mayor. I have 2-2.5 months and I have a plan. I am serious. We have to talk."

Knowledge of FARA and Absence of FARA Registration

22. Based on my review of a publicly-available FARA registration database maintained by the Department of Justice, I have learned that Parnas, Giuliani, and Giuliani Partners have never filed a FARA registration. Additionally, based on my review of those same records, I know that Toensing previously registered under FARA and therefore it appears was aware of the requirement. Specifically, the firm of diGenova & Toensing LLP previously registered on behalf of the Kurdistan Democratic Party, but never made a filing related to Ukraine or Lutsenko. Based on my review of the Prior Search Warrant Returns, I have learned from Toensing's statements in text messages, discussed above, as well as the language of her draft retainer, that she is aware of FARA's registration requirements.

23. As detailed below, notwithstanding the fact that Giuliani and Parnas had not previously registered, it appears that both Parnas and Giuliani were aware of the FARA registration requirement. Specifically, based on my review of publicly available FARA filings, press reports, and materials obtained via the Prior Search Warrant Returns, I have learned, among other things, the following:

a. On or about July 11, 2018, *The Washington Post* ran an article on Giuliani's work on behalf of foreign clients while he was working for President Trump, and in response to a request for comment, Giuliani stated: "I've never lobbied [President Trump] on anything . . . I

don't represent foreign governments in front of the U.S. government. I've never registered to lobby." In September 2018, seven United States Senators wrote to the Justice Department to request a review into whether Giuliani had complied with FARA. In response to the letter, Giuliani told *The Wall Street Journal* that he was working for a U.S. firm and was not trying to influence U.S. policy. He added that he "did nothing to invoke FARA either now or ever" and "never represented foreign interests with [the] U.S. government."

b. Parnas explicitly discussed FARA or was privy to materials about it on multiple occasions. First, in or around January 2017 Parnas sent a contact an article that specifically referenced a FARA registration on behalf of the Ukrainian government. Second, on or about March 5, 2019, one of Parnas's contacts sent him a FARA registration filed by a third party, and Parnas confirmed "Got it." Notably, that FARA registration was completed regarding lobbying work done on behalf of two embassies (the Embassy of Japan and Liberia) and on behalf of a foreign individual in order to arrange meetings with Congressional representatives and staffers, and set up a Liberian congressional caucus. Third, in or around April 2019, Parnas texted with [redacted], a naturalized Ukrainian-American who resides in Brooklyn, Israel, and Ukraine, regarding Solomon and Lutsenko. On or about April 24, 2019, as part of a conversation unrelated to the lobbying activities detailed above, Parnas asked [redacted] to send him the "fara registration," and [redacted] responded with a FARA registration completed by a public relations firm on behalf of Zelensky.

* * *

24. Based on the above, there is probable cause to believe that the efforts by Giuliani, Toensing, and Parnas to seek the removal of Ambassador Yovanovitch were done at the direction and request of Lutsenko, as a part and in furtherance of the Subject Offenses.[17]

[17] Based on my review of public statements made by Giuliani, I have learned that Giuliani has made statements intended to suggest that he sought Ambassador Yovanovitch's removal for reasons independent of his desire to gain business from Lutsenko. Giuliani told the *New York Times* in a December 16, 2019, interview that he "gave them [President Trump and Secretary Pompeo] the facts. I mean, did I think [Ambassador Yovanovitch] should be recalled? I thought she should have been fired. If I was attorney general, I would have kicked her out. I mean – Secretary of State," and that he had "pointed out to the president a couple of times … what I had learned about the visa denials. I may or may not have passed along the general gossip that the embassy was considered to be a kind of out-of-control politically partisan embassy, but that was like, general gossip, I didn't report that as fact." (*See* https://www.nytimes.com/2019/12/16/us/politics/giuliani-yovanovitch-ukraine.html). In an interview with the *New Yorker* published on December 16, 2019, Giuliani stated, "I believed that I needed Yovanovitch out of the way. She was going to make the investigations difficult for everybody." (*See* https://www.newyorker.com/magazine/2019/12/23/the-ukrainian-prosecutor-behind-trumps-impeachment?verso=true). In a December 16, 2019, television interview he stated, "I didn't need [Ambassador Yovanovitch] out of the way. I forced her out because she's corrupt." (*See* https://www.youtube.com/watch?v=qFCeznGIXKs). Giuliani stated on Twitter on December 17, 2019 that "Yovanovitch needed to be removed for many reasons most critical 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." As detailed herein, these statements appear to be inconsistent with the evidence, including the fact that Giuliani did not take actions to seek the Ambassador's firing until *after* Lutsenko had offered a retainer in connection with a potential legal matter, which strongly suggest that acting at Lutsenko's request and direction appears to have been a strong motivating factor for Giuliani. Moreover, and tellingly, none of these statements makes reference to that retainer or the offer of negative information about the Bidens that Lutsenko offered Giuliani shortly before Giuliani's lobbying efforts began.

B. Probable Cause Justifying Search of the Subject Device

Toensing's Use of the Subject Device

25. As described below, there is probable cause to believe that the Subject Device was used by Toensing as an instrumentality of the Subject Offenses and contains evidence of the Subject Offenses.

26. First, as described above, Toensing used the Subject Device and/or the Toensing iPad linked to the Toensing iCloud, to send and receive text messages and place phone calls to Parnas and Giuliani, among others, relating to Ambassador Yovanovitch, attempts to remove her from her post, entering into a retainer agreement with Lutsenko or other Ukrainian government officials, collecting information about Burisma and Biden, and the requirements of FARA. For instance, Toensing used the Toensing Number, which is associated with the Subject Device, and other devices linked to the Toensing iCloud discussed above, to make and receive communications relating to the commission of the Subject Offenses:[18]

a. Specifically, as discussed above, Toensing sent and received text messages using the Subject Device associated with and/or linked to the Toensing Number and the Toensing iCloud relating to the firing of Ambassador Yovanovitch. For instance, on February 11, 2019, as discussed above, Toensing appeared to use the Toensing iPad linked to the Toensing iCloud to ask Giuliani, "Is there absolute commitment for HER to be gone this week?" Giuliani responded to

[18] As discussed above, on November 11, 2019, the FBI and USAO sought and obtained a search warrant for, among other things, Toensing's iCloud account. However, at the time the warrant was executed, the iCloud no longer contained all of the text messages outlined above with Parnas and Giuliani during the December 2018 to April 2019 time frame, some of which the Government obtained from other sources. Based on my training and experience, as well as my review of records provided by Apple, I believe the iCloud account did not contain text communications because Toensing did not backup that content, or removed it from the backup, but that it may continue to exist on the Subject Device itself.

the Subject Device and/or the Toensing iPad linked to the Toensing iCloud: "Pompe[o] is now aware of it." Toensing also sent and received text messages using the Subject Device and/or the Toensing iPad linked to the Toensing iCloud relating to being retained by Lutsenko. For instance, on February 14, 2019, Toensing sent Giuliani a message appearing to use the Toensing iPad linked to the Toensing iCloud that read: "How is Retainer Agreement coming? Our hands are pretty tied about doing much until we have it in place as we need it for FARA." As such, there is probable cause to believe that the Subject Device thus contains evidence of and relating to the Subject Offenses.

27. Second, in addition to records of text messages and calls, the Subject Device is likely to contain other evidence of the Subject Offenses, including emails, documents, notes, audio and video recordings, and GPS data. Specifically:

a. There is probable cause to believe that the Subject Device will contain email evidence of the Subject Offenses. As discussed above, Toensing used email addresses associated with her iCloud account to send draft retainer agreements on or about April 13, 2019. Based on my review of the Prior Search Warrant Returns, I have learned that Toensing has both an iPhone and iPad and used both to send and receive emails relevant to the Subject Offenses. More generally, based on my training and experience, as well as my review of product information provided by Apple, I know that cellphones and tablets, including iPhones and iPads, can be used to send, receive, and store emails. I also know from my training and experience that email accounts and their contents, including emails maintained on cellphones, that have been used in furtherance of the Subject Offenses often contain records of that activity, including email correspondence, address books with contact information for co-conspirators, and documents saved as email attachments.

b. In addition to emails, there is probable cause to believe that documents will be found on the Subject Device. Indeed, I know from my training and experience that document attachments to communications can be saved intentionally or as a result of a cellphone's or tablet's operating system or web browser to the cellphone itself. Tablets, cellphones, and computers can also be used to create documents in word processing programs, like Microsoft Word. Additionally, from my training and experience, I know that users of cellphones, tablets, and computers who are engaged in the commission of the Subject Offenses often store important documents relevant to that activity on their devices, and also maintain notes of meetings and telephone calls on their devices. Such documents can include, but are not limited to, Microsoft Word and PDF documents, drafts, scans, bank statements received from financial institutions, and government filings. As discussed above, the commission of the Subject Offenses involved the use of documents including signed and draft retainer agreements, notes of meetings with Lutsenko and others, and documents provided by Lutsenko, and therefore some or all of those types of documents are likely to be found on the Subject Device.

c. There is also probable cause to believe that the Subject Device contains multimedia, such as videos, audio records, and photographs, that are evidence of the Subject Offenses. For example, from my review of the Prior Search Warrant Returns, I know that Toensing used her iCloud account to exchange multimedia, including links to articles and photos, with Parnas and Giuliani in furtherance of the Subject Offenses. More generally, I know that cellphones can contain photographs and videos of meetings and documents, audio recordings of telephone calls and meetings, and screenshots of text messages. Because I know that co-conspirators often exchange such documentary evidence with each other to further a criminal scheme and/or keep records of their activity, the Subject Device is likely to contain such evidence.

d. In addition to text messages, call logs, emails, documents, and multimedia (including photographs, videos, audio recordings, and voicemails), the Subject Device is also likely to contain other records that are evidence of the commission of the Subject Offenses. Specifically, based on my training and experience and review of the Prior Search Warrant Returns, including Toensing's iCloud account and her communications with Giuliani and Parnas, there is reason to believe that the Subject Device will contain contact information of co-conspirators and/or witnesses (such as contact cards), internet search and browser history which may reveal Toensing's state of mind at the time of the commission of the Subject Offenses, and GPS data and calendar entries, which may reveal Toensing's presence at meetings with co-conspirators or other relevant witnesses.

28. Third, I understand from my training and experience, and my review of publicly-available information, that even for cellular telephone data and files that were created or last modified in 2018 or 2019, there is reason to believe that they can still be recovered from the Subject Device. Specifically:

a. From my training and experience, I have learned that electronic files, or remnants of those files, downloaded to a cellular telephone can be stored for years at little or no cost. Even when such files have been deleted, they can be recovered months or years later using readily-available forensics tools. When a person "deletes" a file on a cellular telephone, the data contained in the file does not actually disappear; rather, that data remains on the storage medium and within the device unless and until it is overwritten by new data. Therefore, deleted files, or remnants of deleted files, may reside in free space or slack space–that is, in space on the cellular telephone that is not allocated to an active file or that is unused after a file has been allocated to a set block of storage space–for long periods of time before they are overwritten. In addition, a cellular

telephone's operating system may also keep a record of deleted data in a "swap" or "recovery" file. Similarly, files that have been viewed via the Internet are automatically downloaded into a temporary Internet directory or "cache." The browser typically maintains a fixed amount of electronic storage medium space devoted to these files, and the files are only overwritten as they are replaced with more recently viewed Internet pages. Thus, the ability to retrieve "residue" of an electronic file from a cellular telephone depends less on when the file was downloaded or viewed than on a particular user's operating system, storage capacity, and cellular telephone habits.

b. Additionally, I have learned from my training and experience, and review of publicly-available information, that a person can transfer data from an old phone to a new phone, including, for example, mail, contacts, calendars, photos and videos, books and pdfs, call logs, and text messages. However, as noted above, it appears that the cellphone assigned the Toensing Number remained active and as of April 28, 2021 was located in the vicinity of [redacted]. Once the Subject Device was seized and deactivated from cellphone networks, the Toensing Number ceased transmitting location data.

* * *

29. Based on the foregoing, I respectfully submit there is probable cause to believe that Toensing and others engaged in criminal activity in violation of the Subject Offenses, and that evidence of this criminal activity is likely to be found in the Subject Device. Specifically, based on the foregoing, there is probable cause to believe that the following evidence, described below and in Attachment A will be found within the Subject Device:

a. Evidence relating to, including but not limited to communications with or regarding, Parnas, Fruman, Correia, Giuliani, Solomon, Poroshenko, Lutsenko, Kulyk, Shokin, Mamedov, or Zagorii.

b. Evidence relating to Yovanovitch and the position of U.S. Ambassador to Ukraine, including but not limited to any communications with any U.S. Government official or employee regarding Yovanovitch or the position of U.S. Ambassador to Ukraine.

c. All retainer agreements, including any drafts or partially executed agreements, with any Ukrainian government entity, official, or national, including but not limited to Lutsenko.

d. Evidence relating to any work or potential work concerning Franklin Templeton or the recovery of assets stolen from Ukraine.

e. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

30. Time Limitation. To the extent materials are dated, this warrant is limited to materials created, modified, sent, or received between January 1, 2019 to December 31, 2019. Materials going back to approximately January 1, 2019 are relevant to understand Toensing's relationship with Giuliani and Parnas. Materials created, modified, sent, or received after approximately May 2019, when the Ambassador was removed from her post, through December 31, 2019, a time period when both Giuliani and Toensing continued to make public statements regarding Lutsenko and Ukraine, and based on my review of the Prior Search Warrant Returns, were in contact with each other, are relevant because based on my review of the Prior Search Warrant Returns, it appears that Toensing continued to make public statements about Ukraine and the Ambassador and to communicate about them with Giuliani through at least that date.

