

EMPOWER OVERSIGHT

Whistleblowers & Research



October 8, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Christopher Coons, Chairman
The Honorable James Lankford, Vice Chairman
Senate Select Committee on Ethics
220 Hart Senate Office Building
Washington, DC 20510

RE: Complaint and Request for Investigation into Whether Members and Staff of the U.S. Senate Armed Services Committee Solicited and Accepted Gifts of Professional Services in Violation of Senate Ethics Rule XXXV and Related Matters

Dear Chairman Coons and Vice Chairman Lankford:

Empower Oversight Whistleblower & Research (“Empower Oversight”) files this Complaint and Investigation Request with respect to whether staff and members of the U.S. Senate Armed Services Committee (“Committee”), including T. Kirk McConnell, violated, at a minimum, Senate Rule XXXV (“Gift Rule”) by requesting and accepting professional services from The Democracy Integrity Project (“TDIP”) and Daniel J. Jones.

TDIP, a nonprofit, and Penn Quarter Group, a for-profit firm run by Jones, are reportedly funded by a small group of billionaires. TDIP and Jones provided detailed technical expert services to the Committee for free, as revealed by TDIP itself in a September 14, 2021, court filing. According to that filing, TDIP’s research for the Committee began in 2017, continued for more than a year, involved hiring “computer science” experts at no cost to the Committee, and was aimed at evaluating data that the Committee had received for alleged connections between Alfa Bank and Trump Organization servers.

Special Counsel John Durham announced on September 16, 2021 that a grand jury has indicted an attorney for the Hillary Clinton campaign for allegedly lying to the Federal Bureau of Investigations (FBI) in connection with these claims, which have also been debunked by Special Counsel Robert Mueller and the FBI in their independent investigations. It is unclear whether the data described in Special Counsel Durham’s indictment is the same data obtained by the Committee and analyzed for the Committee by TDIP.¹

¹ Press Release, *Grand Jury Indicts D.C. Attorney with Making False Statements to the FBI in 2016 Regarding Alleged Communications Between Trump Organization and Russian Bank*, U.S. Dep’t of Justice (Sept. 16, 2021),

In light of these facts, it is important for the Senate and the public to have a more complete understanding of whether the Committee’s activities constituted “improper conduct which may reflect upon the Senate”² or violated any Senate rules.³

For the reasons below, the Senate Select Committee on Ethics should initiate a preliminary inquiry to determine whether there is substantial credible evidence which provides substantial cause to conclude that an applicable violation of Senate Rules has occurred,⁴ and if so, proceed to adjudicatory review.⁵ In the alternative, if the Committee concludes that even if true, the facts described below do not constitute a violation of Senate Rules, then it should issue clarifying guidance to that effect so that other Committees can benefit from soliciting free outside professional services to supplement their congressional oversight work without fear of violating the Rules.

Relevant Actors:

The Requester, Empower Oversight, is a nonprofit, nonpartisan educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing,⁶ Among other things, Empower Oversight educates Members of Congress, inspectors general, and other official institutions charged with strengthening public integrity, and advocates for more effective oversight and whistleblower-driven investigations.⁷ Its leadership has decades of experience conducting congressional investigations, exposing major scandals.⁸

The organization in question, TDIP, is a District of Columbia nonprofit corporation that describes its mission as conducting research and investigations, and helping to mitigate foreign interference in elections in the United States and its allies overseas.⁹ Daniel J. Jones, the President and CEO of TDIP, is a former FBI analyst and former staffer for the U.S. Senate Select Committee on Intelligence and Ranking Member Dianne Feinstein (D-CA).¹⁰

Context and Background

Media reports alleging connections between Alfa Bank and the Trump Organization servers in 2016 began just days before the 2016 election, in a series of two articles published in Slate Magazine, which reported that intelligence officials possessed information indicating a

available at <https://www.justice.gov/sco/pr/grand-jury-indicts-dc-attorney-making-false-statements-fbi-2016-regarding-alleged>.

² *Senate Ethics Manual*, Select Committee on Ethics, U.S. Senate at 4 (2003 ed.), available at https://www.ethics.senate.gov/public/_cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf.]

³ Senate Rule XXXV, the Gift Rule, appears to be particularly applicable here, although additional facts uncovered in the course of an investigation may also, or in the alternative, reveal violations of other Senate Rules.

⁴ See Rule 3(a)-(c), Rules of Procedure: Select Committee on Ethics, Sen. Committee on Ethics (rev. 2015), available at https://www.ethics.senate.gov/public/_cache/files/551b39fc-30ed-4b14-b0d3-1706608a6fcb/2015---blue-book---rulesofprocedure.pdf.

⁵ See *id.*, Rule 4(a)-(b).

⁶ *Mission*, Empower Oversight Whistleblower & Research (last accessed Oct. 5, 2021), available at <https://empowr.us/mission/>.

⁷ *Id.*

⁸ *Id.*

⁹ See Compl., ¶ 6, *infra* n. 19.

¹⁰ *Id.* ¶ 3.

back channel between the two entities.¹¹ According to Special Counsel Durham’s September 16, 2021 indictment of Democratic lawyer Michael Sussman of Perkins Coie LLP, the FBI initiated an investigation of these materials in response to a September 19, 2016 meeting the FBI held with Sussman, in which Sussman withheld from the FBI that he was conducting work for the 2016 Clinton campaign when he presented to the FBI documents and data showing alleged links between Alfa Bank and the Trump Organization.¹² Also in 2016, Mark Elias, also of Perkins Coie, retained Fusion GPS to assist in its representation of the Clinton campaign and the Democratic National Committee through performing “a variety of research services during the 2016 election cycle.”¹³ Fusion GPS, among other things, commissioned the now infamous “Steele Dossier,” a series of memos authored by former MI-6 agent Christopher Steele regarding alleged “Russian collusion” and former President Trump.

In March 2017, Jones told the FBI that his for-profit firm, Penn Quarter Group, “was being funded by 7 to 10 wealthy donors located primarily in New York and California, who provided approximately \$50 million.”¹⁴ Jones reportedly founded TDIP around the same time in part to continue the work begun by Fusion GPS that had culminated in the Steele Dossier.¹⁵ However, TDIP reported only \$7 million in revenue, primarily from contributions.¹⁶ Because Penn Quarter Group is a for-profit firm with no disclosure obligations, it is unclear how the \$50 million that Jones described to FBI was used. TDIP reportedly received a “sizable check” in 2017 from billionaire donor George Soros to continue its “investigation and research into foreign interference in American elections and European elections.”¹⁷

Years later, TDIP continued to maintain significant ties with Fusion GPS and Christopher Steele. TDIP tax records filed in November 2020 reveal that TDIP paid \$1,222,714 in 2019 to

¹¹ See Compl. ¶¶9-11; see also Franklin Foer, *Trump’s Server, Revisited*, SLATE (Nov. 2, 2016), available at <https://slate.com/news-and-politics/2016/11/the-trump-server-evaluating-new-evidence-and-countertheories.html>. Franklin Foer, *Was a Trump Server Communicating with Russia?*, SLATE (Oct. 31, 2016), available at http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html.

¹² See, e.g., Sarah N. Lynch, *Attorney who advised Clinton campaign indicted in U.S. Trump-Russia Probe*, Reuters (Sept. 16, 2021), available at <https://www.reuters.com/world/us/us-grand-jury-indicts-lawyer-who-represented-clinton-campaign-2021-09-16/>.

¹³ See Debra Cassens Weiss, *Perkins Coie hired company that compiled Trump dossier*, ABA Journal (Oct. 25, 2017), available at https://www.abajournal.com/news/article/perkins_coie_hired_company_that_compiled_trump_dossier_on_behalf_of_clinton (linking to letter from Perkins Coie managing partner Matthew Gehringer to Fusion GPS describing scope of retention).

¹⁴ H.R. Rep. No. 115-1110, at 124 (2018), available at <https://www.congress.gov/115/crpt/hrpt1110/CRPT-115hrpt1110.pdf>; see Compl. ¶ 39 (“The PQG is a for-profit consulting, research, and global investigations services firm that is led by Mr. Jones.”).

¹⁵ John Solomon & Lee Smith, *Effort to spread discredited Russia collusion theory welcomed by McCain Senate panel, memos show*, Just the News, (Sept. 24, 2021), available at <https://justthenews.com/accountability/russia-and-ukraine-scandals/effort-spread-discredited-russia-collusion-theory>.

¹⁶ *Democracy Integrity Project*, ProPublica (last accessed Oct. 6, 2021), available at <https://projects.propublica.org/nonprofits/organizations/815223488>.

