

DEREK HINES'

ROMANIAN FREEH FALL

There have been a bunch of developments in Hunter Biden's Los Angeles case that I hope to catch up to:

- Prosecutors' games with coercing testimony from Hunter's family members, again
- The status of both Hunter's and Alexander Smirnov's efforts (Smirnov's is before a different judge) to replicate Trump's challenge to Special Counsel authority
- The apparent strategy prosecutors will use to prove their case – including an effort to limit how much Hunter can talk about the addiction they spent a week proving in Delaware

But I want to talk about the curious conflict that prosecutors' may create effort to use Hunter's work for Romanian businessperson Gabriel Popoviciu to smear Hunter in the guise of proving his acuity. Both parties are renewing the motions in limine they submitted in May before the trial got moved, and on July 31, Hunter submitted a motion to exclude any allegations of (my word) influence peddling – basically, the arguments the House has been focused on.

Defendant Robert Hunter Biden, by and through his counsel of record, herebyfiles this Motion in Limine to exclude from trial reference to any

allegation that Mr. Biden (1) acted on behalf of a foreign principal to influence U.S. policy and public opinion, (2) violated FARA, (3) improperly coordinated with the Obama Administration, (4) received direct compensation from any foreign state, (5) received compensation for actions taken by his father that impacted national or international politics, or (6) funneled money to his father or any related alleged corruption (together, allegations of "improper political influence and/or corruption").

Hunter argued that since he had never been charged for any such crime, it should not come in at the trial.

Mr. Biden is not, and never has been, charged with any crime relating to these unfounded allegations, and the Special Counsel should thus be precluded from even raising such issues at trial.

Hunter even renewed his complaint that prosecutors wanted to present such evidence even though he had agreed not to raise how they had chased Alexander Smirnov's hoax against Hunter and his father.

Defense counsel notes that it is ironic that the Special Counsel has filed a motion *in limine* to exclude evidence "alleging the prosecution of the defendant is somehow due to or part of a Russian malign election influence campaign," which Mr. Biden did not object to. (DE 92 at 4.) Yet, the Special Counsel opposes the instant motion, which would preclude him from putting forward similar politically charged information to the jury. To prevent this trial from becoming a trial on politics rather than a trial on the charges in the Indictment, this Court should grant

both the Special Counsel's motion as it relates to a "Russian malign election influence campaign" and this Motion.

In David Weiss' response (importantly, signed by Derek Hines), he scolds Hunter for not *offering up* what was provided in Jencks production in May, and uses that to submit a filing from Rob Walker's grand jury testimony under seal, as if that was Hunter's job to do.

In addition to providing evidence prosecutors allege will show that Hunter "performed almost no work in exchange for the millions of dollars he received from" Burisma and CEFC, prosecutors want to show the work that Hunter *did* do for Romanian businessman Gabriel Popoviciu. They claim it'll not only show what income Hunter made in 2017 – something that can easily be shown with bank statements – but also show that Hunter retained his full capacities in a year he didn't pay taxes (albeit a year when Hunter allegedly simply forgot to pay his prior year's taxes).

For Count 2, the government must prove that the defendant owed taxes on his income for the calendar year ending December 31, 2017. See Dkt. 159-1, Gov't Proposed Instruction No. 34 (Failure to Pay). The purpose and structure of the payments and the nature of the work described above are relevant because they establish that the defendant received income when payments were made by Business Associate 1 and the year in which the defendant earned the income. See *United States v. Hoegel*, 723 F. App'x 421, 424 (9th Cir. 2018) (unreported). Moreover, the evidence of what the defendant agreed to do and did do for G.P. demonstrates the defendant's state of mind and intent during the relevant tax years charged in the indictment. It is also evidence that the defendant's actions do not reflect someone with a diminished capacity,

given that he agreed to attempt to influence U.S. public policy and receive millions of dollars pursuant to an oral agreement with Business Associate 1 in an arrangement that concealed the true nature of the work he was performing for G.P. See *id.* at Gov't Proposed Instruction No. 29.1 ("Diminished Capacity").

Amid a bunch of other fairly reasonable or routine motions, this one is an outlier. Particularly given how Hunter's non-payment of 2016 taxes was charged as a crime that occurred in 2020 (meaning, Hunter's acuity in 2017 is not directly tied to the crimes alleged), it feels very equivalent to John Durham's corrupt efforts to insinuate a conspiracy by making allegations he couldn't prove in court filings. The inclusion of all this is a stretch (though Mark Scarsi has been overly solicitous of the government's requests, and I have no expectation that'll change).

For all three relationships, Weiss can simply prove Hunter made the money by pointing to bank accounts. Including anything more *is* prejudicial, wildly prejudicial in a trial scheduled during campaign season.

Hines' stunt of providing the Rob Walker transcript seems designed to ensure it gets shared one way or another, and in the process, freed up for inclusion in a final report.

But here's the reason why Weiss' focus – Derek Hines' focus – is so curious. Prosecutors seem prepped to argue that Hunter himself peddled influence for Popoviciu – but as [!!!] Fox News explained two years ago, Hunter didn't do the work. Other lawyers at Boies Schiller did ... including, especially, Louis Freeh.

Hunter Biden and his colleagues at a high-powered law firm tried to leverage their government connections in the final months of the Obama administration

in a failed bid to help a Romanian real estate tycoon avoid a conviction on bribery charges.

Emails obtained from Hunter's abandoned laptop show the younger Biden – then working as a counsel at Boies Schiller Flexner LLP – reached out to former FBI Director Louis Freeh in June 2016 about the case of Gabriel Popoviciu, who was accused of acquiring land to build a Bucharest mall at a below-market price, the Daily Mail reported.

In a June 18, 2016, email, Hunter Biden told Freeh – then a partner at the Delaware-based law firm Freeh, Sporkin & Sullivan – that he believed Popoviciu was “a good man that’s being very badly treated by a suspect Romanian justice system ... Time is of the essence and my client has never balked at bringing whatever team it takes together at whatever cost to obtain justice.”

While Freeh's initial response, which began “Thanks for your note and for thinking of me,” was noncommittal, he was soon fully invested in Popoviciu's case.

“I will see my good friend Ron Noble (former SecGen INTERPOL), in NY on Thursday,” Freeh wrote Hunter three days after the initial email, “and most likely he knows this DNA [Romanian National Anti-Corruption Directorate] prosecutor, Laura Codruta Kobesi, very well. Let me talk to him and see what the possibilities may be to meet with her and to initiate a dialogue which would remediate the situation.”

This does make it similar to what Hunter did with actual lobbying for Burisma and influence-peddling for Patrick Ho: brokering relationships to have other people do the work.

And (as more anti-Hunter outlets have explained) Derek Hines worked with Freeh for eighteen months leading up to these events.

Hines's LinkedIn says he worked as 'Special Counsel' for the ex-FBI director at his company Freeh Group in New Orleans, Louisiana, between August 2013 and February 2015. It is unclear what projects he counseled Freeh on.

It wasn't until 2016 that Hunter started working with Freeh consulting for Popoviciu.

Indeed, Hines' past work with Freeh was the subject of conspiracy theorizing that he was covering for Freeh.

At least as explained, Freeh's role seems to go to the core of the allegations Hines wants to present in court, allegations that have nothing to do with non-payment of his taxes, allegations that say nothing about Hunter's acuity in 2020, when he allegedly chose not to pay his 2016 taxes.

Yet Hines appears to have had a closer relationship to Freeh than Hunter did.