III. Procedures for Searching

A. Use of a Filter Team

31. Because Toensing is an attorney, and continues to have legal clients, the initial search of the Subject Device will be conducted by FBI personnel who are not members of the prosecution team. Additionally, the review of evidence seized from the Subject Device will be conducted pursuant to established screening procedures to ensure that the law enforcement personnel involved in the investigation, including attorneys for the Government, collect evidence in a manner reasonably designed to protect any attorney-client or other applicable privilege. The procedures will include use of a designated "filter team," separate and apart from the investigative team, in order to review potentially privileged communications and determine which communications to release to the investigation and prosecution team.

B. Execution of Warrant for ESI

32. Federal Rule of Criminal Procedure 41(e)(2)(B) provides that a warrant to search for and seize property "may authorize the seizure of electronic storage media or the seizure or copying of electronically stored information . . . for later review." Consistent with Rule 41, this application requests authorization to seize any computer devices and storage media and transport them to an appropriate law enforcement facility for review. This is typically necessary for a number of reasons:

a. First, the volume of data on computer devices, cellphones, and storage media is often impractical for law enforcement personnel to review in its entirety at the search location.

b. Second, because computer and cellphone data is particularly vulnerable to inadvertent or intentional modification or destruction, computer devices and cellphones are ideally examined in a controlled environment, such as a law enforcement laboratory, where trained

personnel, using specialized software, can make a forensic copy of the storage media that can be subsequently reviewed in a manner that does not change the underlying data.

c. Third, there are so many types of computer hardware and software, and so many types of cellphone software and applications in use today that it can be impossible to bring to the search site all of the necessary technical manuals and specialized personnel and equipment potentially required to safely access the underlying computer data.

d. Fourth, many factors can complicate and prolong recovery of data from a computer device or cellphone, including the increasingly common use of passwords, encryption, or other features or configurations designed to protect or conceal data on the computer or cellphone, which often take considerable time and resources for forensic personnel to detect and resolve.

C. Review of ESI

33. Following seizure of the Subject Device, and/or the creation of forensic image copies, law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) will review the ESI contained therein for information responsive to the warrant.

34. In conducting this review, law enforcement personnel may use various techniques to determine which files or other ESI contain evidence or fruits of the Subject Offenses. Such techniques may include, for example:

- surveying directories or folders and the individual files they contain (analogous to looking at the outside of a file cabinet for the markings it contains and opening a drawer believed to contain pertinent files);

- conducting a file-by-file review by "opening" or reading the first few "pages" of such files in order to determine their precise contents (analogous to performing a cursory examination of each document in a file cabinet to determine its relevance);

- "scanning" storage areas to discover and possibly recover recently deleted data or deliberately hidden files;

- performing electronic keyword searches through all electronic storage areas to determine the existence and location of data potentially related to the subject matter of the investigation; [19] and

- reviewing metadata, system information, configuration files, registry data, and any other information reflecting how, when, and by whom the computer was used.

35. Law enforcement personnel will make reasonable efforts to restrict their search to data falling within the categories of evidence specified in the warrant. Depending on the circumstances, however, law enforcement personnel may need to conduct a complete review of all the ESI from seized devices or storage media to evaluate its contents and to locate all data responsive to the warrant.

D. Return of ESI

36. If the Government determines that the electronic device is no longer necessary to retrieve and preserve the data, and the device itself is not subject to seizure pursuant to Federal Rule of Criminal Procedure 41(c), the Government will return these items, upon request. Computer data that is encrypted or unreadable will not be returned unless law enforcement personnel have determined that the data is not (i) an instrumentality of the offense, (ii) a fruit of the criminal activity, (iii) contraband, (iv) otherwise unlawfully possessed, or (v) evidence of the Subject Offenses.

[19] Keyword searches alone are typically inadequate to detect all relevant data. For one thing, keyword searches work only for text data, yet many types of files, such as images and videos, do not store data as searchable text. Moreover, even as to text data, there may be information properly subject to seizure but that is not captured by a keyword search because the information does not contain the keywords being searched.

IV. Conclusion and Ancillary Provisions

37. Based on the foregoing, I respectfully request the court to issue a warrant to seize the items and information specified in Attachment A to this affidavit and to the Search and Seizure Warrant.

38. In light of the confidential nature of the continuing investigation, and the fact that premature disclosure of this affidavit could alert subjects of the investigation as to the nature and scope of the investigation, thereby prompting them to destroy evidence, shape their testimony, or tamper with witnesses, I respectfully request that this affidavit and all papers submitted herewith be maintained under seal until the Court orders otherwise.

[redacted]
Special Agent
Federal Bureau of Investigation

Sworn to before me on April 28, 2021

J. PAUL OETKEN
United States District Judge

ATTACHMENT A

I. Subject Device to be Searched

This warrant authorizes the search and forensic examination of the following device, and all storage media contained therein: (1) an Apple iPhone 7 with serial number [redacted] (the "Subject Device"). To the extent materials are dated, this warrant authorizes the seizure of materials created, accessed, or dated January 1, 2019 to December 31, 2019.

II. Review of ESI on the Subject Device

A. Evidence of the Subject Offenses

Law enforcement personnel (who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, agency personnel assisting the government in this investigation, and outside technical experts under government control) are authorized to review the electronically stored information ("ESI") contained within the Subject Device for evidence and instrumentalities of violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 2 (attempting to and willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (the "Subject Offenses"), for the time period January 1, 2019 to December 31, 2019, described as follows:

1. Evidence relating to, including but not limited to communications with or regarding, Lev Parnas, Igor Fruman, David Correia, Rudy Giuliani, John Solomon, Petro Poroshenko, Yuriy Lutsenko, Kostiantyn Kulyk, Victor Shokin, Gyunduz Mamedov, or Glib Zagorii.

2. Evidence relating to Marie Yovanovitch and the position of U.S. Ambassador to Ukraine, including but not limited to any communications with any U.S. Government official or employee regarding Yovanovitch or the position of U.S. Ambassador to Ukraine.

3. All retainer agreements, including any drafts or partially executed agreements, with any Ukrainian government entity, official, or national, including but not limited to Lutsenko.

4. Evidence relating to any work or potential work concerning Franklin Templeton or the recovery of assets stolen from Ukraine.

5. Evidence of knowledge of the foreign agent registration laws and requirements, or lobbying laws, including but not limited to knowledge of the requirement to register as an agent of a foreign principal, or of the prohibition of acting on behalf of, lobbying for, or making contributions on behalf of a foreign principal.

B. Methods of Review of ESI

In conducting the review of ESI on the Subject Device, law enforcement personnel may use various techniques to locate information responsive to the warrant, including, for example:

- surveying various file "directories" and the individual files they contain (analogous to looking at the outside of a file cabinet for the markings it contains and opening a drawer believed to contain pertinent files);

- opening or cursorily reading the first few "pages" of such files in order to determine their precise contents;

- scanning storage areas to discover and possibly recover recently deleted files or deliberately hidden files;

- performing keyword searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are intimately related to the subject matter of the investigation; and

- reviewing metadata, system information, configuration files, registry data, and any other information reflecting how, when, and by whom the computer was used.

Law enforcement personnel will make reasonable efforts to search only for files, documents, or other electronically stored information within the categories identified in Sections II.A of this Attachment. However, law enforcement personnel are authorized to conduct a complete review of all the ESI from seized devices or storage media if necessary to evaluate its contents and to locate all data responsive to the warrant.

Additionally, review of the items described in this Attachment shall be conducted pursuant to established procedures designed to collect evidence in a manner reasonably designed to protect any attorney-client or other applicable privilege. When appropriate, the procedures shall include use of a designated "filter team," separate and apart from the investigative team, in order to address potential privileges.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Warrant and Order for Prospective and Historical Location Information and Pen Register Information for the Cellphones Assigned Call Numbers [redacted], [redacted], and [redacted], USAO Reference No. 2018R01228

21 MAG 4001

APPLICATION

21 Mag. _____

Application for Warrant and Order for Cellphone Location and Pen Register Information

The United States of America, by its attorney, Audrey Strauss, United States Attorney for the Southern District of New York, Rebekah Donaleski, Assistant United States Attorney, of counsel, respectfully requests that the Court issue the accompanying proposed Warrant and Order for prospective location information, pen register information, and historical location information for three cellphones. As grounds for this Application the Government relies on the following facts and authorities.

I. Introduction

1. I am an Assistant United States Attorney in the U.S. Attorney's Office for the Southern District of New York. This Application is submitted in conjunction with the accompanying affidavit of a law enforcement agent ("Agent Affidavit"), to be sworn before this Court, and incorporated by reference herein. I make this Application based on information and belief, including the Agent Affidavit, my review of other documents in the case, and information received from investigative personnel.

2. The Investigating Agencies, Target Cellphones, Subscribers, Target Subjects, Service Provider, Subject Offenses, Successor Service Providers, and Successor Cellphones referenced in this Application are as specified in the Agent Affidavit.

II. Legal Authority

A. Prospective Location Information

3. The Government seeks to obtain both precision location information and cell site data for the Target Cellphones on a prospective basis (the "Prospective Location Information") for a period of 45 days from the date of this order—the same period of time for which a warrant for a tracking device may be granted under Rule 41(e)(2)(C). It bears noting, however, that while the Prospective Location Information may permit "tracking" the user of the phone in the colloquial sense, this is not an application for a warrant for a "tracking device" as defined in Fed. R. Crim. P. 41(a)(2)(E) and 18 U.S.C. § 3117(b). Those provisions only apply where an agent is seeking to physically install a tracking device on a given object. Instead, the Prospective Location Information will be obtained by requiring the Service Provider to provide the information.

4. The authority for this application is found in 18 U.S.C. § 2703(c)(1), which authorizes a court of competent jurisdiction to require any electronic communication service provider (which includes a cellular telephone service provider[1]) to disclose any "record or other information pertaining to a subscriber" other than the "contents of communications," when the government obtains, *inter alia*, a warrant under the applicable procedures of Rule 41. *See* 18 U.S.C. § 2703(c)(1)(A). Because data concerning a subscriber's location, such as precision location information and cell site data, constitutes "information pertaining to a subscriber" that does not include the "contents of communications," that data is among the types of information available

[1] *See* 18 U.S.C. § 2711(1) (incorporating by cross-reference statutory definitions set forth in 18 U.S.C. § 2510); 18 U.S.C. § 2510(15) (defining "electronic communication service" as "any service which provides to users thereof the ability to send or receive wire or electronic communications").

under § 2703(c)(1)(A).[2] Further, as specified in 18 U.S.C. § 2711(3), this Court is a court of competent jurisdiction under the Stored Communications Act because it has jurisdiction over the Subject Offenses.

5. The Government's request for cell site data also implicates the pen register statute, because such data constitutes signaling information used by the Service Provider to route communications to and from the Target Cellphones. In order to collect such data, a valid pen register order is required.[3] Accordingly, I hereby certify pursuant to 18 U.S.C. § 3122 that such signaling information is relevant to an ongoing investigation being conducted by the Investigating Agencies into suspected violations of the Subject Offenses by the Target Subjects.

B. Historical Location Information

6. The Government also seeks historical cell site data for the Target Cellphones for the periods set forth in the Agent Affidavit and proposed Warrant and Order (the "Historical Location Information"). Because such data—like "Prospective Location Information"—constitutes information concerning a subscriber, the Court is authorized to order the Service Provider to

[2] *See In re Application*, 460 F. Supp. 2d 448, 459–60 & n. 55 (S.D.N.Y. 2006) (Kaplan, J.) (cellphone location information falls within § 2703(c)(1)); *accord, e.g.*, *United States v. Caraballo*, 963 F. Supp. 2d 341, 361 (D.Vt. 2013); *In re Order*, 632 F. Supp. 2d 202, 207 (E.D.N.Y. 2008); *In re Application*, 405 F. Supp. 2d 435, 444-45 (S.D.N.Y. 2005). *But see In re Application*, 849 F. Supp. 2d 526, 574 (D.Md. 2011) (rejecting view that cellular location data falls within the scope of the SCA and finding that phone must be treated as "tracking device" for purposes of Rule 41 where used to collect location data); *In re Application*, 2009 WL 159187, at *5-*6 (S.D.N.Y. Jan. 13, 2009) (McMahon, J.) (same).