¹⁷ See *id.*; see also Kenneth P. Vogel, Scott Shane & Patrick Kingsley, *How Vilification of George Soros Moved From the Fringes to the Mainstream*, N.Y.T. (Oct. 31, 2018), available at <https://www.nytimes.com/2018/10/31/us/politics/george-soros-bombs-trump.html> (Mr. Soros’s representatives say he gave \$1 million to . . . the Democracy Integrity Project, which was established after the 2016 election to investigate foreign interference in elections and to research Mr. Trump’s connections to Russian interests.”).

Bean, LLC, the legal entity operating as Fusion GPS, and \$700,000 to Walsingham Partners, an entity reportedly co-owned by Christopher Steele and his business partner.¹⁸

The September 2021 Court Filing

On September 14, 2021, TDIP and Jones filed a Complaint for Declaratory and Injunctive Relief and Damages (hereinafter “Complaint”) against Alfa Bank in the Superior Court for the District of Columbia.¹⁹ In the course of seeking a declaratory judgment and injunction prohibiting Alfa Bank from disclosing certain documents and testimony related to its work,²⁰ the Complaint indicates that TDIP and Jones retained experts on behalf of and for the benefit of the Committee. At no charge to the Committee, they conducted extensive technical analysis of data received by the Committee.

The Complaint includes the following allegations, specific to TDIP and Jones’ work for the Committee:

23. In early-to-mid 2017, the U.S. Senate Armed Services committee, **via senior leadership staff acting in their official capacity, asked Mr. Jones to research** and offer his insights into the alleged connections between Alfa Bank and Trump Organization servers.

24. More specifically, the Senate Armed Services Committee **requested that Mr. Jones evaluate information it had received** about DNS look-ups between Alfa Bank servers and Trump Organization servers.

* * *

27. After investigating and confirming the *bona fides* of the data source described by the Senate Armed Services Committee, information provided by the source’s representative, and the importance of a rigorous analysis of the alleged server links, **TDIP and Mr. Jones agreed to receive and analyze a dataset of DNS look-ups and to report their findings back to the U.S. Senate.**

28. TDIP and Mr. Jones **spent more than a year rigorously analyzing** the dataset and the available background information on Alfa Bank, the Trump Organization, and the other entities whose servers the DNS data suggested were connecting to the Trump Organization server at issue (i.e., Spectrum Health and Heartland Payment Systems). **In connection with this effort, TDIP retained computer science experts to examine the data**, questioned anonymous data scientists who had done prior research, and **compiled details** on Alfa Bank’s historical practices and business relationships.

¹⁸ Jerry Dunleavy, *Feinstein’s former staffer helped funnel millions to Steele and Fusion GPS after 2016*, Washington Examiner (May 11, 2021), available at <https://www.washingtonexaminer.com/news/feinsteins-former-staffer-helped-funnel-millions-to-steele-and-fusion-gps-after-2016> (linking to relevant tax filings).

¹⁹ Compl., *Democracy Integrity Project and Jones v. AO Alfa-Bank*, No. 2021 CA 2021 03225 (D.C. Sept. 14, 2021) (Attachment 1).

²⁰ *Id.* ¶ 1.

29. TDIP and Mr. Jones' analysis was **conducted confidentially** and pursuant to TDIP's public interest mission. **TDIP was not paid for its analysis.**

30. TDIP **drafted a detailed report** summarizing its analysis.²¹

In a recent news report, a source who has worked on the Committee for several years indicated that the Committee was "still searching for records to explain the exact nature of the relationship with Jones and TDIP."²² However, TDIP and Jones indicated that their work for the Committee should be treated as confidential or *commercial* information, characterizing it as essentially similar to work for a paying client:

61. The Jones Deposition transcript and **certain of the disputed confidential documents constitute**, reflect, or contain **confidential research or commercial information**. Specifically, these exhibits each reflect or contain **confidential research** that TDIP and Mr. Jones undertook **into DNS look-ups** that suggested a connection between the servers of powerful Russian entities with close ties to the Kremlin (not limited to Alfa Bank) and individuals and entities potentially associated with President Trump.²³

Regarding the alleged confidential nature of these documents, on June 11, 2020, Alfa Bank filed two cases against unnamed "John Doe" defendants, alleging that DNS look-ups described in the TDIP report were fabricated.²⁴

In connection with these cases, Alfa Bank issued subpoenas for documents and testimony to multiple entities and persons, including to Jones and TDIP.²⁵ On February 26, 2021, the parties executed a confidentiality agreement, pursuant to which TDIP and Jones produced confidential documents and provided deposition testimony to Alfa Bank.²⁶ Among other things, the Confidentiality Agreement specifies that confidential documents may be reviewed by "other persons only upon consent of the producing Party and on such conditions as are agreed to."²⁷

On July 27, 2021, the U.S. Senate Armed Services Committee and T. Kirk McConnell, a professional staff member of the committee, through the Office of Senate Legal Counsel, filed a motion to quash third party subpoenas issued to Mr. McConnell.²⁸ On August 20, 2021, Alfa Bank sent written notice to plaintiffs that it was challenging the plaintiffs' confidential designation as to the Jones deposition transcript and accompanying exhibits,²⁹ which contained or reflected TDIP's research regarding Alfa Bank and the Trump organization.³⁰ Alfa Bank

²¹ See Compl. ¶¶ 23-24, 27-30 (emphasis added). A "DNS look-up" is the process by which a Domain Name System (DNS) record is returned from a DNS server to translate an domain name into a numeric internet protocol (IP) address.

²² Solomon & Smith, *supra* n.15.

²³ See Compl. ¶¶ 61 (emphasis added).

²⁴ See Compl. ¶ 34 (citing *AO Alfa-Bank v. Doe*, Case No. 50-2020-CA-006304-XXX-MB (Fla. 15th Cir. Ct.); *AO Alfa-Bank v. Doe*, Case No. CI-20-04003 (Pa. C.P. Lancaster Cty.).

²⁵ See Compl. ¶¶ 35, 37.

²⁶ *Id.* ¶ 40.

²⁷ *Id.* ¶ 43 (internal citation omitted).

²⁸ See *id.* ¶ 58; see *infra* n. 32.

²⁹ *Id.* ¶ 52.

³⁰ *Id.* ¶ 61.

planned to file publicly confidential exhibits in connection with its opposition to the motion to quash subpoenas to T. Kirk McConnell.

According to TDIP and Jones, the documents constituting, reflecting, or containing the “confidential research” regarding Trump affiliates and Alfa Bank included “theories and hypothesis that were not proven” and was otherwise “not intended to be publicly disseminated.”³¹ TDIP argued that disclosure of such documents “could be used to spread misinformation or spawn conspiracy theories.”³²

On September 9, 2021, a filing in the *In re Superior Court* matter revealed that Alfa Bank withdrew its subpoenas issued to McConnell, and the Committee and McConnell withdrew their motion to quash accordingly.³³ Five days later, on September 14, TDIP and Jones filed the Complaint quoted extensively above describing the free research and analysis they provided to, and at the request of, the Committee.

The Gift Rule

Senate Rule XXXV (“Gift Rule”) provides, in relevant part, the following:

(1)(a)(1) No Member, officer, or employee of the Senate shall knowingly accept a gift except as provided in this rule.

(2)(A) A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer, or employee reasonably and in good faith believes to have a value of less than \$50, and a cumulative value from one source during a calendar year of less than \$100. No gift with a value below \$10 shall count toward the ***\$100 annual limit***.

* * *

(b)(1) For the purpose of this rule, the term “gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes ***gifts of services***, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

In other words, the Gift Rule generally prohibits in-kind donation of services, among other items of value that constitute a “gift,” exceeding \$100 annually.³⁴

There are certain exceptions to the Gift Rule. For example, members, officers, or employees may accept a gift of services with a value of less than \$50, provided that the source of the gift is not a registered lobbyist, foreign agent, or private entity that retains or employs a registered lobbyist or foreign agent. The value of gifts that may be accepted from any one source in a calendar may not exceed \$100.³⁵ In addition, gifts from certain sources, including gifts

³¹ *Id.* ¶¶ 61, 64.

³² *Id.* ¶ 65.

³³ See Notice of Withdrawal of Motion to Quash Subpoenas and Dismissal of this Miscellaneous Action at 1, No. 1:21-mc-00100-DLF (D.D.C. Sept. 9, 2021) (Attachment 2).

³⁴ See Senate Rule 35.1(a)(2)(A).

³⁵ *See id.*; see also *Gifts*, U.S. Senate Select Committee on Ethics (last accessed Oct. 5, 2021), available at <https://www.ethics.senate.gov/public/index.cfm/gifts>.

made by relatives,³⁶ gifts given on the basis of personal friendship,³⁷ or gifts from current colleagues³⁸ are frequently exempt from the Gift Rule.

