

# WHO IS PAYING KEVIN DOWNING'S BILLS TO SERVE AS TRUMP'S MOLE?

I want to return to the report from Monday describing Rudy Giuliani claiming that Kevin Downing continues to keep him abreast of what Paul Manafort has told prosecutors, and that Manafort has not yet said anything incriminating about Trump.

Rudy Giuliani, who represents Trump in the Russia probe, told Reuters that he had spoken with Manafort's lawyer, Kevin Downing, as recently as last week. Manafort pleaded guilty on Sept. 14 to violating foreign lobbying laws and trying to obstruct justice. He was convicted at trial in another case in August.

Giuliani said the conversations were occurring under a so-called joint defense agreement, which allows lawyers who represent different clients to exchange information without violating attorney-client privilege.

[snip]

Manafort is talking to Special Counsel Robert Mueller "about a lot of things, none of which are incriminating with regard to the president," Giuliani said in one of several conversations with Reuters this month.

Giuliani said he was told by Downing that Manafort had met with Mueller's team roughly a half dozen times.

[snip]

Giuliani said Downing had not shared specific facts with him regarding

Manafort's discussions with prosecutors.

"He's just telling me the conclusion that he's not in a conflicted position with us," said Giuliani, who has been very public in his defense of Trump, appearing regularly on TV disputing aspects of the investigation and calling it a political witch hunt just as the president has.

The report is sourced entirely to Rudy. (Given that it shows up in a story relying on Rudy as a source, the claim that Mueller is working on a report probably comes from Rudy too). Downing declined to comment.

It also differs in one key respect from a CNN report from last Wednesday, which describes Manafort and his lawyers meeting with Mueller's team at least nine times, three more than Rudy claims to know about.

At least nine times since he pleaded guilty on September 14, a black Ford SUV has brought Manafort to Mueller's office in southwest DC around 10 am. Manafort's lawyers arrive around the same time, waiting in the lobby for the car to arrive. There they remain inside the offices, typically for six hours.

It's not entirely clear yet what Manafort has shared with prosecutors, and if his interviews check facts that haven't yet come to light outside of the prosecutors' own notes. Among the questions, investigators have asked Manafort about his dealings with Russians, according to one source familiar with the matter.

Mind you, these two reports aren't necessarily incompatible. It could be that Rudy spoke with Downing on October 14 (so, the beginning of last week), and Manafort paid three more visits to Mueller's team on Monday, Tuesday, and Wednesday

of last week. Or it could be that, as on all other matters, Rudy's command of actual details is not great.

Still, both reports make it clear Manafort has spent a lot of quality time with Mueller's team of late, and Rudy claims to know that none of that quality time has incriminated the president.

Before we consider why that might be, consider that Manafort's plea was built to allow this. Manafort's plea lacks this clause that appears in Rick Gates' cooperation agreement, forbidding Gates to share any information learned while cooperating with others.

The defendant agrees not to reveal his cooperation, or any information derived therefrom, to any third party without prior consent of the Office.

Mueller surely could have included that clause in Manafort's plea, but did not.

And while both plea deals include a paragraph waiving the right to have counsel present for cooperation sessions, that waiver can be rescinded on written notice to Mueller's office.

Your client acknowledges and understands that, during the course of the cooperation outlined in this Agreement, your client will be interviewed by law enforcement agents and/or Government attorneys. Your client waives any right to have counsel present during these interviews and agrees to meet with law enforcement agents and Government attorneys outside of the presence of counsel. If, at some future point, you or your client desire to have counsel present during interviews by law enforcement agents and/or Government attorneys, and you communicate this decision in writing to this Office, this Office will honor this request, and this change will have no effect on any other terms and conditions of this Agreement.

SCO's spokesperson Peter Carr declined to provide any information on the circumstances surrounding Manafort's cooperation.

One way or another, though, Manafort's plea does permit his lawyers to sit in on meetings, and without that gag, they can pass on what they learn to Trump's lawyers so long as the ethical obligations surrounding a Joint Defense Agreement permit it.

I can even think of a good reason Mueller might not mind that Trump is getting updates about Manafort's testimony. It's a good way to stave off whatever rash action Trump will take if and

when Mueller starts to focus more explicitly on him. That's particularly important as Mueller's team waits for Trump to turn in his open book test and provide whatever kind of follow-up Special Counsel might require. Trump thinks he has full visibility into the risk Mueller poses to him, and so will be less likely to panic about it.

Perhaps (as indicated by the CNN report) Mueller is using this period to glean all that Manafort knows about the Russian side of the conspiracy. Once Manafort has shared stuff that exposes him to the risk of retaliation from a bunch of Russian oligarchs, *then* Mueller can start walking him through what he knows about a different kind of vindictive oligarch.

Thus far, then, I can at least come to grips with the report of a continued JDA, even if it violates everything people think they know about JDAs.

What I don't understand, however, is who is paying for Kevin Downing's legal bills?

Using CNN's report (based off their really valuable stake-out), Manafort has lawyers, plural, at these sessions and they had already had – through last Wednesday – around 54 hours of meetings with Mueller's team. Assuming just two attorneys present and a very conservative \$500 hourly fee, Manafort's attorneys would have billed \$54,000 just for in-person time; the real amount might be twice that.

Judge Amy Berman Jackson has already approved the order permitting DOJ to move towards seizing some \$46 million in money and property tied to Manafort's ill-gotten gains (they had to wait until October 20 to start moving on Manafort's Trump Tower apartment), so the process of stripping these assets before any Trump pardon could forestall that process is already in the works. One explanation for Manafort accepting a plea deal was to save the cost of a trial, but his lawyers have already spent over a week's worth of time sitting in on his cooperation

sessions. Paul Manafort has been going slowly but spectacularly bankrupt since March 2016 (though he remarkably still employs a spokesperson), and forfeiture only speeds that process.

So who just paid upwards of \$50K to make sure Rudy G would continue to get reassuring reports that Manafort has yet to flip on the President?

*As I disclosed in July, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.*