[3] *See* 18 U.S.C. § 3121 (prohibiting use of pen register or trap and trace device without an order under the pen register statute); 3127(3) & (4) (defining pen register and trap and trace device to include devices or processes that record, *inter alia*, signaling information). Although cell site data constitutes "signaling" information within the meaning of the pen register statute, a separate statute precludes the Government from relying "solely" on the authority provided by the pen register statute to ascertain a subscriber's location. 47 U.S.C. § 1002(a). Here, the Government seeks to obtain such data pursuant to 18 U.S.C. § 2703(c) as well as the pen register statute, rather than "solely" under the latter statute. *See In re Application*, 460 F. Supp. 2d at 456-59.

provide this data pursuant to a warrant application under 18 U.S.C. § 2703(c), under the applicable procedures of Rule 41. *See* 18 U.S.C. § 2703(c)(1)(A). I respectfully submit that the same Agent Affidavit establishing probable cause supporting the Government's request for a warrant to obtain the Prospective Location Information requested above also supports the issuance of a warrant under § 2703(c) for the requested Historical Location Information. In addition, the Government seeks toll records for the same period as the Historical Location Information. Pursuant to 18 U.S.C. § 2703(d), I respectfully submit that the Agent Affidavit offers specific and articulable facts showing that there are reasonable grounds to believe that the toll record information sought is relevant and material to an ongoing criminal investigation.

C. Pen Register Information

7. Finally, the Government seeks an order pursuant to 18 U.S.C. §§ 3121-26 authorizing the use of a pen register on the Target Cellphones for a period of 45 days from the date of this order. Specifically, the Government seeks an order directing the Service Provider to furnish any information, facilities, and technical assistance necessary to operate, unobtrusively and with minimum disruption of service, a pen register and trap and trace device to capture all dialing, routing, addressing, or signaling information associated with each call transmitted to or from the Target Cellphones, as specified further in the proposed Warrant and Order (the "Pen Register Information").[4]

[4] The Government is also not seeking authorization to obtain post-cut-through dialed digits ("PCTDD"), or digits that are dialed after a telephone call from the Target Cellphones has been connected. Pursuant to the attached Order, if possible, the Service Provider will forward only pre-cut-through-dialed digits to the Investigating Agencies. However, if the Service Provider's technical capabilities require it to forward all dialed digits, including PCTDD, to the Investigating Agencies, the Investigating Agencies will only decode and forward to the agents assigned to the investigation the numbers that are dialed before the call is cut through.

8. I hereby certify pursuant to 18 U.S.C. § 3122 that the Pen Register Information is relevant to an ongoing investigation being conducted by the Investigating Agencies into suspected violations of the Subject Offenses by the Target Subjects.

D. Sealing and Non-Disclosure Order to Service Provider

9. When the Government obtains records or information under § 2703(c), it is not required to notify the subscriber or customer. 18 U.S.C. § 2703(c)(3). Additionally, the Government may obtain an order precluding the Service Provider from notifying the subscriber or any other third-party of the warrant or order obtained, for such period as the Court deems appropriate, where there is reason to believe that such notification will result in endangering the life or physical safety of an individual, flight from prosecution, destruction of or tampering with evidence, or intimidation of potential witnesses, or will otherwise seriously jeopardize the investigation. 18 U.S.C. § 2705(b).

10. Further, 18 U.S.C. § 3123(d) provides that an order directing installation of a pen register or trap and trace device shall direct the pertinent service provider "not to disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person unless or until otherwise ordered by the Court."

11. Accordingly, as explained further in the Agent Affidavit, in light of the confidential nature of the continuing criminal investigation and the adverse consequences expected in the event of premature notification, the Government respectfully requests that the Court direct the Service Provider not to notify the Subscribers or any other person of the Warrant and Order sought herein for a period of one year, subject to extension upon application to the Court, if necessary.

12. For similar reasons, I respectfully request that the proposed Warrant and Order, this Application, and the accompanying Agent Affidavit, be maintained under seal until the Court orders otherwise, except that the Government be permitted without further order of this Court to

serve the Warrant and Order on the Service Providers; provide copies of the Warrant and Order or the supporting Application and Agent Affidavit as need be to personnel assisting the Government in the investigation and prosecution of this matter; and disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

III. Prior Requests

13. Except as may be set forth above, no prior request for the relief requested herein has been made.

Dated: New York, New York
April 13, 2021

Rebekah Donaleski
Assistant United States Attorney
Tel.: 212-637-2423

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Warrant and Order for Prospective and Historical Location Information and Pen Register Information for the Cellphones Assigned Call Numbers [redacted], [redacted], and [redacted], USAO Reference No. 2018R01228

21 MAG 4001

AGENT AFFIDAVIT

21 Mag. _____

Agent Affidavit in Support of Warrant and Order for Cellphone Location and Pen Register Information

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

[redacted], being duly sworn, deposes and states:

I. Introduction

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). In the course of my experience and training in this position, I have participated in criminal investigations into federal offenses involving public corruption and violations of the foreign agent registration laws. I have received training applicable to the investigation of such offenses, and have gained expertise in these areas through additional training and daily work related to these types of investigations.

2. **Requested Information.** I respectfully submit this Affidavit pursuant to 18 U.S.C. §§ 2703(c) and (c)(1)(A) and the applicable procedures of Federal Rule of Criminal Procedure 41; 18 U.S.C. §§ 2703(d) & 2705; and 18 U.S.C. §§ 3121-3126, in support of a warrant and order for prospective location information and pen register information for the Target Cellphones identified below (collectively, the "Requested Information").

3. **Basis for Knowledge.** This Affidavit is based upon my participation in the investigation, which is being conducted by the United States Attorney's Office for the Southern

District of New York ("USAO") and the Federal Bureau of Investigation ("FBI") (together, the "Investigating Agencies"), my examination of reports and records, and my conversations with other law enforcement agents and other individuals, as well as my training and experience. Because this Affidavit is being submitted for the limited purpose of obtaining the Requested Information, it does not include all the facts that I have learned during the course of this investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated. In addition, unless otherwise indicated, statements by others referenced in this Affidavit were not necessarily made to me, but may have been provided to me by someone else to whom I have spoken or whose report I have read (and who in turn may have had either direct or indirect knowledge of the statement). Similarly, unless otherwise indicated, information in this Affidavit resulting from surveillance does not necessarily set forth my personal observations, but may have been provided to me by other law enforcement agents who observed the events, and to whom I have spoken or whose report I have read.

4. **Target Cellphones, Subscribers, Target Subjects, and Service Provider.** The Service Provider referenced in this Affidavit is AT&T. The Target Cellphones, Subscribers, and Target Subjects referenced in this Affidavit are as follows:

a. Target Cellphone-1 is the cellphone assigned call number [redacted]. Based on records provided by AT&T, AT&T is the service provider for Target Cellphone-1, which is subscribed to in the name of Rudolph Giuliani. Rudolph Giuliani is believed to use Target Cellphone-1 and is a Target Subject of this investigation.

b. Target Cellphone-2 is the cellphone assigned call number [redacted]. Based on records provided by AT&T, AT&T is the service provider for Target Cellphone-2, which

is subscribed to in the name of Giuliani Partners LLC, with the user name listed as "William Lewis iPhone X." Rudolph Giuliani (whose full name is Rudolph William Louis Giuliani) is believed to use Target Cellphone-2 and is a Target Subject of this investigation.

c. Target Cellphone-3 is the cellphone assigned call number [redacted]. Based on records provided by AT&T, AT&T is the service provider for Target Cellphone-3, which is subscribed to in the name of Victoria Toensing. Victoria Toensing is believed to use Target Cellphone-3 and is a Target Subject of this investigation.

5. **Precision Location Capability.** Cellphone service providers have technical capabilities that allow them to collect at least two kinds of information about the locations of the cellphones to which they provide service: (a) precision location information, also known as E-911 Phase II data, GPS data, or latitude-longitude data, and (b) cell site data, also known as "tower/face" or "tower/sector" information. Precision location information provides relatively precise location information about a cellphone, which a provider can typically collect either via GPS tracking technology built into the phone or by triangulating the device's signal as received by the provider's nearby cell towers. Cell site data, by contrast, reflects only the cell tower and sector thereof utilized in routing any communication to and from the cellphone, as well as the approximate range of the cellphone from the tower during the communication (sometimes referred to as "per-call measurement" ("PCM") or "round-trip time" ("RTT") data). Because cell towers are often a half-mile or more apart, even in urban areas, and can be ten or more miles apart in rural areas, cell site data is typically less precise than precision location information. Based on my training and experience, I know that the Service Provider has the technical ability to collect precision location information from any cellphone on its network, including by initiating a signal on the Service Provider's networks to determine the phone's location. I further know that cell site

data is routinely collected by the Service Provider in the course of routing calls placed to or from any cellphone on its network.[1]

6. **Successor Service Provider.** Because it is possible that the Target Subjects may change cellphone service provider during the course of this investigation, it is requested that the warrant and investigative order requested apply without need for further order to any Successor Service Providers who may provide service to the Target Cellphones during the time frames at issue herein.

II. Facts Establishing Probable Cause

7. Although I understand that probable cause is not necessary to obtain all of the Requested Information, I respectfully submit that probable cause exists to believe that the Requested Information will lead to evidence of the crimes of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 2 (attempting and willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (together, the "Subject Offenses"), as well as the locations of the Target Subjects at the times they were engaged in the Subject Offenses.

A. Prior Search Warrant Applications Referenced Below

8. In the course of the investigation discussed below, the USAO and FBI sought and obtained search warrants that have yielded evidence that is described below. As is relevant for the instant application, the following search warrants were previously obtained:

a. On or about January 18, 2019, the USAO and FBI sought and obtained from the Honorable Sarah Netburn, Magistrate Judge for the Southern District of New York, a search

[1] Toll records are sometimes necessary or helpful in order to obtain or interpret historical cell site data and are therefore also requested herein.

warrant (the "January 18 Warrant") for records in email accounts belonging to Lev Parnas, Igor Fruman, and others. On or about October 17, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the January 18 Warrant returns for evidence of additional offenses.

b. On or about May 16, 2019, the USAO and FBI sought and obtained from the Honorable Stewart Aaron, Magistrate Judge for the Southern District of New York, a search warrant (the "May 16 Warrant") for records in iCloud accounts belonging to Parnas and Fruman, among others. On or about October 21, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant to search the May 16 Warrant returns for evidence of additional offenses.

c. On or about August 14, 2019, the USAO and FBI sought and obtained from the Honorable Henry B. Pitman, Magistrate Judge for the Southern District of New York, a search warrant (the "August 14 Warrant") for email accounts belonging to Parnas, Fruman, and others.

d. On or about November 4, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant (the "November 4 Warrant") for records in iCloud accounts belonging to Giuliani and Victoria Toensing.

e. On or about December 13, 2019, the USAO and FBI sought and obtained from the Honorable J. Paul Oetken, United States District Judge for the Southern District of New York, a warrant (the "December 13 Warrant") for records in an email account belonging to Toensing.

f. Together, the records obtained pursuant to the January 18 Warrant, May 16 Warrant, August 14 Warrant, November 4 Warrant, and December 13 Warrant are referred to as the "Prior Search Warrant Returns."

B. Probable Cause Regarding Subjects' Commission of the Subject Offenses

Overview

9. The FBI and USAO are investigating whether Rudolph Giuliani, Victoria Toensing, Lev Parnas and others undertook actions to cause the removal of the United States Ambassador to the Ukraine, Marie Yovanovitch, including actions detailed below at the request and/or under the direction of a foreign government, entity, or person, in violation of the Foreign Agents Registration Act ("FARA").[2] Specifically, as discussed below, there is probable cause to believe that starting in at least January 2019, Giuliani, Toensing, and Parnas engaged in a multi-pronged lobbying effort aimed at causing Ambassador Yovanovitch's removal, all while hiding the fact that they were doing so at the request and direction of Yuriy Lutsenko, a Ukrainian official from whom Giuliani, Toensing, and Parnas sought personal compensation and gain. As discussed below, after meeting with Lutsenko on two occasions in January and February 2019, Giuliani lobbied then-President Donald J. Trump on at least three occasions and lobbied then-Secretary of State Michael Pompeo on at least two occasions for the Ambassador's removal. When those efforts appeared to have failed, Giuliani, Toensing, and Parnas appear to have devised and participated in a coordinated media campaign aimed at using and publicizing disinformation from Lutsenko. It appears that

[2] FARA criminalizes acting as an agent of a foreign principal without registering with the Attorney General for certain specified activities. Activities covered by FARA include acting as a "publicity agent" or engaging in the United States in "political activities." *See* 22 U.S.C. §§ 611-12. "[P]olitical activities" are defined in the statute as "any activity . . . [to] influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party." *Id.* As relevant here, FARA requires any person acting "at the order, request, or under the direction or control" of (i) a foreign principal, or (ii) a person whose activities are "indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign principal," to register with the Attorney General and to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts, and disbursements in support of those activities. *Id*.