Analysis:

Taking the allegations in the Complaint as true, TDIP and Jones spent “more than a year rigorously analyzing” data and background information on Alfa Bank, including having “retained” computer data scientists and “drafted a detailed report,” which was 687 pages long.³⁹ Nevertheless, TDIP “was not paid for its analysis.”⁴⁰ Moreover, rather than bringing information *to* the Committee, TDIP appears to have obtained the nonpublic data used for its analysis *from* the Committee itself, for the purpose of providing the solicited expert services to the Committee.⁴¹

As the Gift Rule explains, a “gift” may constitute more than a tangible item, but rather also applies to—and generally prohibits—“in-kind donation of services” among “other items of value,” including “services” that exceed \$100 annually. The fair market value of this research would clearly exceed \$100, the threshold maximum for a Gift Rule exception. The research was developed for over a year and culminated in a major 687-page report, likely prepared at considerable expense to TDIP. Jones appears to value his own services very highly. For example, tax filings for fiscal year 2017 reveal that compensation to Jones from his nonprofit organization alone totaled \$381,263.⁴²

There is also no reason to suspect that any common exception to the Gift Rule applies in this instance. For example, Jones’ services do not appear to constitute a gift from a close family member, a gift made solely on the basis of personal friendship, or a gift from current colleagues. In addition, unlike the “newsletter” that TDIP reportedly sent of its own volition to certain Democratic leaders and the news media,⁴³ here the Committee allegedly requested TDIP and Jones to conduct a much more robust type of technical research, which required him to hire experts from his own funds with no charge to the Committee.

The fact that TDIP and Jones were essentially studying and selectively funneling alleged “findings” to their political allies in Congress with little transparency is concerning,⁴⁴ but that

³⁶ See Senate Rule 35.1(c)(3).

³⁷ See Senate Rule 35.1(c)(4); *see also* Senate Rule 35.1(e).

³⁸ See Senate Rule 35.1(c)(6).

³⁹ See Compl., ¶ 28.

⁴⁰ *Id.* ¶ 29.

⁴¹ See *id.* ¶¶ 24-25 (explaining that the Committee “requested that Mr. Jones evaluate information *it had received* about DNS look-ups between Alfa Bank servers and Trump Organizations from a “source” that was an “individual or entity with sensitive contracts with the U.S. government”) (emphasis added).

⁴² *Democracy Integrity Project*, ProPublica (last accessed Oct. 6, 2021), available at <https://projects.propublica.org/nonprofits/organizations/815223488>.

⁴³ See, e.g., Paul Sperry, *Dossier-Tied Firm Pitches Reporters Daily on ‘Collusion,’* RealClear Politics (Mar. 22, 2019), available at https://www.realclearpolitics.com/articles/2019/03/22/trump-russia_20_dossier-tied_firm_pitching_journalists_daily_on_collusion_139825.html; Paul Sperry, *Soros-Funded PR Shop Constructing Media Echo Chamber to Push Impeachment*, The Federalist (Mar. 21, 2019), available at <https://thefederalist.com/2019/03/21/soros-funded-pr-shop-constructing-media-echo-chamber-push-impeachment/>.

⁴⁴ As Senator Grassley informed Senator Coons in May 2018, Fusion GPS Founder Glenn Simpson concealed his relationship with Jones during his August 2017 transcribed interview with the Senate Judiciary Committee. See Letter from Senate Judiciary Committee Chairman Charles Grassley to Senator Christopher Coons at 2 (May 29, 2018), available at <https://www.judiciary.senate.gov/imo/media/doc/2018-05->

alone would not implicate the Gift Rule. Congressional committees frequently receive and review freely available public research conducted by think tanks and outside experts to inform their understanding of important issues. However, that does not appear to be what happened here. By contrast, here it appears that the Committee received and provided nonpublic data to TDIP and solicited expert analysis of that data. The data and the 687-page TDIP report for the Committee remained nonpublic, while TDIP paid for the analysis and the Committee did not.⁴⁵

The Need for an Investigation

How the Committee obtained the data is unclear and may raise further issues upon further investigation, including potential violations of other Senate Rules. Not only are these ethical issues likely to recur in the future, but the subject matter is of intense public interest and could cast the Senate in a negative light if the facts remain unclear. This topic is the subject of a Special Counsel investigation that resulted in an indictment just weeks ago. The Senate has an interest in getting to the bottom of what happened.

Moreover, the American people deserve to know whether the Committee solicited and accepted free services to further its most politically sensitive investigative work from a nonprofit with deeply partisan ties to a small group of billionaires. There is no transparency regarding what other business those wealthy donors might have before the Committee, and thus, no public assurance that, by bankrolling investigative services for the Committee through TDIP and Jones, they are not currying favor in ways that present conflicts of interest for Senators and staff in the exercise of their official duties.

Only a Senate Ethics Committee inquiry can answer these questions and re-assure the public that Senators and staff are either following the rules or being held accountable for their failure to do so. During our long public service in both the House and Senate, Empower Oversight's leadership were consistently advised that soliciting and accepting outside services from professional experts, even in the conduct of our official duties, could run afoul of the rules prohibiting gifts where the services were not compensated from official funds.⁴⁶

If it is now permissible for committee staff and Senators to confidentially solicit and accept professional expert services to further their official oversight functions without any public disclosure, without providing any compensation from official funds, and without violating the

[29%20CEG%20to%20Coons%20\(Trump%20Jr%20Interview\).pdf](#) (“Contrary to Mr. Simpson’s denial in the staff interview, according to the FBI and others, Fusion actually did continue Trump dossier work for a new client after the election. ... [Jones] ... ‘had secured the services Steele, his associate [redacted], and Fusion GPS to continue exposing Russian interference[.]’”)

⁴⁵ TDIP and Jones allege in their Complaint that the Committee “requested that Mr. Jones evaluate information it had received” from a confidential source, which TDIP and Jones “agreed to receive and analyze,” and did so through “retain[ing] computer scientists to examine the data” and in ultimately producing its confidential 687-page report. *See* Compl. ¶¶ 24, 27, 30. Such conduct by the Committee raises questions of whether this selective sharing of confidential information with TDIP was properly authorized, or conversely, violated Senate Rule XXIX(5), which prohibits the disclosure of “secret or confidential business” of the Senate, including “the business and proceedings of the committees,” and imposes dismissal of liable employees or officers and punishment for contempt.

⁴⁶ One exception to this prohibition, although not applicable to the facts described herein, is the provision of pro bono services provided in order to assist a Member to file an amicus curiae brief. In that instance, the Member need not establish a legal expense trust fund. *See supra* n. 2, at 31.

Gift Rule—then the Select Committee on Ethics should publish clear guidance to that effect so that all Senators and staff can operate on a level playing field.

However, such a major deviation from the historical practice of the Senate could have far reaching implications for how congressional oversight investigations are conducted in the future and should be carefully considered and debated.

Conclusion:

Empower Oversight requests that the Select Committee on Ethics immediately initiate a preliminary inquiry into the conduct of staff and members of the Senate Armed Services Committee, including T. Kirk McConnell, regarding the 2017 request to TDIP and Jones and the circumstances described above.

For the reasons set forth, Empower Oversight respectfully submits that the recent revelations in TDIP's court filing, and the issues raised by those revelations, are significant enough to require such a review and public resolution.

Thank you for your time and consideration.

Cordially,

[/Jason Foster/](#)

Jason Foster
Founder & President

Attachments

cc: Patricia M. Bryan & Morgan J. Frankel
Office of Senate Legal Counsel

Attachment 1

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

THE DEMOCRACY INTEGRITY PROJECT
1360 Beverly Road, Suite 300
McLean, VA 22101

-and-

Daniel J. Jones,

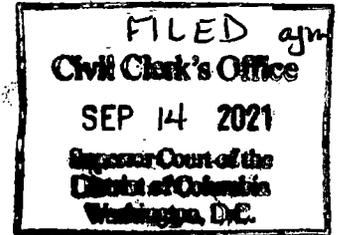
REDACTED

Plaintiffs,

v.

AO Alfa-Bank,
27 Kalanchevskaya Street,
Moscow, Russia 107078

Defendant.



Civil Case No. 2021 CA 2021 03225

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES

Plaintiffs The Democracy Integrity Project and Daniel J. Jones, by their undersigned counsel, for their Complaint for Declaratory and Injunctive Relief and Damages against the AO Alfa-Bank state as follows:

INTRODUCTION

1. Plaintiffs seek: (1) a declaratory judgment that certain documents and testimony are subject to binding contractual agreements between Plaintiffs and Defendant which prohibit their disclosure and an injunction prohibiting their disclosure; and (2) an award of damages to reimburse Plaintiffs' fees and expenses incurred protecting the confidentiality of Mr. Jones' deposition testimony and certain deposition exhibits.

