

THE ORIGINAL SUBPOENAS IN THE MIKE FLYNN FARA INVESTIGATION

The trial of Mike Flynn partner Bijan Kian, which gets started today in earnest, is as interesting for the exhibits reflecting on Flynn himself as they are for the Kian case (which he still stands a good chance of winning, given a variety of reasons). For example, yesterday the government had to file a motion to compel production from Covington, the law firm of Flynn's original lawyer Rob Kelner, to obtain documents they presumably already obtained voluntarily from Flynn.

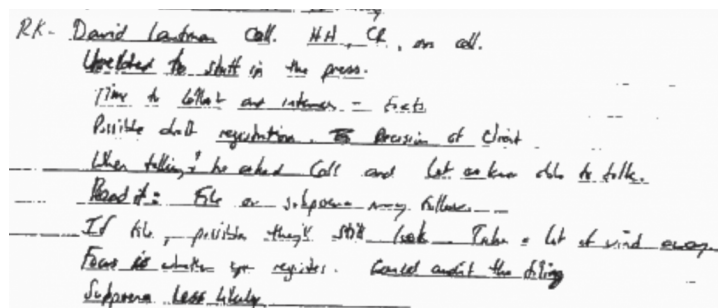
On Friday, July 12, 2019, the government verbally requested that current counsel for FIG produce these materials, and noted that time was of the essence, given that trial was scheduled to begin on Monday, July 15. Also on July 12, the government emailed this request to FIG's current counsel and to Covington, attaching the April 5th subpoena, the June 15th subpoena, and the Court's memorandum opinion. Covington responded by email the same day, copying FIG's current counsel and General Flynn's current counsel, and proposed that the government engage with them because they are the ones who would have to authorize any production at this point because the documents belong to them. To date, neither FIG's current counsel nor General Flynn's current counsel have responded to the government's request to produce these documents.

If nothing else, any current resistance from Flynn to providing these documents will establish more evidence for Emmet Sullivan that

Flynn is trying to undermine the government's case against Kian (which may well succeed).

But the motion is interesting, as well, for what it reveals about how Flynn's false FARA filing turned into charges.

The concern that the government would subpoena Flynn for FARA backup appears repeatedly in the notes his current lawyers released recently.



RK- David Lindstrom Call. HH, CF, on call.
Updated to shift in the press.
Time to talk and interview - Facts
Possible dual registration. The Division of Court
When talking, he asked Call and let us know who to talk.
Head of: File on subpoena - any follow-up
If file, provide things still look. Take a lot of mind away.
Focus on what you require. Could audit the filing
Subpoena less likely.

On April 5, 2017 – less than a month after Flynn submitted his FARA filing – EDVA prosecutor William Sloan sent a subpoena anyway, at first asking for a ton of organizational documents on Flynn Intelligence Group, asking for records including internal memoranda on Inovo BV, Ekim Alptekin, Ibrahim Kurtulus, and FIG's work for Turkey and Inovo specifically. On June 15, 2017, Brandon Van Grack – using his EDVA address, not his Special Counsel one yet (it's not clear Mueller's grand jury had been convened yet) – sent another subpoena. The language of the subpoena should largely have covered the same material – asking for any and all documents relating to FIG, including internal memoranda generally, dated from January 1, 2014 to the present. This subpoena named Flynn Sr, his spawn, and Bijan Kian specifically. It also asked for,

a copy of any FIG LLC and FIG INC documents and physical objects that you have provided to Congress or any congressional committees from January 1, 2014, to present.

The second, broader subpoena, particularly with the reference to congressional requests, would

have incorporated Russian matters, such as Flynn's spawn's notes after their meeting with Sergey Kislyak.

In his sentencing memo, Flynn said that he had voluntarily provided documents (but admitted there were still five productions of documents produced after he pled).

Even before his voluntary pre-plea proffer sessions, he had chosen to produce sweeping categories of documents held by his two companies, rather than fight over the breadth of subpoenas, and facilitated the production of electronic devices. After his Plea Agreement, he made another five productions of documents.

This may or may not be a big deal, but if going to trial without Flynn's cooperation but with broad waivers of Covington's privilege leads to him having to fully respond to an admittedly broad subpoena he always treated as voluntary, it may have some risk for Flynn going forward.

In which case Flynn might still be in the running for the Trump associate who fucked up good lawyering in most spectacular fashion.

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