Giuliani, together with Toensing and Parnas, were incentivized to undertake these efforts on behalf of Lutsenko in at least two different ways. First, in the same discussions in which Lutsenko raised the firing of Ambassador Yovanovitch, he mentioned the possibility of retaining Giuliani to aid in a legal matter or lawsuit in the United States to recover purportedly stolen Ukrainian assets. As discussed below, Giuliani was interested in being engaged to do that work, and proposed a retainer with a $200,000 upfront payment. Thus, it appears that Giuliani and Toensing took steps to cause the firing of the Ambassador to prove to Lutsenko what they could achieve in order to, among other things, secure the legal representation. Second, as discussed below, it appears that Giuliani and Toensing were also motivated to act at Lutsenko's direction and on Lutsenko's request so that Lutsenko would provide derogatory information about, among other things, now-President Joseph Biden and his son Hunter Biden, which would potentially be politically valuable to Giuliani and Toensing. The efforts were successful: the Ambassador was removed from her post in late April 2019. Moreover, despite all these efforts to lobby for the removal of the Ambassador on behalf of Lutsenko, Giuliani, Parnas, and Toensing never filed a FARA registration.

10. As set forth below, based on my review of the Prior Search Warrant Returns, as well as subpoena returns and public sources, there is probable cause to believe that the Requested Information will lead to evidence of the Subject Offenses, and will enable agents to seize cellphones and electronic devices used by Giuliani and Toensing in furtherance of the Subject Offenses.

Giuliani's Involvement with Parnas in 2018

11. Parnas is a Florida-based Ukrainian-American businessman.[3] Giuliani first met Parnas in or around July 2018, and based on my review of materials obtained pursuant to the May 16 Warrant, it appears that over the next several months they started communicating and spending time together on a regular basis. Among other things, based on my review of records obtained pursuant to the January 18 Warrant, it appears that in or around August 2018, Parnas raised with Giuliani the prospect of being hired by Parnas's nascent insurance business, Fraud Guarantee. On or about August 16, 2018, Giuliani emailed Parnas's business partner, David Correia,[4] a one-page draft agreement between Fraud Guarantee and Giuliani's consulting and management firm, Giuliani Partners, which contemplated that Fraud Guarantee would pay Giuliani Partners $500,000 upon signing the agreement, and $100,000 per month thereafter. Based on my review of the materials obtained pursuant to the January 18 Warrant and May 16 Warrant, I know that Giuliani repeatedly requested that Parnas complete the engagement and pay Giuliani Partners the $500,000, and in or about September and October 2018, Parnas induced a third party to make two payments

[3] Parnas has been charged alongside co-defendants Igor Fruman, David Correia, and Andrey Kukushkin in a seven-count indictment which charges Parnas with (i) conspiring to make straw donations, in violation of 18 U.S.C. § 371, 52 U.S.C §§ 30122, 30109(d)(1)(A) & (D); (ii) making false statements to the Federal Election Commission, in violation of 18 U.S.C. § 1001(a)(2) and 2; (iii) falsification of records, in violation of 18 U.S.C. § 1519 and 2; (iv) conspiring to violate the foreign donor ban, in violation of 18 U.S.C. § 371, 52 U.S.C §§ 30121, 30122, and 30109(d)(1)(A) & (D); (v) soliciting a contribution from a foreign national, in violation of 52 U.S.C. § 30121, 30109(d)(1)(A), and 18 U.S.C. § 2; (vi) aiding and abetting the making of a contribution from a foreign national, in violation of 52 U.S.C. § 30121, 30109(d)(1)(A), and 18 U.S.C. § 2; and (vii) conspiring to commit wire fraud in connection with his business "Fraud Guarantee," in violation of 18 U.S.C. § 1349. Parnas has pleaded not guilty and is scheduled to proceed to trial in October 2021. *See United States v. Parnas, Fruman, Correia, and Kukushkin*, S1 19 Cr. 725 (JPO).

[4] Correia was charged alongside Parnas in indictment S1 19 Cr. 725 (JPO), and has since pleaded guilty and been convicted of (i) making false statements to the Federal Election Commission, in violation of 18 U.S.C. § 1001(a)(2) and 2; and (ii) conspiring to commit wire fraud in connection with "Fraud Guarantee," in violation of 18 U.S.C. § 1349. In February 2021, Correia was sentenced to a term of one year and one day's imprisonment, and is currently serving his sentence.

totaling $500,000. While Giuliani stayed in regular contact with Parnas after receiving the payments, it appears that he did little to no work for Fraud Guarantee.

12. It appears based on my review of the Prior Search Warrant Returns that in or around November or December 2018, Parnas started providing Giuliani with information about Ukraine. For instance, based on my review of those materials, on or about December 7, 2018, Parnas forwarded Giuliani a copy of a letter dated May 9, 2018, which Parnas had caused Congressman Pete Sessions to write and send to Secretary Pompeo, and which called for the firing of Ambassador Yovanovitch. On or about December 14, 2018, Parnas told Giuliani that he was traveling to Ukraine the following day, and texted Giuliani a link to a Ukrainian news article alleging that two Ukrainian government officials broke Ukrainian law in revealing Paul Manafort "black ledgers," which were relevant to the Special Counsel's Office ("SCO") investigation.[5]

13. Based on my review of the Prior Search Warrant Returns, I have learned that while in Ukraine, Parnas met with multiple current and former Ukrainian government officials, including Viktor Shokin, the former Prosecutor General, which is the position equivalent in Ukraine of the United States Attorney General. Based on my review of materials obtained via the Prior Search Warrant Returns, I have learned that Correia created notes during or shortly after the Ukraine trip that reflected that Ambassador Yovanovitch was a topic of conversation, and that Shokin and Lutsenko (the then-Prosecutor General) would each provide information regarding alleged corruption by now-President Joseph Biden and Ambassador Yovanovitch. Based on my review of those same materials, it appears that Correia went to Giuliani's residence in New York shortly after returning to the United States to discuss, among other things, the topics contained in those

[5] Based on my involvement in this investigation to date, it is not clear whether Giuliani requested the materials from Parnas because he was interested in Ukraine as a result of the SCO investigation or for other reasons, or if Parnas provided them to Giuliani unprompted.

notes. Additionally, based on my review of the Prior Search Warrant Returns, I have learned that upon returning to the United States, Parnas solicited Giuliani's assistance in arranging a visa for Shokin to come to the United States and, among other things, meet with Giuliani. Based on my review of the Prior Search Warrant Returns, as well as records provided by the State Department and my participation in interviews with officials at the State Department, Giuliani did, in fact, make requests to officials at the State Department that they grant a visa to Shokin, but Giuliani was ultimately unsuccessful in securing a visa.

14. Notwithstanding the negative information that was provided by Parnas to Giuliani in 2018 about Ambassador Yovanovitch, and Giuliani's inability to obtain a visa for Shokin—which from my review of the Prior Search Warrant Returns and participation in the investigation it appears that Parnas and Shokin, if not Giuliani, blamed at least in part on Ambassador Yovanovitch—Giuliani did not seek the Ambassador's removal until after meeting with Lutsenko in late January and early February 2019, as discussed below.

Giuliani's January 2019 Meetings with Lutsenko and Shokin

15. On or about January 25 and 26, 2019, Giuliani, George Boyle (who works for Giuliani Partners), Parnas, and Fruman met with Lutsenko, Gyunduz Mamedov, and Glib Zagorii (both of whom worked with Lutsenko) at the offices of Giuliani Partners in Manhattan. I have reviewed a three and a half page memorandum prepared by Boyle regarding the two-day, multi-hour meeting. The memorandum was obtained from the State Department, and was provided to the State Department by Giuliani, as discussed below. From my review of that memorandum, as well as public statements subsequently made by Parnas and Lutsenko, I have learned, among other things, the following:

a. According to the memorandum, during the January 25 and 26 meetings, Lutsenko stated, in sum and substance, that his predecessor, Shokin, had opened an investigation into

Burisma, in which Hunter Biden, a board member, was implicated. According to the memorandum, Lutsenko also provided information regarding the Manafort "black book." The memorandum also indicated that Lutsenko raised two issues of potential importance to himself. First, it appears from the memorandum that Lutsenko and Giuliani discussed Ambassador Yovanovitch, whom Lutsenko asserted "protects" the "ineffective" Specialized Anticorruption Prosecutor's Office in Ukraine, who Lutsenko claimed asked him to close three cases. According to the memorandum, Lutsenko stated that, in his then-capacity as Prosecutor General of Ukraine, he had re-initiated an investigation into Hunter Biden. Second, it appears from the memorandum that Lutsenko raised allegations that the global investment firm Franklin Templeton held approximately $7 billion dollars in money that had been embezzled from Ukraine since 2010 to benefit pro-Russian Ukrainians. A separate memorandum that appears to also have been prepared by Boyle indicates that Giuliani also spoke by phone with Shokin, who was in Ukraine at that time, on January 23, 2019 regarding some of the same allegations regarding Burisma.

b. Based on my review of statements subsequently made by Lutsenko that were quoted in an article published by the *New Yorker*, Lutsenko claimed that in 2018, his office sent a letter to the legal attaché at Embassy Kiev, requesting the Americans' assistance in recovering assets from Franklin Templeton, but that his office did not receive the requested assistance in pursuing these funds. Accordingly, it appears that Lutsenko was seeking assistance in recovering assets from or bringing legal action against Franklin Templeton, and after he was unsuccessful through formal channels, he raised the issue with Giuliani.

c. Based on my review of the transcript of a televised January 16, 2020 interview of Parnas by Rachel Maddow, I have learned that Parnas stated, among other things, that Lutsenko wanted Yovanovitch removed for "his own career reasons" and that "both Lutsenko and Shokin

had an interest in getting rid of" Yovanovitch. While it is not clear from Parnas's statements the timing of when these messages were conveyed by Lutsenko, Parnas was also asked whether "Lutsenko [was] saying in effect, listen, if you want me to make these Biden allegations, you're going to have to get rid of this ambassador," to which Parnas replied, "absolutely."[6]

16. Based on my review of materials obtained via the Prior Search Warrant Returns, including text messages between Parnas and Giuliani, who was using Target Cellphone-2, I have learned that Giuliani and Parnas exchanged several messages about Lutsenko following those meetings in New York. Specifically, on or about February 4, 2019, Giuliani texted Parnas from Target Cellphone-2 to have a safe flight to D.C., and said "need to lock up law suit for AG [o]f Ukraine," which appears to be a reference to Lutsenko retaining Giuliani to file a lawsuit to recover the Franklin Templeton assets. On or about February 10, 2019, Giuliani texted Parnas from Target Cellphone-2, "Any word on guy [Lutsenko] coming here" and in connection with their upcoming trip to Poland and Ukraine, "Any progress on plane tomorrow[.]" Parnas responded by text to Target Cellphone-2 that "[t]hey," in sum and substance, were calling him shortly and Parnas would find out the details. Shortly thereafter, Parnas texted Target Cellphone-2, in sum and substance, that Lutsenko would meet Giuliani and Parnas on or about February 12, 2019 in Warsaw, Poland.

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[6] Based on my conversations with the prosecutors assigned to this investigation, I have learned that on or about October 28, 2019, Parnas's counsel proffered to the USAO that all of Parnas's efforts to remove Yovanovitch were done at the direction of President Trump and/or Giuliani, who was himself acting at the direction of President Trump. For the reasons discussed herein, the USAO and FBI do not regard this claim as credible, and believe the evidence provides probable cause to believe that Giuliani and Parnas were acting at the request and/or under the direction of one or more foreign principals, including Lutsenko.

I am also aware that on or about March 4, 2020 Parnas himself provided information to the USAO and FBI, in a proffer session. That information is not being set forth herein as a basis for probable cause. Nonetheless, I am aware that Parnas described ulterior motives for his efforts to seek Ambassador Yovanovitch's removal, in addition to the fact that Lutsenko had requested her removal, including among other things his desire to ingratiate himself with Giuliani and President Trump.

Based on my review of U.S. border crossing records, materials obtained pursuant to the May 16 Warrant, and public reporting, it appears that Giuliani and Parnas did then travel to Poland.