PARTIES

2. Plaintiff The Democracy Integrity Project (“TDIP”) is a District of Columbia Nonprofit Corporation that can be reached at 1360 Beverly Road, Suite 300 in McLean, VA 22101. TDIP’s mission includes efforts to research, investigate, and help mitigate foreign interference in elections in the United States and its allies overseas.

3. Plaintiff Daniel J. Jones is the President and CEO of TDIP and a resident of California and Washington, DC. Mr. Jones is a former U.S. Federal Bureau of Investigation (“FBI”) analyst and a former U.S. Senate Select Committee on Intelligence professional staff member who has participated in, managed, and led a number of highly complex and sensitive investigations for the U.S. Government. Mr. Jones now devotes a substantial portion of his professional life to conducting confidential research and investigations on matters of great public interest, including foreign threats to democratic elections.

4. Mr. Jones often completes discreet research for government and media entities and goes on-the-record with prominent media outlets when his research reveals issues of grave importance. For example, a front-page story in *The New York Times* on May 12, 2019, titled *Russia Is Targeting Europe’s Elections. So Are Far-Right Copycats*, describes Jones as having “flagged a number of suspicious websites and social media accounts to law enforcement authorities” related to threats to European Parliament elections. In the context of Russia’s interference in those democratic elections, Mr. Jones was quoted as saying, “The goal here is bigger than any one election It is to constantly divide, increase distrust, and undermine our faith in institutions and democracy itself.” See Matt Apuzzo & Adam Satariano, *Russia Is Targeting Europe’s Elections. So Are Far-Right Copycats*, THE NEW YORK TIMES (May. 12, 2019) <https://www.nytimes.com/2019/05/12/world/europe/russian-propaganda-influence-campaign->

european-elections-far-right.html. More recently, Mr. Jones warned of threats of violence in Washington, DC and to the certification of the U.S. Presidential election when his research identified unusually detailed calls for violence days before the January 6, 2021, U.S. Capitol insurrection. *See* Craig Timberg & Drew Harwell, *Pro-Trump forums erupt with violent threats ahead of Wednesday's rally against the 2020 election*, WASHINGTON POST (Jan. 5, 2021 12:57 p.m.) <https://www.washingtonpost.com/technology/2021/01/05/parler-telegram-violence-dc-protests/>.

5. Defendant AO Alfa-Bank (“Alfa Bank”) is a major banking institution, registered and licensed in the Russian Federation. Its registered office is located at 27 Kalanchevskaya Street, Moscow, Russia 107078.

6. Alfa Bank has close ties to the Kremlin. For example, The Department of Justice *Report On The Investigation Into Russian Interference In The 2016 Presidential Election* states that “a Russian national who heads Alfa-Bank” was “one of approximately 50 wealthy Russian businessmen who regularly meet with [Russian President] Putin in the Kremlin.” The Department of Justice report further details how the “Russian national who heads Alfa-Bank . . . understood that any suggestions or critiques that Putin made during these meetings were implicit directives” with consequences for “not follow[ing] through.”¹

JURISDICTION AND VENUE

7. The amount in controversy and the subject matter of this action are within the jurisdiction of this Court.

8. This Court has jurisdiction over this matter because it arises out of contracts specifying the scope and confidentiality of discovery that Plaintiffs provided in satisfaction of a

¹ <https://www.justice.gov/archives/sco/file/1373816/download>, at 146.

subpoena issued by this Court. *See* Subpoena Duces Tecum of Daniel J. Jones, *AO Alfa-Bank v. Doe*, Case No. 2020 CA 004246 2 (D.C. Super. Sept. 17, 2020). Those contracts were negotiated by the parties' agents within the District of Columbia, and Alfa Bank has expressed its intent to violate the parties' contractual agreements within the District of Columbia. Venue is proper in this Court because the action is brought at law and in equity for declaratory and injunctive relief and arises from a subpoenas obtained by Defendant in this Court.

FACTS

A. Initial Media Reports of Suspicious Connections Between Alfa Bank and Trump Organization Servers in 2016

9. On October 31, 2016, Franklin Foer published an article in Slate Magazine titled *Was a Trump Server Communicating With Russia?* The Slate article reported that “a small, tightly knit community of computer scientists” including Indiana University computer scientist L. Jean Camp and a scientist using the pseudonym Tea Leaves had identified DNS records that suggested “a sustained relationship between a server registered to the Trump Organization and two servers registered to an entity called Alfa Bank.”²

10. The Slate article reported that “[e]ighty-seven percent of the DNS lookups involved the two Alfa Bank servers. ‘It’s pretty clear that it’s not an open mail server,’ Camp told [Foer]. ‘These organizations are communicating in a way designed to block other people out.’” *Id.*

11. Two days later, on November 2, 2016, Foer published a follow-up article in Slate, titled *Trump’s Server, Revisited*, providing alternative theories for the server connections, as well as more detailed response statements from the parties involved.³

² http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

³ <https://slate.com/news-and-politics/2016/11/the-trump-server-evaluating-new-evidence-and-countertheories.html>

12. Many entities, including the Trump Organization, suggested that the DNS traffic might be a result of spam or email marketing. *Id.*

13. Cendyn, a third-party vendor that operated the server on behalf of the Trump Organization, informed CNN that its contract to provide email marketing services to the Trump Organization ended in March 2016, and that a different client had been communicating with Alfa Bank using Cendyn communications applications. Alfa Bank denied this claim.

14. In hindsight, the DNS lookups are particularly suspicious because there is independent confirmation that Alfa Bank attempted to establish a communication channel with the Trump Transition Team on behalf of the Russian government in late 2016.

15. Special Counsel Robert Mueller's April 2019 *Report On The Investigation Into Russian Interference In The 2016 Presidential Election*⁴ accurately revealed that Petr Aven, the billionaire oligarch and head of Alfa Bank, pulled aside Washington lobbyist Richard Burt at a corporate meeting in Luxembourg and informed him that someone high in the Russian government wanted a communications channel between the Kremlin and the Trump Transition Team. Mr. Aven asked for Burt's help in contacting members of the Trump Transition Team.

16. Mr. Burt viewed Mr. Aven's request as unusual and outside the normal realm of his dealings with Mr. Aven.

B. The Nature of DNS Lookups

17. Worldwide communication on the internet is based on numerical Internet Protocol ("IP") addresses that function in a manner similar to telephone numbers. Because large series of numbers are difficult for humans to remember, there is a global Domain Name System ("DNS")

⁴ <https://games-cdn.washingtonpost.com/notes/prod/default/documents/f5fe536c-81bb-45be-86e5-a9fee9794664/note/a8d336ef-e98d-4a08-987d-b4c154b22700.pdf>

that functions as a phonebook, “resolving” (“looking-up”) easy to remember text-based names (e.g. www.dccourts.gov) into IP addresses (208.185.32.134).

18. DNS look-ups almost always automatically precede and are followed by communication, such as emails, webmail messaging, chat messages, a connection via software, or website visits.

19. There are different types of DNS look-ups. For example, one type of DNS look-up relates to websites; another type of DNS look-up relates to email. Because of this, DNS records can provide insights into the intentions and actions of specific computers.

20. Before a computer server can send an email, for example, it first must do a DNS look-up to identify the numerical address on the internet of the receiving email server. This is a necessary first step before any two computers can communicate.

21. In the internet world of email exchanges and computer connections, if “Computer X” does a DNS look-up of “Computer Y,” it means that “Computer X” is trying to connect to “Computer Y.” An analogy would be a human dialing directory assistance on a telephone and asking for a phone number for a particular business or individual. Acquiring the phone number from the operator is a necessary first step before taking the second step: calling that individual or business.

22. DNS records can reveal attempts to initiate communications and provide insight into intentions, patterns, and types of communications sought. However, only a limited set of sophisticated organizations have the technical ability and expertise to collect the sufficiently large, representative DNS look-up datasets required for analysis that can reliably offer such insights.

C. The Senate Armed Services Committee Asks TDIP and Mr. Jones to Examine the DNS Data in 2017

23. In early-to-mid 2017, the U.S. Senate Armed Services Committee, via senior leadership staff acting in their official capacity, asked Mr. Jones to research and offer his insights into the alleged connections between Alfa Bank and Trump Organization servers.

24. More specifically, the Senate Armed Services Committee requested that Mr. Jones evaluate information it had received about DNS look-ups between Alfa Bank servers and Trump Organization servers.