Anticipated Retention of Giuliani, Toensing, and diGenova by Lutsenko and Continued Lobbying for Ambassador Yovanovitch's Removal

17. Based on my review of materials obtained via the Prior Search Warrant Returns, I have learned that in or around February 2019, Parnas, Giuliani, and Toensing exchanged messages and a draft retainer agreement reflecting Giuliani Partners and Toensing's anticipated representation of Lutsenko in connection with what appears to be the Franklin Templeton allegations. Based on my review of the Prior Search Warrant Returns, as discussed below, it appears that Giuliani, Parnas, and Toensing undertook efforts to cause the removal of Ambassador Yovanovitch from her post at or around the same time they were drafting a retainer agreement to represent Lutsenko. Additionally, as discussed below, it appears from the same materials that those efforts to cause the Ambassador's removal were undertaken at Lutsenko's request or direction, at least in part, in order to secure the retainer agreement to represent Lutsenko in the Franklin Templeton matter. Moreover, as discussed below, based on my review of the Prior Search Warrant Returns, it appears that Lutsenko also incentivized Giuliani, Toensing, and Parnas to cause the Ambassador to be fired by agreeing to provide negative information about now-President Joseph Biden and Hunter Biden, in addition to information Giuliani could use to attack the SCO investigation, all of which appears, from text messages and emails, to have been of significant interest and value to them. Specifically, with respect to the foregoing, I have learned the following, based on my review of materials obtained via the Prior Search Warrant Returns:

a. Toensing became involved in Giuliani and Parnas's efforts to remove Ambassador Yovanovitch on or around February 9, 2019. Based on my review of materials obtained from the Prior Search Warrant Returns (including text messages between Toensing at

Target Cellphone-3 and Giuliani at Target Cellphone-2), I have learned that Giuliani invited Toensing to participate in the matter, with what appears to be the expectation that in exchange for Toensing, Giuliani, and Parnas's efforts to remove Ambassador Yovanovitch from her post, Lutsenko would reward Toensing and Giuliani with a several-hundred thousand dollar retainer agreement which expressly contemplated future paid work by Toensing and Giuliani.[7] Based on my review of materials obtained via the Prior Search Warrant Returns, including text messages between Toensing and Giuliani, who was using Target Cellphone-1 and Target Cellphone-2, I have learned that Toensing and Giuliani had a preexisting relationship and discussed matters related to press appearances and the SCO investigation (they both represented individuals in connection with that inquiry), and that Giuliani introduced Toensing to Parnas in or around February 2019.

b. On or about February 9, 2019, Toensing texted Parnas from Target Cellphone-3, "Anything happening? My emails to you have come back." As discussed above, based on my review of travel records, I have learned that Parnas and Giuliani traveled to Warsaw, Poland and met with Lutsenko, on February 11, 2019.[8] On or about February 11, 2019, Toensing texted

[7] Based on my review of a financial analysis prepared based on bank records and public reporting, it appears that around this time, Giuliani had a financial interest in receiving a retainer agreement from Lutsenko. Specifically, in May 2018, Giuliani left his former law firm and its substantial compensation package. Based on my review of a financial analysis of bank records that have been collected to date (which may not include all of Giuliani's checking and credit card accounts), on or around January 25, 2018, Giuliani had approximately $1.2 million cash on hand, and approximately $40,000 in credit card debt. By contrast, on or around January 25, 2019, right before he met with Lutsenko, Giuliani had approximately $400,000 cash on hand in those same accounts and approximately $110,000 in credit card debt. By on or around February 16, 2019, his account balances had dropped to approximately $288,000 and his credit card debt remained over $110,000.

[8] Based on my review of public reporting, I have learned that according to an article published on September 29, 2019 in *Reuters*, Giuliani admitted that he met Lutsenko in Warsaw in February 2019 after first meeting him in New York in January, but that the meeting with Lutsenko in Warsaw was "really social . . . I think it was either dinner or cigars after dinner. Not opportune for substantive discussion." However, this does not appear to be accurate, since as described

Giuliani at Target Cellphone-1 and Target Cellphone-2 and Parnas, from an iCloud account linked to Target Cellphone-3[9]: "Is there absolute commitment for HER to be gone this week?" On or about the same day, Giuliani texted back from Target Cellphone-1 and Target Cellphone-2, "Yes not su[r]e how absolute [w]ill get a reading in morning and call you. Pompe[o] is now aware of it. Talked to him on Friday [February 8, 2019]."

c. Toensing, Giuliani, and Parnas exchanged numerous messages following the meeting with Lutsenko regarding Giuliani's drafting of a retainer agreement for Lutsenko, and Parnas's need for information on the status of Ambassador Yovanovitch while he was in Ukraine and meeting with Lutsenko. Specifically, on or about February 14, 2019, Toensing texted Giuliani at Target Cellphone-2 from the Toensing iCloud, which is linked to Target Cellphone-3: "How is Retainer Agreement coming? Our hands are pretty tied about doing much until we have it in place as we need it for FARA." Toensing then texted Parnas a copy of what she described in a text as her "nudge to Rudy." Parnas then texted Toensing to "nudge [Giuliani] about the Mrs. A.," which appears to be a reference to Ambassador Yovanovitch. Toensing (using Target Cellphone-3) and

herein, Giuliani circulated a draft retainer agreement between Lutsenko, Giuliani Partners, and diGenova & Toensing (a law firm owned by Toensing and her husband, Joseph diGenova) only five days after meeting with Lutsenko, and communicated with Parnas and Toensing about lobbying Pompeo and Trump to remove Yovanovitch on the same day, and in the days following, his meeting with Lutsenko.

[9] Based on my review of materials obtained from Apple and AT&T, I understand that as of the time of the events described above, specifically January through March 2019, Toensing's iCloud account was registered to [redacted] and Target Cellphone-3 (the "Toensing iCloud"). The Toensing iCloud was also registered to an iPad belonging to Toensing that was purchased in 2016, along with several other devices that were purchased prior to 2016. The iCloud messages described above appear to all have been sent from the iPad purchased in 2016 that was linked to Toensing's iCloud account, however, because users can import messages sent from different devices linked to the same iCloud account to those devices, I understand that text messages, emails, and other materials found on Toensing's iCloud account could be located on Target Cellphone-3, her iPad, or both.

Parnas exchanged several messages stating, in sum and substance, that they had followed up with Giuliani about the retainer agreement and complaining about the delay.

d. It appears that Parnas continued to press Toensing and Giuliani for movement on the retainer agreement and the Ambassador's removal while he was in Ukraine meeting with Lutsenko. On or about February 15, 2019, Toensing texted Parnas from Target Cellphone-3 that she had "[t]alked to Rudy" but "[d]id not bring up Retainer as I figured you are on ground in need of it." On or about February 16, 2019, Parnas texted back that he was waiting to hear from Giuliani, and stated to Toensing by text that he "really need[ed] to know [the] status of madam A. [w]hile I'm here." Based on my review of travel records for Parnas, it appears that "here" was a reference to Ukraine. Toensing responded, "That's for Rudy to get tonight." Later that day, Giuliani texted Toensing from Target Cellphone-2: "I'm heading for Florida. Lev meeting with our friend and going over retainer will get it to him today." Based on my involvement in this investigation and review of text messages, I believe that "our friend" was a reference to Lutsenko. Toensing sent Giuliani's message to Parnas and asked if "Rudy c[a]me through," and Parnas confirmed to Toensing that he had received a draft.

e. On or about February 16, 2019, Giuliani sent Parnas and Fruman a draft retainer agreement between "Yuriy Lutsenko, as the General Prosecutor of Ukraine," and Giuliani Partners, Toensing, and diGenova. The retainer amount was $200,000 for services by Giuliani, Toensing, and diGenova in recovering "sums of money in various financial institutions outside Ukraine." Based on my involvement in this investigation, I believe that the description in the agreement of recovering "sums of money in various financial institutions outside Ukraine" was a reference to recovering allegedly stolen assets from Franklin Templeton, which Lutsenko had raised with Giuliani at their first meeting. The agreement also stated that it was a temporary agreement to be

superseded "by a long term agreement." Parnas told Giuliani that same day that he had just met with "the other gentleman," in an apparent reference to Shokin, and that it "went great call me when you can I'll update you."

f. On or about February 17, 2019, Parnas texted Toensing at the Toensing iCloud, which is linked to Target Cellphone-3, to confirm that Giuliani had sent the retainer agreement. Toensing asked Parnas by text if Giuliani "me[]t with the guy re Amb?" to which Parnas replied, "I am still waiting on that[, m]eeting with big guy in 4 hours," an apparent reference to Giuliani meeting with President Trump to lobby for Ambassador Yovanovitch's removal. Toensing also texted Giuliani at Target Cellphone-2, "What happened with the big Guy re Amb." Giuliani replied, "It is in process." Later that day, Toensing (from Target Cellphone-3) asked Parnas "Was he successful re Amb?" to which Parnas replied "this week," which appears to be a reference to their expectation that as a result of Giuliani's lobbying, President Trump would remove Ambassador Yovanovitch that week. The next day, on February 18, 2019, Parnas told Giuliani to make out the retainer agreement to the Ministry of Justice of Ukraine, attention to Minister Pavlo Petrenko. Giuliani asked "How much?" and Parnas promised to call him shortly, and then followed up regarding the retainer agreement again.

g. Based on my review of materials obtained from the May 16 Warrant, public reporting and U.S. border crossing records, I have learned that Parnas met with Lutsenko regarding the retainer agreement on or around February 21, 2019, and then appears to have met again with Lutsenko several days later to obtain paperwork. On or about February 20, 2019, Parnas texted Giuliani at Target Cellphone-2 to send wire instructions and a "signed copy by you Victoria and joe so they can execute and wire funds." Based on my involvement in this investigation, I believe that "joe" is a reference to Joseph diGenova, Toensing's husband and law partner who, as

discussed herein, later made media appearances promoting the removal of the Ambassador. Later that day, Parnas confirmed that he had "received [the] signed retainer." On the day of the meeting between Parnas and Lutsenko, on or about February 21, 2019, Giuliani texted Parnas from Target Cellphone-2, "How is it going????" to which Parnas replied, "Meeting with [Y]uri [Lutsenko] now everything good." Three days later, Giuliani again asked how things were going, and Parnas responded that he was "meeting with [Y]uri [Lutsenko] in 2 hours he has some paperwork to give us I'll call you after the meeting." On or about the same day, Toensing (from the Toensing iCloud, which is linked to Target Cellphone-3) texted Giuliani at Target Cellphone-2, "What happened with discussion," to which Giuliani replied from Target Cellphone-2, "Told today getting done Saturday I said no need a confirmation and will get it tomorrow." Based on my involvement in this investigation and my review of text messages, it appears that Giuliani was referring to the execution of Lutsenko's retainer agreement and the wiring of funds. However, based on my review of bank records, it does not appear that Lutsenko wired funds to Giuliani at that time, or any subsequent time.

h. On or about February 24, 2019, Toensing (using the Toensing iCloud, which is linked to Target Cellphone-3) texted Giuliani at Target Cellphone-2, "Was the deed done?" On or about February 25, 2019, Toensing texted Parnas to ask, "Is she still there?" Parnas texted back, "Yes." On or about February 25, 2019, Toensing (using the Toensing iCloud, which is linked to Target Cellphone-3) also texted Giuliani at Target Cellphone-2, "Is she still there?" Based on my involvement in this investigation and my review of text messages from the Prior Search Warrant Returns, it appears that Toensing was asking whether Ambassador Yovanovitch had been removed from her post.

Public Media Campaign to Remove Ambassador Yovanovitch

18. Based on my review of the Prior Search Warrant Returns and public sources, I have learned that following Parnas's meeting with Lutsenko in February 2019, and in light of the fact that Giuliani's lobbying efforts up until that point appeared to have been unsuccessful, Parnas, Toensing, Giuliani, and Lutsenko worked with a journalist, John Solomon at *The Hill*, to mount an aggressive and coordinated public media campaign aimed at discrediting and causing the removal of Ambassador Yovanovitch.[10] It appears from my review of the materials that their media campaign began within days of Lutsenko complaining, in early March 2019, to Parnas about actions that Yovanovitch had taken in Ukraine. Specifically, based on my participation in the investigation, my participation in an interview with Ambassador Yovanovitch, my review of public statements made by Lutsenko, Giuliani, and diGenova, and my review of materials obtained via the Prior Search Warrant Returns, I have learned, among other things, the following:

a. Based on my review of articles published on or around March 6, 2019, I have learned that on or about March 5, 2019, Ambassador Yovanovitch gave a speech in which she called for the removal of an ally of Lutsenko's, Nazar Kholodnytsky, from his government position in Ukraine because he had been accused by NABU of leaking information about corruption investigations to the targets of those investigations. Yovanovitch also criticized the Ukrainian court system, which she described as riddled with compromised judges.

b. Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that Lutsenko immediately complained about Yovanovitch's statements to Parnas.

[10] Informational materials that an agent disseminates or causes to be disseminated in interstate commerce on behalf of a foreign principal must contain labeling as required by Section 614(b) of FARA. *See* 22 U.S.C. § 614; 28 C.F.R. § 5.400 and 5.402. The articles published in *The Hill* and the subsequent tweets disseminating that information did not contain such labeling.

Specifically, on or about March 5, 2016, the day of Yovanovitch's speech, Lutsenko texted Parnas "Ambassador openly called to fire [Kholodnytsky]."[11] Parnas asked Lutsenko to call him, and Lutsenko texted back, in sum and substance, that the Ambassador had also criticized Ukrainian Supreme Court judges.

c. Based on my review of materials obtained pursuant to the May 16 Warrant, I have learned that in response to Lutsenko's complaint, on March 8, 2019, Parnas sent Toensing at Target Cellphone-3 a text message containing a photograph of the May 2018 letter written by Congressman Sessions, and she replied by sending the contact information for Solomon. Toensing also texted Giuliani at Target Cellphone-2 to "Contact John Solomon re interview this am."

d. On or about March 8, 2019, Lutsenko texted Parnas and referred to a statement Yovanovitch made in which she called for Kholodnytsky's removal. Parnas texted back, "we are all in the loop," and wrote, in sum and substance, that they were setting up an interview between Lutsenko and a journalist—a reference to Solomon. Lutsenko then sent Parnas the contact info for Kholodnytsky, and Lutsenko wrote: "Nazar [Kholodnytsky] is waiting[,] I explained everything. Ready to talk about the l[a]ck of impartiality." Parnas and Lutsenko also discussed setting up an interview between Solomon and then-President Petro Poroshenko of Ukraine, but Lutsenko told Parnas that Poroshenko could not answer questions about "the Ambassador, Biden" in the "middle of the campaign." Based on my review of public reporting, I have learned that at the time, Poroshenko was running for re-election, which he would ultimately lose.

e. On or about March 9, Parnas texted Giuliani at Target Cellphone-2 information about the press campaign, and stated, in sum and substance, that he had just spoken with Solomon

[11] Parnas's text messages with Lutsenko were in Russian, and my description of those messages herein are based on preliminary translations of those messages by FBI Russian-language linguists.

and Lutsenko. Parnas also asked Giuliani, by text sent to Target Cellphone-2, to call Parnas so he could "update you very good stuff."

f. However, it appears that Lutsenko grew impatient with Parnas's failure to secure Ambassador Yovanovitch's removal. On or about March 11, 2019, Lutsenko texted Parnas about when he would be receiving an invitation from the "General Attorney," which appears to be a reference to the U.S. Attorney General. On or about March 13, 2019, Lutsenko texted Parnas, "I am fucking sick of everything. I did not get the visit. My Number One did not get shit. I am ready to shaft your competitor. But you want even more. We do everything. You do later. This is dishonest." Based on my participation in the investigation, this appears to be a reference to Lutsenko and others' willingness to share information about Burisma and the Bidens and frustration that Parnas could not similarly deliver on issues to include the removal of Ambassador Yovanovitch or a meeting with Attorney General Barr. On or about March 14, 2019, Parnas texted back, "I just spoke with our [people]. I think there is good news. When you get a chance, call me regarding your visit here." Based on my participation in the investigation, it appears that "our people" refers to Giuliani and/or Toensing.

g. At the same time, based on my review of the Prior Search Warrant Returns, it appears that Parnas, Solomon, and Toensing worked together to publicize Lutsenko's allegations through Solomon. On or about March 12, 2019, Parnas received from Shokin a written narrative and answers to questions posed by Solomon about Yovanovitch and the Bidens. Parnas forwarded Shokin's answers to Solomon. Parnas also texted with Lutsenko and conveyed additional information back to Solomon.

h. On or about March 19, 2019, Toensing texted Solomon that she had spoken with "Rudy and Lev" and stated "I have the plan. So call when you can." Based on my review of

the Prior Search Warrant Returns and public reporting, it appears that Parnas set up an interview between Solomon and Lutsenko. On or about March 20, 2019, a portion of Solomon's video interview with Lutsenko and an accompanying article entitled "Senior Ukrainian Official Says He's Opened Probe into US Election Interference" were published in *The Hill*. In his interview, Lutsenko claimed he would open an investigation into whether the director of NABU, Sytnyk, attempted to "influence the 2016 vote to the benefit of Democratic presidential nominee Hillary Clinton." In a second video interview published on March 20, 2019, by Solomon in *The Hill*, Lutsenko told Solomon that Ambassador Yovanovitch had given him "a list of people whom we should not prosecute" during their first in-person meeting. *The Hill* reported that Lutsenko was not "the only person complaining about the U.S. Embassy in Kiev," and noted that Congressman Sessions wrote a "private letter asking Secretary of State Mike Pompeo to recall the current U.S. ambassador, alleging that she made disparaging statements about President Trump." *The Hill* also posted a copy of the letter. The article quoted Sytnyk as describing Lutsenko's allegations as untrue and an "absurd attempt" to discredit NABU.[12]

i. Based on my review of materials obtained from the May 16 Warrant and public reporting, I have learned that Parnas continued working to publicize Lutsenko's allegations against Yovanovitch and texted links to Solomon's articles to many of his contacts. On or about March 20, 2019, Parnas sent [redacted], the development director of [redacted] (to whom Parnas had previously donated in the name of a corporation), links to both of Solomon's articles

[12] Based on my participation in an interview with Ambassador Yovanovitch, I have learned that each of Lutsenko's claims were either false or fabrications. Ambassador Yovanovitch did not give Lutsenko a "do not prosecute" list or direct him to prosecute, or not prosecute, anyone. Similarly, Ambassador Yovanovitch and the U.S. embassy did not show political bias, but were focused on implementing U.S. policy in Ukraine. Indeed, Lutsenko himself retracted or otherwise walked back many of these claims in subsequent interviews and statements.

in *The Hill*, along with links to tweets by Laura Ingraham and Sean Hannity. Parnas instructed [redacted], "have jr retweet it," in reference to Donald Trump Jr. [redacted] did so, and confirmed to Parnas, "sent." Trump, Jr. subsequently retweeted an article summarizing Solomon's reporting in the Daily Wire, entitled "Calls Grow to Remove Obama's U.S. Ambassador to Ukraine." Moreover, while it is not known how he came across the article, on March 20, 2019, then-President Trump also retweeted one of the links that Parnas had sent to [redacted]: an article entitled "As Russia Collusion fades, Ukrainian plot to help Clinton emerges." [redacted] sent a copy of President Trump's tweet to Parnas.

j. Parnas frequently updated Lutsenko on the success of their press blitz in Russian-language text messages. In particular, Parnas promptly sent a screenshot of then-President Trump's tweet to Lutsenko. In an apparent effort to garner more information for Solomon, Parnas asked Lutsenko to send him "the names of the people that she said," which appears to be a reference to Yovanovitch and the "do not prosecute list" Lutsenko claimed she had given him. Lutsenko sent Parnas three names and described them all as "loud NABU activist[s]." Based on public reporting and my participation in this investigation, including my interview with Ambassador Yovanovitch, it appears that Lutsenko may have clashed with Yovanovitch regarding what he perceived to be a rival prosecutor's office in Ukraine, the National Anti-corruption Bureau of Ukraine ("NABU") in the spring of 2018, and was frustrated by her continued alignment with NABU, which appears to have provided a motive for Lutsenko to falsely claim that Yovanovitch had asked him not to prosecute "loud NABU activist[s]." Parnas congratulated Lutsenko and told him that "Today you become a world-class political figure. Glory to the Ukraine !!!" Lutsenko then texted Parnas if it was "true, that the Ambassador chick and [the head of NABU] were called to Washington," to which Parnas replied, "I will call later. We'll talk." Parnas then reported to

Lutsenko by text message, in sum and substance, that then-President Trump had re-tweeted a story about Yovanovitch. Lutsenko responded, "If I am not going to get invited for an official visit in the nearest future, I will not be able to fight off our or your [people]." Based on my participation in the investigation, it appears that Lutsenko's reference to fighting off "our or your [people]" referred to their perceived enemies in Ukraine and the U.S., respectively.

k. The day after *The Hill* published the Lutsenko interview, on or about March 21, 2019, Parnas wrote Solomon and Toensing that the top news story in Ukraine was the reporting regarding Ambassador Yovanovitch, which according to Parnas prompted the Ambassador to put out a statement saying that Lutsenko was a "prime example of corruption." Based on my review of text messages, Lutsenko was upset about that statement, and the news coverage he was receiving in Ukraine. He complained to Parnas, "why the fuck do I need these kinds of adventures . . . 10 days before the election" in Ukraine. "Moreover," Lutsenko continued, "they are saying in the State Department that my reports work in favor of corrupt officials. Great fucking help to Ukraine." Parnas responded that he would call Lutsenko and had "good news."

l. Lutsenko continued to complain to Parnas about the lack of results with respect to Yovanovitch's removal. On or about March 22, 2019, Lutsenko wrote that "It is simply that if you do not make a decision regarding the madam, you cast doubt on all of my statements, including regarding B." Based on my review of a televised January 16, 2020 interview with Rachel Maddow, Parnas confirmed that the "madam" was Yovanovitch and "B" was "Biden," and that Parnas understood Lutsenko to be saying, in sum and substance, that if Parnas wanted Lutsenko to make Biden allegations (and for those allegations to be taken seriously), he needed to have Yovanovitch removed. Meanwhile, Giuliani continued to lobby then-President Trump for Ambassador Yovanovitch's removal, and on or about March 22, 2019, Giuliani texted Toensing (at the

Toensing iCloud, which is linked to Target Cellphone-3) from Target Cellphone-2, apparently in reference to then-President Trump and the letter from Congressman Sessions calling for Yovanovitch's removal, that "he has letter says she's gone no more screwing around[.]"

m. Based on my review of public reporting, Solomon's articles soon received substantially increased press attention. On or about March 22, 2019, on *The Ingraham Angle* on Fox News, Ingraham aired a segment highlighting that former-Congressman Sessions sent Secretary of State Pompeo "an urgent letter" in May 2018, asking that Ambassador Yovanovitch be removed from her position, and published a copy of that letter. DiGenova was a guest on the program, and announced: "I have learned this evening that the President has ordered her dismissal from her post. . . as a result of her activities there which were complained of by Congressman Sessions. She is known and reported by people there to have bad-mouthed the President of the United States Donald Trump, to have told Ukrainians not to listen to him or obey his policy . . . and finally her activities have caught up with her." Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that the fact that then-President Trump had decided, at least at that point, to fire Yovanovitch appears to be the "good news" that Parnas reported back to Lutsenko two days prior.

n. Later that day, in an apparent reference to diGenova's Fox News interview, Parnas texted Toensing at Target Cellphone-3, "I love you and your husband you are the best," and "Tell joe he was awesome my hero." Toensing responded from Target Cellphone-3, "We can be really great if we have a retainer signed." Based on my participation in the investigation as well as my review of the Search Warrant Returns, I believe that Toensing was telling Parnas, in sum and substance, that her and her husband's efforts to seek the Ambassador's removal were an indicator of how "great" they could be for Lutsenko, and how much more they could do for him,

if he signed the retainer agreement and paid them. Parnas agreed, and Toensing (from Target Cellphone-3) asked if the "Wicket [sic] Witch" was gone, which appears to be a reference to Yovanovitch. Giuliani separately texted Toensing (at the Toensing iCloud, which is linked to Target Cellphone-3) from Target Cellphone-2 to say that "Joe is my hero and you too." Based on my review of public statements made by Giuliani and Toensing, I have learned that around this time, Toensing and Giuliani frequently posted messages related to Ukraine, Yovanovitch, Biden, and the 2016 election on Twitter, apparently in an effort to further magnify the press attention Lutsenko's allegations against Yovanovitch would receive.

o. Based on my participation in an interview with [redacted], a public relations strategist with whom Parnas had previously worked (and to whom he owed money), I have learned that on or about March 22, 2019, Parnas met or spoke with [redacted] and asked him to help Parnas in his efforts to disseminate negative information about the Ambassador. Based on my review of the Prior Search Warrant Returns, it appears that after the meeting, at Parnas's instruction, Correia sent [redacted] a copy of Congressman Sessions's letter, links to *The Hill* articles, and a number of tweets about the Ambassador. Parnas then texted [redacted], "Please send it to me when it goes out." [redacted] sent the materials forwarded by Correia to Ryan Saavedra, a reporter for *The Daily Wire*, as well as a number of conservative social media influencers such as Seb Gorka and Arthur Schwartz, among others. Saavedra published an article in *The Daily Wire* and those influencers tweeted about the Ambassador. On or about March 24, 2019, as discussed above, Donald Trump Jr. retweeted *The Daily Wire* article.

p. Although Parnas, Giuliani, and Toensing appeared to have been pleased with the press response in the U.S., as noted above, the press response in Ukraine was unfavorable to Lutsenko. On or about March 26, 2019, Lutsenko texted Parnas pictures of documents that

allegedly contained information about Burisma, and noted, "I hope this is enough." He then complained to Parnas, in sum and substance, that despite the information he was gathering about Biden, the Ambassador had not been fired. In particular, he stated: the "Washington Post is attacking me already . . . Zero results. They want to listen to the tape. I will get the recording device tomorrow and the testimony of the participants of the conversation. My case on Zlochevskyy [the head of Burisma] is moving along nicely. There is evidence about transfers to B [Biden]. And only you cannot get rid of that fool of a woman ☹." Parnas wrote back, "She is not a simple fool of a woman. Believe me. Well, she will have nowhere to go."

q. On or about March 29, 2019, Parnas wrote to Lutsenko, "I was asked to tell you personally that America supports you and will not let you get hurt. It does not matter how it looks now. Everything will soon change and everything will go in the right direction. So that you would know, that you are being talked about here as a true hero of the Ukraine." Lutsenko then told Parnas that he had additional documents related to Burisma's payments to Hunter Biden, and when Parnas asked Lutsenko to send them to him, Lutsenko replied that he would "forward through the new Ambassador ☺."

r. Over the next several days, Parnas continued to feed information to Solomon, who asked Parnas by text to "eyeball" articles for "accuracy," and continued to publish articles in *The Hill*. On or about March 27, 2019, Parnas told Giuliani that "Hannity just canceled [on Solomon]," which prompted Giuliani to say that "[t]hey are scared[,] I will buck them up." Three days later, on or about March 30, 2019, Giuliani confirmed that he would be appearing on Fox News that morning, to which Parnas responded, "Great." Parnas sent some of Solomon's articles to Giuliani, among many other contacts. Solomon also texted with Toensing (at the Toensing iCloud, which is linked to Target Cellphone-3) about Sean Hannity's show canceling on him.