25. The Senate Armed Services Committee informed Mr. Jones that the source of the DNS records had a history of providing accurate information, a lengthy history of reliably assisting the U.S. law enforcement and intelligence communities, and was an individual or entity with sensitive contracts with the U.S. government.

26. At the request of the Senate Armed Services Committee, Mr. Jones met with a representative for the source of the DNS records.

27. After investigating and confirming the *bona fides* of the data source described by the Senate Armed Services Committee, information provided by the source's representative, and the importance of a rigorous analysis of the alleged server links, TDIP and Mr. Jones agreed to receive and analyze a dataset of DNS look-ups and to report their findings back to the U.S. Senate.

28. TDIP and Mr. Jones spent more than a year rigorously analyzing the dataset and the available background information on Alfa Bank, the Trump Organization, and the other entities whose servers the DNS data suggested were connecting to the Trump Organization server at issue (i.e., Spectrum Health and Heartland Payment Systems). In connection with this effort, TDIP retained computer science experts to examine the data, questioned anonymous data scientists who

had done prior research, and compiled details on Alfa Bank's historical practices and business relationships.

29. TDIP and Mr. Jones' analysis was conducted confidentially and pursuant to TDIP's public interest mission. TDIP was not paid for its analysis.

30. TDIP drafted a detailed report summarizing its analysis. The first 50 pages of the most recent, October 4, 2018 version of TDIP's report is attached hereto as Exhibit A ("the Report").

31. The Report is based upon a DNS dataset derived from the worldwide collection of DNS look-ups. As the first footnote of the Report explains, "The specific DNS data-set reviewed includes more than 37 million DNS queries and responses for a set of domain names and IP addresses from January 1, 2016, to January 15, 2017. The assessments in this [report] are based on a belief by researchers that the DNS data-set is comprehensive, representative, and authentic." *Id.* at 5. TDIP and Mr. Jones have not been provided with any facts or details that change their assessment that the data at issue was comprehensive, representative, and authentic.

32. The Report reached seven findings detailed at pages 15 through 41. Those findings are accurate.

33. Alfa Bank funded investigations by Mandiant (November 2016), Stroz Friedberg (July 2017), and Ankura (April 2020) into alleged DNS connections. Those companies prepared reports that do not refute Plaintiffs' findings. These companies' reports do not even attempt to refute that DNS records show that Alfa Bank's servers accounted for a remarkably high proportion of DNS look-ups associated with the Trump Organization server at issue from May 4, 2016 to September 21, 2016.

E. Alfa Bank Aggressively Pursues Litigation Against Unnamed John Doe Defendants that Results in Extraordinary Costs to Innocent Third Parties

34. On June 11, 2020, Alfa Bank filed two cases against unnamed “John Doe” defendants that allege, in essence, that the DNS look-ups at issue were fabricated. *See AO Alfa-Bank v. Doe*, Case No. 50-2020-CA-006304-XXX-MB (Fla. 15th Cir. Ct.); *AO Alfa-Bank v. Doe*, Case No. CI-20-04003 (Pa. C.P. Lancaster Cnty.).

35. Alfa Bank has attempted to use those cases to justify subpoenas for documents and testimony by entities and persons in different geographical locations in the United States, all without asserting a claim against any named person or entity. In Alfa Bank’s Palm Beach County, Florida litigation, it has issued approximately fifty document subpoenas and noticed depositions of at least fifteen individuals or entities.

36. Notwithstanding the fifteen months of extraordinarily broad, non-party discovery, Alfa Bank has yet to name a single defendant in its John Doe lawsuits.

F. Alfa Bank Pursues Discovery from Mr. Jones, TDIP, and the Penn Quarter Group, and the Parties Reach an Agreement as to the Scope of Discovery and the Treatment of Plaintiffs’ Confidential Documents

37. On or about October 9, 2020, counsel for Alfa Bank sent undersigned counsel subpoenas duces tecum addressed to Daniel J. Jones, The Penn Quarter Group, LLC (“PQG”), and TDIP.

38. The subpoenas to Mr. Jones and The PQG were issued by the Superior Court of the District of Columbia pursuant to the Uniform Interstate Deposition and Discovery Act.

39. The PQG is a for-profit consulting, research, and global investigations services firm that is led by Mr. Jones. It did not perform research or analysis on the apparent links between Trump Organization and Alfa Bank servers. Alfa Bank has only disputed the confidentiality of one (1) document produced with a PQG Bates stamp. That document belongs to TDIP and was sent to a PQG email address in error.

40. On February 26, 2021, the parties executed a “Confidentiality Agreement” (Exhibit B), pursuant to which TDIP and Mr. Jones have produced confidential documents and provided deposition testimony to Alfa Bank. The parties also executed a confidential “Discovery Agreement” that specified the extent of the discovery that Plaintiffs would provide.

41. The Confidentiality Agreement permits TDIP and Mr. Jones to:

designate a Document as Confidential if the Document constitutes, reflects, or contains (i) information protected from disclosure by statute, (ii) sensitive personal information, (iii) trade secrets, (iv) proprietary or confidential research, development, or commercial information, (iv) other business-sensitive information, or (v) other non-public information that the Party believes in good faith would create a risk of harm if disclosed. Information or Documents which are known to be available in the public sector may not be designated as Confidential.

(Exhibit B § 3).

42. “Documents” are defined by the Confidentiality Agreement to include “All documents produced in the course of discovery, all responses to discovery requests and all deposition testimony and deposition exhibits and any other materials which may be subject to discovery.” (Exhibit B § 1).

43. The Confidentiality Agreement specifies to whom Confidential documents may be disclosed:

The Documents designated as Confidential can be reviewed by the following individuals and/or entities: (i) counsel for Alfa Bank and employees of counsel for Alfa Bank who are engaged in assisting in the litigation or have responsibility for the preparation and trial of the lawsuit; (ii) Alfa Bank and its employees; (iii) consultants, investigators, or experts employed by Alfa Bank or counsel for Alfa Bank to assist in the preparation and trial of the lawsuit; (iv) outside service-providers and consultants regarding document and ESI processing, hosting, review, and production, including any e-Discovery consultants and trial consultants; and (v) **other persons only upon consent of the producing Party and on such conditions as are agreed to.** Alfa Bank shall ensure that any individual and/or entity permitted to receive the Documents will not

disclose the Documents or their contents to any individual and/or entity not permitted to review the Documents under the terms of this agreement and will not use the Documents for any purpose other than assisting with lawsuits filed by Alfa Bank in which the Documents are produced.

(Exhibit B § 4 (emphasis added)).

44. Intentionally absent from the list of individuals and/or entities to whom Alfa Bank may disclose Plaintiffs' confidential documents is the public.

45. The broad protections and restrictive nature of the Confidentiality Agreement was sensible when considered in context. The appropriate objective of pre-service discovery in a John Doe lawsuit (to the extent those lawsuits are at all permissible) is to identify the unnamed defendants. As such, to the extent Plaintiffs had confidential information that could possibly assist Alfa Bank with its legitimate discovery purposes, Alfa Bank had no need to make that information public.

46. For the avoidance of doubt, Plaintiffs neither know of any person who fabricated DNS data to create the appearance of a link between Trump Organization and Alfa Bank servers, nor do Plaintiffs believe any such person exists.

47. Mr. Jones and TDIP have offered reasonable accommodations to permit the disclosure of their confidential material to "other persons only upon consent of the producing Party and on such conditions as are agreed to." (Exhibit B § 4).

48. Specifically, Mr. Jones and TDIP have agreed to allow their confidential material to be filed under seal in connection with the *AO Alfa-Bank v. Doe* litigations and to be disclosed to third-party deponents, provided Alfa Bank notifies Plaintiffs in advance (so that Plaintiffs may object if necessary) and obtains the deponent's written agreement to maintain the confidentiality of the documents.

49. Pursuant to Section 2 of the Discovery Agreement, Alfa Bank agreed to cover reasonable expenses associated with Mr. Jones' deposition, provided an estimate was first provided for approval. Plaintiffs provided an estimate of their expected expenses on July 12, 2021.

G. Alfa Bank Challenges Plaintiffs' Confidential Designation of Certain Documents and the Entirety of the Rough Version of the Transcript of Mr. Jones' Deposition

50. On August 17, 2021 Alfa Bank challenged Plaintiffs' confidentiality designations as to two documents. Those documents are also exhibits used in Mr. Jones' deposition.

51. On August 18, 2021, Mr. Jones provided deposition testimony for seven hours at the Offices of Skadden Arps at 1440 New York Ave NW, Washington, DC 20005. During Mr. Jones' deposition, counsel provisionally designated the testimony confidential, and Alfa Bank's counsel recognized the designation and expressed appreciation for Plaintiffs' cooperation:

MR. TAYLOR: I know we have a disagreement about the designation of the transcript and the exhibits as confidential. I have a higher concern about his home address and telephone number. Would you agree that if that transcript is used anywhere, you'll redact that --

MS. KRAWIEC: Absolutely.

THE WITNESS: -- personal information?

MS. KRAWIEC: That is a nonissue.

MR. TAYLOR: Thank you.

MS. KRAWIEC: Any future communications / I'm not saying, but you know obviously things come up, we will be going through you. We will in no way be reaching out to Mr. Jones. But we will absolutely respect that request, Bill. / And just to be clear, where we stand right now is we have a disagreement, and we'll work, as we have throughout, in good faith to basically reach a resolution.

MR. TAYLOR: Yeah. It will give us a chance to that look at the transcript. I suspect I'll make some concessions.

MS. KRAWIEC: Great. We appreciate that. We appreciate how cooperative you guys have been.

52. On August 20, 2021, Alfa Bank's counsel sent written notice that it was challenging Plaintiffs' confidential designation as to the entirety of the deposition transcript and all of the deposition exhibits. Alfa Bank sent this notice just 60 minutes after the transcript was provided to

Plaintiffs' counsel and before Plaintiffs' counsel had received an official copy of the deposition exhibits from the court reporter.

53. On August 25, 2021, Alfa Bank's counsel asserted that "Alfa Bank's agreement to pay reasonable attorneys' fees incurred in the preparation for Mr. Jones's deposition does not extend to costs and attorneys' fees expended in reviewing and litigating confidentiality designations."

54. Counsel's insinuation that Alfa Bank only agreed to pay for Mr. Jones' preparation for his deposition is inaccurate. The parties' Discovery Agreement requires Alfa Bank to pay Plaintiff's reasonable expenses *associated* with any such deposition or court appearance, *including* the Jones Entities' attorneys' fees for preparation.

55. Plaintiffs July 12, 2021 estimate for their deposition-related attorneys' fees had not included time for confidentiality designation or litigation because Plaintiffs did not anticipate that a confidentiality designation as to Mr. Jones' testimony about confidential documents and confidential research would be contentious.

56. On August 27 and 31, 2021, Plaintiffs de-designated certain portions of Mr. Jones' deposition testimony and clarified that they were not designating as confidential third-party and public documents that were offered as exhibits.

57. Alfa Bank has asserted that "nothing in the Confidentiality Agreement restricts us from publicly filing the Jones Entities' documents in litigation proceedings undertaken in connection with" the *AO Alfa-Bank v. Doe* litigations.

58. On information and belief, Alfa Bank intends to publicly file portions of the confidential exhibits in connection with its opposition to a motion to quash filed by the U.S. Senate Armed Services Committee and Thomas Kirk McConnell in the U.S. District Court for the District

of Columbia. *See In re Superior Court to Non-Party Thomas Kirk McConnell*, Case No. 1:21-mc-00100 (D.D.C.).

59. Alfa Bank's Opposition to the U.S. Senate Armed Services Committee and Thomas Kirk McConnell's Motion to Quash is due on September 7, 2021.

H. Confidential Treatment of TDIP's Documents and Mr. Jones' Deposition Testimony is Necessary

60. The Jones Deposition transcript and certain of the disputed confidential documents reflect and contain sensitive personal information including Mr. Jones' home address, cell phone number, encrypted messaging service usernames, and email addresses. The small part of Mr. Jones' public interest work that is publicly available makes him a potential target for foreign intelligence services and has resulted in multiple and repeated death threats from right-wing extremists.

61. The Jones Deposition transcript and certain of the disputed confidential documents constitute, reflect, or contain confidential research or commercial information. Specifically, these exhibits each reflect or contain confidential research that TDIP and Mr. Jones undertook into DNS look-ups that suggested a connection between the servers of powerful Russian entities with close ties to the Kremlin (not limited to Alfa Bank) and individuals and entities potentially associated with President Trump.

62. The Jones Deposition transcript and certain of the disputed confidential documents constitute, reflect, or contain other business-sensitive information. TDIP's ability to execute its mission, including collecting intelligence, analyzing data, and ultimately identifying foreign threats to democratic elections, is dependent on its ability to assure sources that it will endeavor to protect their anonymity.

63. TDIP's ability to fulfill its critical mission in the future would be negatively impacted by the public disclosure of past confidential and sensitive research, as it would affect sources' willingness to provide information in the future.

64. The Jones Deposition transcript and certain of the disputed confidential documents constitute, reflect, or contain other non-public information that Plaintiffs believe in good faith would create a risk of harm if disclosed. These exhibits contain non-final research, theories and hypothesis that were not proven, the identities of persons with whom TDIP associated or investigated, and information about those persons. This information was not intended to be publicly disseminated and would create a risk of harm if disclosed.

65. Given the subject matter of this action, there is a serious risk that portions of these documents, alone or in combination, could be used to spread misinformation or spawn conspiracy theories. This risk is heightened by the fact that Alfa Bank is conducting litigation in which it is currently unopposed, and is therefore positioned to present "facts" in a one-sided manner.

66. TDIP and Mr. Jones have previously been the victims of wide-scale dissemination of misinformation and disinformation.

67. For example, on March 22, 2018, the House Permanent Select Committee on Intelligence released a partially redacted *Report on Russian Active Measures* that included a footnote with false and wildly inaccurate information about Mr. Jones. (Exhibit C). Footnote 5 of that report redacts what appears to be Mr. Jones name, but then goes on to provide specific identifying information, to include a web links states that:

[REDACTED] who currently leads a "research and investigatory advisory" called the Penn Quarter Group (PQG), is a former employee of The Daschle Group, U.S. Senate Select Committee on Intelligence (SSCI), and FBI; while at SSCI, he served as the "chief author" of "The Committee Study of the Central Intelligence Agency's Detention and Interrogation Program." The Penn Quarter

Group, “Our Leadership,” thepqg.com/team/leadership; LinkedIn, [REDACTED] <https://www.linkedin.com/in/danieljjones>. In late March 2017, Jones [*sic*] met with FBI regarding PQG, which he described as “exposing foreign influence in Western elections.” [REDACTED] told FBI that PQG was being funded by 7 to 10 wealthy donors located primarily in New York and California, who provided approximately \$50 million. [REDACTED] further stated that PQG had secured the services of Steele, his associate [REDACTED], and Fusion GPS to continue exposing Russian interference in the 2016 U.S. Presidential election. [REDACTED] planned to share the information he obtained with policymakers on Capitol Hill and with the press, and also offered to provide PQG’s entire holdings to the FBI. FBI, [REDACTED] FD-302, Mar. 28, 2017.

(Exhibit C at 6).

68. Aside from the fact that Mr. Jones met with the FBI in March 2017, the facts asserted in Footnote 5 regarding that meeting are false in nearly every respect imaginable. The PQG is a for-profit entity that does not have “donors.” The PQG does research and consulting for private clients; it would not, and did not offer, its “entire holdings to the FBI.” Moreover, no non-profit entity that Mr. Jones was associated with in March of 2017 acquired anywhere near “\$50 million,” a fact that is easily verified by those entities’ publicly filed 990s. Mr. Jones did not make any of these errant statements in his communications with the FBI, and his counsel has repeatedly informed the FBI of these errors to no avail. (Exhibits D & E).

69. This misinformation has negatively impacted Mr. Jones’ and his entities’ reputations and impacted its fundraising. For example, mentions of Mr. Jones and “\$50 million” after the publication of the House Permanent Select Committee on Intelligence report on April 27, 2018, reached more than 27.7 million users on social media between April 2018 and December 2018. Threats against Mr. Jones spiked during this period. (*See, e.g.*, Exhibit F). This experience highlights the risk of harm of not maintaining confidentiality, particularly when an adequate check to ensure accuracy is not in place.

70. The disputed confidential documents are not publicly available.

**COUNT I – BREACH OF CONTRACT
(Confidentiality Agreement)**

71. Plaintiffs and Alfa Bank entered into a binding Confidentiality Agreement dated February 3, 2021 on or about February 26, 2021.

72. Plaintiffs have complied with their obligations under the Confidentiality Agreement. Specifically, they have delivered properly designated confidential documents to Alfa Bank for its use in connection with its *AO Alfa-Bank v. Doe* litigations.

73. Alfa Bank has asserted that it intends to publicly file Plaintiffs' confidential documents with the U.S. District Court for the District of Columbia. Public filing of Plaintiffs' confidential documents violates the Confidentiality Agreement.