Solomon texted Toensing, "I think everything will be fine once we get Biden reported next [w]eek" and said that "Pompeo told [Giuliani] that ambassador under criminal investigation." Toensing texted back, "Geez. So what could possibly be the rationale to keep her? Makes no sense."

s. When Yovanovitch still had not been removed, Lutsenko continued his complaints about Yovanovitch to Parnas. On or about March 29, 2019, Lutsenko told Parnas that the "ambassador chick organized leak of NABU materials to the TV project financed by you about corruption of those surrounding Poroshenko. Next one is going to be about me." Parnas replied, "I will call you soon with the news." On or about April 2, 2019, Lutsenko texted Parnas, "I am probably the most famous Ukrainian where you are," to which Parnas replied, "This is going to be a big week." On or about April 9, 2019, Lutsenko provided the names of "Advisors and public speakers of the presidential candidate" Volodymyr Zelensky, who was running against Poroshenko, and their alleged connections to Yovanovitch (to whom Lutsenko referred by her nickname, "Masha"), and wrote that the candidate for Prosecutor-General—who would replace Lutsenko in the event Zelensky was elected—was a "Favorite activist of Masha."

Giuliani's Continued Lobbying of the State Department for Ambassador Yovanovitch's Removal

19. Around this time, based on my review of materials obtained from the State Department as well as public statements made by Giuliani, I have learned that Giuliani facilitated the delivery of a package of materials to Secretary Pompeo in furtherance of his efforts to seek Ambassador Yovanovitch's removal. According to a U.S. Department of State Office of Inspector General investigation, in late March or early April 2019, Pompeo received a package that had to do with "Ukraine issues." The package had a return label of "The White House," although it bore no official seal, and contained notes from interviews between Parnas, Fruman, and Giuliani with Shokin and Lutsenko from January 2019 regarding Burisma, Biden, and Yovanovitch. The

documents were separated into folders that bore the insignia of the Trump Hotel. The package also contained Solomon's March 20, 2019 articles (discussed above) featuring his interview with Lutsenko, along with documents that appeared to be Solomon's notes and emails regarding the articles.

20. On or about October 2, 2019, Giuliani confirmed to CNN that the package originated with him, and that he gave the documents to the White House, which then passed them to Secretary Pompeo. Giuliani claimed that Pompeo told him that Pompeo would refer the matters detailed in the documents for further investigation.

Continued Efforts to Formalize Relationship with Lutsenko and Seek Ambassador Yovanovitch's Removal

21. Parnas, Toensing, and Giuliani made continued efforts to formalize the relationship with Lutsenko in April 2019. Specifically, based on my review of materials obtained via the Prior Search Warrant Returns, I have learned, among other things, the following:

a. On or about April 13, 2019, Giuliani sent Parnas a message from [redacted]@icloud.com, which contained a new retainer agreement, this one between Toensing and diGenova and Lutsenko and his deputy, Kulyk.[13] The agreement indicated that Lutsenko was retaining diGenova & Toensing, LLP to represent him "in connection with recovery and return to the Ukraine government of funds illegally embezzled from that country and providing 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." The agreement also noted that the firm's services "may entail activities subject to

[13] Based on my review of publicly available material, I have learned that Kulyk worked under Lutsenko at that time as the deputy head of International Legal Cooperation. According to an article published on October 5, 2019 in the *New York Times*, Yovanovitch asked Lutsenko to remove Kulyk at a meeting in 2016 due to Kulyk's corruption.

mandatory public disclosure under . . . the Foreign Agent Registration Act[, which] . . . requires the Firm to register and report certain of its activities on behalf of foreign political parties or entities." Per the agreement, Lutsenko would pay a $125,000 retainer and $25,000 per month, plus costs. Based on my review of materials obtained pursuant to the May 16 Warrant, it appears that Toensing subsequently signed a copy of each of the three retainer agreements. Lutsenko did not ultimately pay Giuliani or Toensing any money. Shortly after receiving the retainer, Toensing wrote to Solomon to nudge him on questions for additional Ukrainian interviews because "Lev wanted me to work with you," and reported, presumably about the retainer, that "Lev says Yuri should be client."

b. Between in or around April 11 and 23, 2019, Parnas worked with Solomon to arrange additional interviews with Ukrainian government officials, and provided the questions that Solomon would ask one official. Solomon ran multiple articles during that period. However, Lutsenko walked back some of his claims and told *The Babel* on or about April 17, 2019 that Ambassador Yovanovitch had never provided him with a "do not prosecute" list, and it was instead he who had requested that list. In addition, on or about April 21, 2019, Zelensky won the Ukrainian presidential runoff against Poroshenko.

c. On or about April 23, 2019, Parnas texted Giuliani at Target Cellphone-2 to "text me or call me if you have any news," and Giuliani responded, "He fired her again." Parnas wrote, "I pray it happens this time I'll call you tomorrow." But on or about May 4, 2019, Giuliani texted Parnas from Target Cellphone-2, "Boy I'm so powerful I can intimidate the entire Ukrainian government. Please don't tell anyone I can't get the crooked Ambassador fired or I did three times and she's still there." That same day, Lutsenko told Parnas that "People here are talking that there

will be a very high level coming from you to the [Ukrainian] inauguration,"[14] to which Parnas replied "You do understand Who is dealing with this." Two days later, on or about May 6, 2019, the State Department confirmed that Ambassador Yovanovitch would leave her post on May 20, 2019. That same day, Parnas reported to Giuliani and Solomon that "Lutsenko [] said Ukraine media is saying that the ambassador is being recalled by us."

d. On or about May 9, 2019, Parnas forwarded to Lutsenko three articles entitled "Giuliani previews potential 2020 attack dog role with Biden-Ukraine story," "How Rudy Giuliani's unfounded claims of an anti-Trump conspiracy in Ukraine may have ousted an ambassador," and "Giuliani plans Ukraine Trip to Push for Inquiries That Could Help Trump." However, Toensing appears to have not been pleased with the press coverage regarding her relationship with Lutsenko. On or about May 9, 2019, Toensing texted Giuliani at Target Cellphone-2 if he told the *New York Times* that she had been representing Lutsenko, because "I do not have a client." Giuliani responded "Sorry I thought that's why you were coming?" Toensing wrote, "Pls call. NYT now after me for not registering under FARA. I told you earlier today I had no Retainer with anyone. Now I am being accused of violating FARA. This needs to be corrected ASAP."[15] Giuliani replied by text from Target Cellphone-2, "Really." Toensing wrote Parnas

[14] Based on my review of public reporting, I have learned that the 2019 Ukrainian election was held on March 31 and April 21 in a two-round system. Volodymyr Zelensky won the election in the second round with 73% of the vote, defeating the incumbent President Poroshenko. Zelensky's inauguration was May 20, 2019.

[15] Based on my review of public statements made by a spokesman for Toensing to the *Washington Post* on or about November 27, 2019, I have learned that Toensing and diGenova had "agreed to represent people they described as 'Ukrainian whistleblowers'" and that those discussions included a possible representation of Lutsenko. However, "all of the retainer letters under consideration included 'the necessary notice of FARA registration,'" which according to the article, "suggest[ed] the couple had planned to register as foreign lobbyists if the agreements had been executed. (*See* https://www.washingtonpost.com/politics/giuliani-was-in-talks-to-be-paid-by-ukraines-top-prosecutor-as-they-together-sought-damaging-information-on-

"Pls tell me name of client. What happened? I do not represent Lutsenko. Or anyone else at this moment . . . Who is the person I am supposed to represent? Rudy told NYT I had been representing Lutsenko. I need to get retainer done so this is cleared up." Parnas texted back, "I'm not aware of that but don't worry we will clear everything up [once] you['re] here and will get retainer signed." Toensing asked again for the "complete name so I can have office draft retainer."[16]

e. On or about May 13, 2019, Giuliani texted Parnas from Target Cellphone-2 a public statement Giuliani intended to make calling for the Bidens to be investigated. Parnas responded "Awesome." Around that time, Parnas sent Lutsenko a copy of a statement issued by

democrats/2019/11/27/636c3e86-112d-11ea-b0fc-62cc38411ebb_story.html). While this statement and the above-referenced text messages reflect a self-professed intention to register for FARA based on Toensing's representation of Lutsenko in the Franklin Templeton matter once there was a signed contract, even assuming those statements are credited, FARA explicitly does not require a written contract. *See* 22 U.S.C. § 612(a)(4). Moreover, the evidence described above indicates that Toensing, Giuliani, and Parnas never had any intention of registering for FARA based on their representation of Lutsenko in connection with their efforts to seek Ambassador Yovanovitch's removal at Lutsenko's direction and request; only that they may have intended to register in connection with the more innocuous-sounding "recovery of stolen assets."

[16] Based on my review of public statements made by Giuliani, I have learned, among other things, that Giuliani (i) told the *New York Times* in an interview on November 27, 2019, that, with respect to the proposed contract with Lutsenko, "I thought that would be too complicated. I never received a penny." (*See* https://www.nytimes.com/2019/11/27/nyregion/giuliani-ukraine-business-trump.html); and (ii) stated on Twitter on November 27, 2019, that "I did NOT pursue a business opportunity in Ukraine, as [the *New York Times*] misrepresented. I could have helped them recover $7B in stolen money, but I didn't. Was paid ZERO." (*See* https://twitter.com/RudyGiuliani/status/1199823401663258624). As noted above, Toensing made similar statements, distancing herself from representation of Lutsenko, after the relationship became public in May 2019 reporting in the *New York Times*. However, based on my review of the information described herein, Giuliani's and Toensing's statements, made after intense media focus on their relationship with Lutsenko and role in Ambassador Yovanovitch's removal, appear to be inconsistent with the materials described herein and indeed intended to distance them from the conduct under investigation. For instance, as described herein, Giuliani appeared close to going forward with the representation of Lutsenko in late February 2019, having sent a retainer agreement and Parnas having requested wiring instructions from Giuliani to send to Lutsenko, and it appears the only reason it did not go forward is because Lutsenko did not wire the money.

Giuliani. On or about June 21, 2019, Lutsenko wrote Parnas, "I think it is time for us to talk with the Mayor. I have 2-2.5 months and I have a plan. I am serious. We have to talk."

Knowledge of FARA and Absence of FARA Registration

22. Based on my review of a publicly-available FARA registration database maintained by the Department of Justice, I have learned that Parnas, Giuliani, and Giuliani Partners have never filed a FARA registration. Additionally, based on my review of those same records, I know that Toensing previously registered under FARA and therefore it appears was aware of the requirement. Specifically, the firm of diGenova & Toensing LLP previously registered on behalf of the Kurdistan Democratic Party, but never made a filing related to Ukraine or Lutsenko. Based on my review of the Prior Search Warrant Returns, I have learned from Toensing's statements in text messages, discussed above, as well as the language of her draft retainer, that she is aware of FARA's registration requirements.

23. As detailed below, notwithstanding the fact that Giuliani and Parnas had not previously registered, it appears that both Parnas and Giuliani were aware of the FARA registration requirement. Specifically, based on my review of publicly available FARA filings, press reports, and materials obtained via the Prior Search Warrant Returns, I have learned, among other things, the following:

a. On or about July 11, 2018, *The Washington Post* ran an article on Giuliani's work on behalf of foreign clients while he was working for President Trump, and in response to a request for comment, Giuliani stated: "I've never lobbied [President Trump] on anything . . . I don't represent foreign governments in front of the U.S. government. I've never registered to lobby." In September 2018, seven United States Senators wrote to the Justice Department to request a review into whether Giuliani had complied with FARA. In response to the letter, Giuliani

told *The Wall Street Journal* that he was working for a U.S. firm and was not trying to influence U.S. policy. He added that he "did nothing to invoke FARA either now or ever" and "never represented foreign interests with [the] U.S. government."

b. Parnas explicitly discussed FARA or was privy to materials about it on multiple occasions. First, in or around January 2017 Parnas sent a contact an article that specifically referenced a FARA registration on behalf of the Ukrainian government. Second, on or about March 5, 2019, one of Parnas's contacts sent him a FARA registration filed by a third party, and Parnas confirmed "Got it." Notably, that FARA registration was completed regarding lobbying work done on behalf of two embassies (the Embassy of Japan and Liberia) and on behalf of a foreign individual in order to arrange meetings with Congressional representatives and staffers, and set up a Liberian congressional caucus. Third, in or around April 2019, Parnas texted with [redacted], a naturalized Ukrainian-American who resides in Brooklyn, Israel, and Ukraine, regarding Solomon and Lutsenko. On or about April 24, 2019, as part of a conversation unrelated to the lobbying activities detailed above, Parnas asked [redacted] to send him the "fara registration," and [redacted] responded with a FARA registration completed by a public relations firm on behalf of Zelensky.