74. Alfa Bank has also asserted that "nothing in the Confidentiality Agreement restricts us from publicly filing the Jones Entities' documents in litigation proceedings undertaken in connection with" the *AO Alfa-Bank v. Doe* litigations. This statement clearly contradicts the Confidentiality Agreement. (Exhibit 2).

75. Plaintiffs will suffer irreparable harm if Alfa Bank publicly files Plaintiffs' confidential documents. No adequate remedy at law exists to compensate the Plaintiffs for the disclosure of the confidential information at issue.

76. Plaintiffs are entitled to declaratory relief establishing that the challenged confidential information is confidential and to a permanent injunction prohibiting Alfa Bank from publicly filing Plaintiffs' confidential information on a public docket.

**COUNT II – BREACH OF CONTRACT
(Discovery Agreement)**

77. Plaintiffs and Alfa Bank entered into a binding Discovery Agreement dated February 3, 2021 on or about February 26, 2021.

78. Plaintiffs have complied with their obligation under the Discovery Agreement.

79. The Discovery Agreement requires Alfa Bank to cover reasonable expenses associated with Mr. Jones' deposition.

80. Plaintiffs have incurred more than \$10,000 in reasonable attorneys' fees and costs in connection with the designation of confidential deposition testimony and the dispute over those designations.

81. Alfa Bank has stated that it will not reimburse those expenses.

82. Plaintiffs are entitled to the full cost of their attorneys' fees associated with Mr. Jones' deposition that Alfa Bank has refused to reimburse, including the fees expended on confidentiality designation and the associated dispute.

**COUNT III – DECLARATORY RELIEF
(Confidentiality Agreement, 28 U.S.C. § 2201)**

83. Plaintiffs and Alfa Bank entered into a binding Confidentiality Agreement dated February 3, 2021 on or about February 26, 2021.

84. Plaintiffs have complied with their obligations under the Confidentiality Agreement. Specifically, they have delivered properly designated confidential documents to Alfa Bank.

85. Alfa Bank has asserted that it intends to publicly file Plaintiffs' confidential documents in the District of Columbia. Public filing of Plaintiffs' confidential documents violates the Confidentiality Agreement.

86. Alfa Bank has also asserted that “nothing in the Confidentiality Agreement restricts us from publicly filing the Jones Entities’ documents in litigation proceedings undertaken in connection with” the *AO Alfa-Bank v. Doe* litigations. This statement clearly contradicts the Confidentiality Agreement.

87. Plaintiffs will suffer irreparable harm if Alfa Bank publicly files Plaintiffs’ confidential documents. No adequate remedy at law exists to compensate the Plaintiffs for the disclosure of the confidential information at issue.

88. Plaintiffs are entitled to declaratory relief establishing that the challenged confidential information is confidential.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

1. For an order declaring that the disputed confidential documents are Confidential within the meaning of the parties’ Confidentiality Agreement.

2. For an order declaring that the Confidentiality Agreement prohibits Defendants from publicly filing or otherwise publicly disseminating documents that are Confidential under the agreement except upon consent of Plaintiffs.

3. For an order declaring that Plaintiffs have not breached the Confidentiality Agreement or the Discovery Agreement.

4. For a permanent injunction prohibiting Defendants from disclosing Plaintiffs’ confidential documents to any party not enumerated in Section 4 of the Confidentiality Agreement within Plaintiffs’ consent.

5. For an award of damages for all fees and expenses incurred by Plaintiffs that were associated with the deposition of Daniel J. Jones.

6. For all other relief that is just and proper.

Dated: September 7, 2021

Respectfully submitted,

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EXHIBIT A

DRAFT Report 16.0

Research Paper: Connections to a Trump Organization Server from Alfa Bank (Russia), Spectrum Health (Michigan), and Heartland Payment Systems (New Jersey)

October 4, 2018

Draft Research Report: Not For Public Dissemination

Revisited: Connections to a Trump Organization Server from Alfa Bank (Russia), Spectrum Health (Michigan), and Heartland Payment Systems (New Jersey).

October 4, 2018

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Background

This memo is the result of more than twelve months of research in consultation with experts in cyber security, network administration, and the Domain Name System (DNS). Individuals with significant U.S. intelligence and U.S. law enforcement experience contributed to this review. The data-set of DNS logs referenced throughout this memo (37 million DNS records) is believed to be comprehensive¹ and authentic.

Introduction to Findings

- This memo provides information and analysis on the publicly reported connections to a **Trump Organization** server by **Alfa Bank** (Russia) and **Spectrum Health** (Michigan) in 2016.²
- The memo identifies a third party, **Heartland Payment Systems** (New Jersey), that was also consistently connecting to the Trump Organization server from June 21, 2016, to August 22, 2016.³
- Other than **Alfa Bank**, **Spectrum Health**, and **Heartland Payment Systems**, no other entities (IP addresses) on the internet sought to consistently connect to the Trump Organization server between May 4, 2016, and September 21, 2016.⁴
- The highly unusual and consistent DNS look-ups⁵ of the Trump Organization server suggest that there was a special relationship between the Trump Organization server and servers associated with **Alfa Bank**, **Spectrum Health**, and **Heartland Payment Systems**. The data does *not* reveal the purpose or intent of the DNS look-ups of the Trump Organization server.

¹ The information in this memo is based on a DNS data-set derived from the worldwide collection of DNS queries and responses (referred to collectively in this memo as “DNS look-ups”). The specific DNS data-set reviewed includes more than 37 million DNS queries and responses for a set of domain names and IP addresses from January 1, 2016, to January 15, 2017. The assessments in this memo are based on a belief by researchers that the DNS data-set is comprehensive, representative, and authentic.

² https://www.nytimes.com/2016/11/01/us/politics/fbi-russia-election-donald-trump.html?mcubz=1&_r=0;
http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html.

³ On April 25, 2016, Heartland Payment Systems and Global Payments completed a \$4.4 billion-valued merger. Years earlier, on December 5, 2011, a company owned by Global Payments, UCS, acquired Alfa Bank’s merchant acquiring business for \$14.1 million to “significantly expand its presence on the Russian acquiring market.” See http://files.shareholder.com/downloads/AMDA-1JAKGZ/5051412914x0x905339/CE3CE356-04AC-4216-8A07-ECA6F8D441F2/GPN_2016_Annual_Report_FINAL.pdf;
<https://investors.globalpaymentsinc.com/releasedetail.cfm?releaseid=966563>; <https://ucscards.ru/en/about/history/> NOTE: The Alfa Bank acquisition was reportedly “structured as an asset sale and involved the referral of the existing acquiring clients and transfer of POS-terminals to UCS. The parties also entered into a 10-year cooperation arrangement, with Alfa Bank retaining its role as settlement bank for payments processed by UCS and agreeing to refer clients for merchant acquiring services to UCS.” <http://www.theasiachronicles.com/recent-deals/dewey-leboeuf-advises-alfa-bank-on-sale-of-merchant-acquiring-business>; <https://investors.globalpaymentsinc.com/secfiling.cfm?filingid=1123360-13-14&cik=>

⁴ See chart included in the description of Finding #1.

⁵ The use of the term “DNS look-ups” throughout this memo refers to DNS queries and responses.

Memo Structure

This memo begins by providing a summary of public reporting prior to September 2018 on the connections to a Trump Organization server by Alfa Bank and Spectrum Health. The memo then provides detailed information to support the additional research findings below.

Research Findings

1. A review of DNS records indicates that Alfa Bank in Russia, Spectrum Health in Michigan, and Heartland Payment Systems in New Jersey, accounted for nearly all of the DNS look-ups⁶ for a specific Trump Organization server, "mail1.trump-email.com," from May 4, 2016, to September 21, 2016.⁷
2. When compared to a similar business on the same network block,⁸ the Trump Organization server remains noteworthy for the small number of entities (IP addresses) conducting DNS look-ups of "trump-email.com" and the sustained number of DNS look-ups from Alfa Bank and Spectrum Health.
3. The FBI reportedly concluded in 2016 that there could be an "*innocuous explanation*" for the Alfa Bank "*computer connections*" to the Trump Organization server, such as "*marketing email or spam*." A review of DNS records indicates that the Trump Organization server ("mail1.trump-email.com") was *not* configured to effectively send marketing or bulk email (spam). Moreover, the pattern of DNS look-ups was *not* consistent with automated marketing or bulk email (spam) operations.
4. Testing indicates that the server assigned to the Trump Organization ("mail1.trump-email.com") was configured to accept email.⁹
5. The data indicates that in September 2016 there was likely human interaction and coordination between personnel working on behalf of Alfa Bank (or their designees) and personnel working on behalf of the Trump Organization (or their designees).
6. The Alfa Bank-funded investigations by Stroz Friedberg and Mandiant do not refute the public allegations made regarding the server connections, or the findings of this memo.