* * *

24. Based on the above, there is probable cause to believe that the efforts by Giuliani, Toensing, and Parnas to seek the removal of Ambassador Yovanovitch were done at the direction and/or request of Lutsenko, as a part and in furtherance of the Subject Offenses.[17] Based on my

[17] Based on my review of public statements made by Giuliani, I have learned that Giuliani has made statements intended to suggest that he sought Ambassador Yovanovitch's removal for reasons independent of his desire to gain business from Lutsenko. Giuliani told the *New York Times* in a December 16, 2019, interview that he "gave them [President Trump and Secretary

training, experience, and involvement in this investigation, I believe there is probable cause to believe that the Requested Information will lead to evidence of violations of the Subject Offenses. In particular, I believe that prospective precision location from the Target Cellphones may lead to the location of the Target Cellphones and thus the discovery of evidence of violations of the Subject Offenses. As detailed above, each of the Target Cellphones appears to have been used by a Target Subject of the investigation to communicate with other Target Subjects, and similarly appears to have been used to communicate regarding and/or in furtherance of the Subject Offenses. As such, the Target Cellphones are each likely to contain evidence of the Subject Offenses.

25. Additionally, based on materials from AT&T as well as a commercial database frequently relied upon by law enforcement, the Target Cellphones all appear to remain active. Accordingly, prospective precision location information will assist law enforcement in conducting

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Pompeo] the facts. I mean, did I think [Ambassador Yovanovitch] should be recalled? I thought she should have been fired. If I was attorney general, I would have kicked her out. I mean – Secretary of State," and that he had "pointed out to the president a couple of times … what I had learned about the visa denials. I may or may not have passed along the general gossip that the embassy was considered to be a kind of out-of-control politically partisan embassy, but that was like, general gossip, I didn't report that as fact." (https://www.nytimes.com/2019/12/16/us/politics/giuliani-yovanovitch-ukraine.html). In an interview with the *New Yorker* published on December 16, 2019, Giuliani stated, "I believed that I needed Yovanovitch out of the way. She was going to make the investigations difficult for everybody." (https://www.newyorker.com/magazine/2019/12/23/the-ukrainian-prosecutor-behind-trumps-impeachment?verso=true). In a December 16, 2019, television interview he stated, "I didn't need [Ambassador Yovanovitch] out of the way. I forced her out because she's corrupt." (https://www.youtube.com/watch?v=qFCeznGIXKs). Giuliani stated on Twitter on December 17, 2019 that "Yovanovitch needed to be removed for many reasons most critical 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." As detailed herein, these statements appear to be inconsistent with the evidence, including the fact that Giuliani did not take actions to seek the Ambassador's firing until *after* Lutsenko had offered a retainer in connection with a potential legal matter, which strongly suggest that acting at Lutsenko's request and direction appears to have been a strong motivating factor for Giuliani. Moreover, and tellingly, none of these statements makes reference to that retainer or the offer of negative information about the Bidens that Lutsenko offered Giuliani shortly before Giuliani's lobbying efforts began.

physical surveillance on the Target Subjects with the purpose of enabling law enforcement to identify and/or confirm the current places of residence of the Target Subjects in advance of potential additional investigative steps such as seeking to seize the Target Cellphones themselves and/or other electronic or physical evidence that may be found in the Target Subjects' possession.

26. Moreover, with respect to the additional historical cell site information for the Target Cellphones requested by this application, based on my training and experience, individuals who use cellphones for personal business and/or criminal activity typically carry those cellphones with them, and so historical cell site data can provide information about where the user of the cellphone was located on a historical basis. Historical cell site information is requested for the time period of December 1, 2018 (when Parnas provided information to Giuliani about Yovanovitch) through April 30, 2019 (at which time Yovanovitch was removed). As detailed extensively above, during this time period, Giuliani and Toensing were engaged in a continuous course of activity related to their efforts to cause the removal of the Ambassador, including frequent meetings and communications, including meetings and communications with Government officials who were the subject of their lobbying efforts, meetings with Lutsenko and other Ukrainians in New York and Poland; and meetings with each other in furtherance of the Subject Offenses throughout December 2018 to April 2019. This information will provide information about Giuliani's and Toensing's whereabouts during this key period under investigation, and may establish, among other things, the fact of meetings with each other, Parnas, Solomon, Lutsenko, and/or U.S. Government officials. Therefore, I submit that there is probable cause to believe that the historical cell site location information associated with the Target Cellphones for the time period specified below will confirm, among other things, whether Toensing and Giuliani were in the vicinity of

other potential witnesses and/or co-conspirators at particular points in time when the Target Subjects were believed to have been together at meetings in furtherance of the Subject Offenses.

27. The requested historical cell site information will also lead to evidence of where Giuliani and Toensing were located when they sent and received certain electronic messages in furtherance of the Subject Offenses.

III. Request for Warrant and Order

28. Based on the foregoing I respectfully request that the Court require the Service Provider to provide the Requested Information as specified further in the Warrant and Order proposed herewith, including prospective precision location and cell site data for a period of 45 days from the date of this Order; historical cell site data and toll records for the period from December 1, 2018 to April 30, 2019; and pen register information for a period of 45 days for the Target Cellphones from the date of this Order.

29. **Nondisclosure.** The existence and full scope of this ongoing criminal investigation is not publicly known. As a result, premature public disclosure of this affidavit or the requested warrant could alert potential criminal targets to the scope of the Government's investigation, causing them to destroy evidence, flee from prosecution, or otherwise seriously jeopardize the investigation. In particular, given that targets of the investigation are known to use computers and electronic communications in furtherance of their activity, the targets could easily delete, encrypt, or otherwise conceal such digital evidence from law enforcement were they to learn of the Government's investigation. *See* 18 U.S.C. § 2705(b)(3).

30. Accordingly, there is reason to believe that, were the Service Provider to notify the subscribers or others of the existence of the warrant, the investigation would be seriously jeopardized. Pursuant to 18 U.S.C. § 2705(b), I therefore respectfully request that the Service Provider be directed not to notify the subscriber or others of the existence of the Warrant and Order

for a period of one year, and that the Warrant and Order and all supporting papers be maintained under seal until the Court orders otherwise, as specified in the Application submitted in conjunction with this Affidavit.

[redacted]
Special Agent
FBI

Sworn to before me by reliable electronic means this
13th day of April, 2021

J. PAUL OETKEN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Warrant and Order for Prospective and Historical Location Information and Pen Register Information for the Cellphones Assigned Call Numbers [redacted], [redacted], and [redacted], USAO Reference No. 2018R01228.

21 MAG 4001

WARRANT AND ORDER

21 Mag. _____

Warrant and Order
for Cellphone Location Information and Pen Register Information
and for Sealing and Non-Disclosure

TO: AT&T ("Service Provider"), and any subsequent provider of service to the Target Cellphones specified below ("Subsequent Service Provider")

United States Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation ("Investigative Agencies")

Upon the Application and Agent Affidavit submitted by the Government in this matter:

I. Findings

The Court hereby finds:

1. The Target Cellphones that are the subject of this Order are assigned call numbers [redacted] ("Target Cellphone-1"), [redacted] ("Target Cellphone-2"), [redacted] ("Target Cellphone-3"). Target Cellphone-1 is subscribed to in the name of Rudolph Giuliani, Target Cellphone-2 is subscribed to in the name of Giuliani Partners LLC, and Target Cellphone-3 is subscribed to in the name of Victoria Toensing. Each of the Target Cellphones is currently serviced by the Service Provider.

2. Pursuant to 18 U.S.C. § 2703(c)(1)(A) and the applicable provisions of Rule 41 of the Federal Rules of Criminal Procedure, the Government's application sets forth probable cause to believe that the prospective and historical location information for Target Cellphone-1, Target Cellphone-2, and Target Cellphone-3 will reveal evidence, fruits, or instrumentalities of suspected

violations of 22 U.S.C. §§ 612 and 618 (acting as an unregistered foreign agent), 18 U.S.C. § 2 (attempting to and willfully causing a violation of the foregoing statutes), and 18 U.S.C. § 371 (conspiracy to violate the foregoing statutes) (the "Subject Offenses"), as well as the locations of the Target Subjects who are engaged in the Subject Offenses.

3. Pursuant to 18 U.S.C. § 2703(d), the Government's application also sets forth specific and articulable facts showing that there are reasonable grounds to believe that the toll records for the Target Cellphones are relevant and material to an ongoing criminal investigation.

4. Pursuant to 18 U.S.C. § 3123(b)(1), the Government has certified that the pen register information for the Target Cellphones is relevant to an ongoing investigation by the Investigating Agencies of Rudolph Giuliani, Victoria Toensing, and others known and unknown in connection with suspected violations of the Subject Offenses.

5. Pursuant to 18 U.S.C. § 2705(b), there is reason to believe that notification of the existence of this Warrant and Order will result in destruction of or tampering with evidence or otherwise will seriously jeopardize an ongoing investigation.

NOW, THEREFORE, pursuant to Fed. R. Crim. P. 41, 18 U.S.C. §§ 3121 *et seq.*, 18 U.S.C. §§ 2701 *et seq.*, and 18 U.S.C. § 3103a, IT IS HEREBY ORDERED:

II. Order to Service Provider

1. **Service Provider.** This Order shall apply to the Service Provider specified above, and to any subsequent provider of service to the Target Cellphones without need for further Order of this Court.

2. **Prospective Location Information**. The Service Provider shall provide to the Investigating Agencies on a prospective basis, for a period of 45 days from the date of this Order,

information concerning the location of the Target Cellphones ("Prospective Location Information"), including all available:

a. precision location information, including GPS data, E-911 Phase II data, and latitude-longitude data; and

b. cell site data, including any data reflecting (a) the cell towers and sectors thereof utilized in routing any phone, text, or data communication to or from the Target Cellphones, and (b) the approximate range of the target phone from the cell towers during the communication (including per-call measurement ("PCM") or round-trip time ("RTT") data);

3. **Historical Location Information and Toll Records**. The Service Provider shall provide to the Investigating Agencies all available historical cell site location information reflecting the cell towers and sectors thereof utilized in routing any phone, text, or data communication to or from the Target Cellphones, and the approximate range of the target phone from the cell towers during the communication (PCM/RTT data), for the period from December 1, 2018 to April 30, 2019, as well as all available toll records (including call detail, SMS detail, or data session detail records) for the communications.

4. **Pen register with caller identification and/or trap and trace device.** The Service Provider shall provide to the Investigating Agencies, for a period of 45 days from the date of this order, all dialing, routing, addressing, or signaling information associated with each voice, text, or data communication transmitted to or from the Target Cellphones, including but not limited to:

c. any unique identifiers associated with the phone, including ESN, MEIN, MSISDN, IMSI, IMEI, SIM, MIN, or MAC address;

d. source and destination telephone numbers and/or Internet protocol ("IP") addresses;[1]

e. date, time, and duration of the communication; and

f. cell-site information as specified above.

5. **Technical Assistance.** The Service Provider shall furnish the Investigating Agencies all information, facilities, and technical assistance necessary to accomplish the disclosure of all of the foregoing information relating to the Target Cellphones unobtrusively and with the minimum interference to the service presently provided to the Subscriber.

6. **Non-Disclosure to Subscribers.** The Service Provider, including its affiliates, officers, employees, and agents, shall not disclose the existence of this Warrant and Order, or the underlying investigation, to the Subscribers or any other person, for a period of one year from the date of this Warrant and Order, subject to extension upon application to the Court, if necessary.

III. Additional Provisions

1. **Compensation for Costs.** The Investigating Agencies shall compensate the Service Provider for reasonable expenses incurred in complying with the Warrant and this Order.

2. **Sealing.** This Warrant and Order, and the supporting Application and Agent Affidavit, shall be sealed until otherwise ordered by the Court, except that the Government may without further order of this Court: serve this Warrant and Order on the Service Provider; provide copies

[1] The Service Provider is not required to provide post-cut-through dialed digits ("PCTDD"), or digits that are dialed after a telephone call from the Target Cellphones has been connected. If possible, the Service Provider will forward only pre-cut-through-dialed digits to the Investigative Agencies. However, if the Service Provider's technical capabilities require it to forward all dialed digits, including PCTDD, to the Investigative Agencies, the Investigative Agencies will only decode and forward to the agents assigned to the investigation, the numbers that are dialed before the call is cut through.

of the Warrant and Order or the supporting Application and Agent Affidavit as need be to personnel assisting the Government in the investigation and prosecution of this matter; and disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

Dated: New York, New York

April 13, 2021 — Date Issued

3:03 p.m. New York, NY — Time Issued

J. PAUL OETKEN
United States District Judge