⁶ The use of the term "DNS look-ups" throughout this memo refers to DNS queries and responses.

⁷ See attachments for additional information on these three entities.

⁸ A network block (or net block) is a range of IP addresses that is owned by a specific internet service provider or data center.

⁹ As described in the technical attachment, this finding does not lead our researchers to conclude that the server was exchanging traditional email. In fact, the lack of MX or TXT queries makes it highly unlikely that these four entities were sending ordinary SMTP email amongst themselves. Nonetheless, the DNS data overwhelmingly points to the fact that there was a special server relationship between the four entities discussed in this memorandum from May 4, 2016, to September 21, 2016. In other words, whatever the purpose of the server named "mail1.trump-email.com," that purpose was something exclusively used by Alfa Bank, Spectrum Health, and Heartland Payments Systems. NOTE: Research into Cendyn software services indicates that Cendyn provides clients with communications and payment sending capabilities via their eProposal and Guestfolio CRM software platforms.

7. The public statements by the Trump Organization, the 2016 Trump campaign, Spectrum Health, and Alfa Bank on the server connections are contradictory and omit pertinent facts. As of September 1, 2018, Heartland Payment Systems has never commented on its server connections to the Trump Organization server.¹⁰

¹⁰ See chart of public statements attached to this document.

Section One: Overview of Published Media Accounts on the Trump Organization Server¹¹

Section One of this memo briefly chronicles the media coverage through September 1, 2018, of the allegations that Alfa Bank and Spectrum Health were uniquely communicating with a Trump Organization server in 2016. This narrative includes reporting on Brian Benczkowski, who leads the Criminal Division of the Department of Justice, and his work in private practice on behalf of Alfa Bank, as well as Benczkowski's public statements that there were no Alfa Bank connections to the Trump Organization.

While the media reporting contains valuable and accurate information, the reporting also includes errors and gaps that subsequent sections of this memorandum address.

On October 31, 2016, just days before the presidential election, *The New York Times* published an article entitled, ***"Investigating Donald Trump, F.B.I. Sees No Clear Link to Russia."*** The *Times* reported that the FBI examined ***"computer data showing an odd stream of activity to a Trump Organization server and Alfa Bank,"*** but that the FBI ***"ultimately concluded that there could be an innocuous explanation, like a marketing email or spam, for the computer contacts."***¹²

On the same day, Franklin Foer published an article in *Slate Magazine* entitled, ***"Was a Trump Server Communicating with Russia?"*** *Slate* reported that computer researchers searching for malware identified an ***"irregular pattern"*** of Trump Organization server DNS look-ups by a Russian bank. The look-ups did not appear to be automated, but rather ***"resembled the pattern of human conversation."***¹³ The researchers concluded that this ***"wasn't an attack, but a sustained relationship between a server registered to the Trump Organization and two servers registered to an entity called Alfa Bank."***¹⁴ Other computer experts who reviewed the DNS records vouched for the credibility of the DNS records and noted it would be ***"nearly impossible"*** to forge or manipulate such data.¹⁵

According to the Slate piece, the researchers identified several anomalies:

- The **Trump Organization** server was registered in 2009 to conduct consumer marketing campaigns and had a ***"history of sending mass emails on behalf of Trump-branded properties and products."***¹⁶ However, the server was later configured to ***"accept only incoming communication from a very small handful of IP addresses,"*** and handled a

¹¹ As of September 1, 2018

¹² <https://www.nytimes.com/2016/11/01/us/politics/fbi-russia-election-donald-trump.html?mcubz=1>. Note: This memo provides a series of facts indicating that the reported FBI assessment is likely inaccurate. For example, the Trump Server was not configured to successfully disseminate marketing or bulk email from May 2016 to November 2016.

¹³ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹⁴ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹⁵ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹⁶ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

“strangely small load of traffic, such a small load that it would be hard for a company to justify the expense and trouble it would take to maintain it.”¹⁷

- When the researchers “pinged the server,” they received error messages suggesting that the **Trump Organization** server was configured to only accept email from specific IP addresses.¹⁸ One of the researchers who examined the data, Indiana University computer scientist **Dr. L. Jean Camp**, told Foer: “It’s pretty clear that it’s not an open mail server,” noting that “[t]hese organizations are communicating in a way designed to block other people out.”¹⁹
- In September 2016, shortly after *The New York Times* first contacted **Alfa Bank** about the suspicious DNS look-ups by Alfa Bank, the server associated with the **Trump Organization** “seemed to suddenly stop working.”²⁰ The group of researchers reasoned that the Trump Organization “shut down the server after Alfa was told that the Times might expose the connection.”²¹
- When researchers attempted to look-up the host name, the DNS server “returned a fail message,” providing “evidence that it no longer functioned.”²² The DNS traffic to the server also “abruptly” spiked, as “servers frantically attempt[ed] to resend rejected messages.”²³
- The researchers found that less than a week later the **Trump Organization** “created a new host name,” “trump1.contact-client.com,” which “enabled communication to the very same server....”²⁴ The researchers also found that **Alfa Bank** was the first entity on the internet to look-up the revised host name.²⁵ Computer experts indicated that it would be impossible for an organization to find the renamed server unless they already knew what the new name was and that the server name had changed.²⁶

¹⁷http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹⁸http://www.slate.com/articles/news_and_politics/politics/2016/11/the_trump_server_evaluating_new_evidence_and_countertheories.html

¹⁹http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²⁰http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²¹http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²²http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²³http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²⁴http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²⁵http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

²⁶http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

Days later, on November 2, 2016, Foer published a follow-up article in *Slate* providing alternative theories for the server connections, as well as more detailed response statements from the parties involved.²⁷ Many entities—including the **Trump Organization**—suggested that the DNS traffic might be a result of spam or email marketing.²⁸ **Cendyn**, a third party vendor that operated the server on behalf of the **Trump Organization**, informed CNN that its contract to provide email marketing services to the **Trump Organization** ended in March 2016, and that a different client had been communicating with **Alfa Bank** using **Cendyn** communications applications.²⁹ **Alfa Bank** denied this claim.³⁰

Listrak—a company in Lititz, Pennsylvania, that maintains servers to send marketing and bulk emails on behalf of corporate clients—was retained by **Cendyn** to host the **Trump Organization** server.³¹ In March 2017, **Listrak** CEO **Ross Kramer** informed a local newspaper that the FBI visited the **Listrak** office before the 2016 presidential election. Kramer stated the visit was “very cordial” and that “we’ve given [the FBI] everything they need.”³² Kramer added: “If you look back at the election, with all of the allegations swirling around emails ... the domain name ‘trump-email.com’ is going to get some attention. It’s a mystery to me how the (Russian bank) [sic] people got involved with it.”³³

In March 2017, **Dr. L. Jean Camp** told CNN that it was unusual for just two companies to make up 99 percent of the DNS look-ups of the **Trump Organization** server, adding: “If it were spam, then a lot of other organizations would be doing DNS lookups. There would be evidence of widespread connectivity with devices.”³⁴

As a result of **Camp**’s public statements, **Alfa Bank**, using the law firm **Kirkland & Ellis LLP**, sent three letters to **Dr. Camp** and her lawyers, dated March 17, 2017,³⁵ April 12, 2017,³⁶ and June 21,

²⁷http://www.slate.com/articles/news_and_politics/politics/2016/11/the_trump_server_evaluating_new_evidence_and_countertheories.html

²⁸ <http://www.complex.com/life/2016/11/donald-trump-server-communicating-with-russia>

²⁹ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>
The article states: “Cendyn is the contractor that once operated marketing software on that Trump email domain. In February, it provided CNN a Trump Organization statement that called the internet records ‘incomplete’ and stressed that they do not show any signs of ‘two-way email communication.’ That statement lends credibility to the spam marketing theory, because it says the Trump server was set up in 2010 to deliver promotional marketing emails for Trump Hotels. But Cendyn acknowledged that the last marketing email it delivered for Trump’s corporation was sent in March 2016, ‘well before the date range in question.’” The article continued: “Cendyn has also provided another possible explanation, suggesting a highly technical case of mistaken identity. Cendyn routinely repurposes computer servers -- like the one used by the Trump Organization. Cendyn’s software, like its event planning tool Metron, sends email and thus relies on the 20 different email servers rented by the company. After ‘a thorough network analysis,’ Cendyn has said that it found a bank client had used Metron to communicate with AlfaBank.com. But Alfa Bank starkly denies ‘any dealings with Cendyn.’ And, it says, it’s unlikely that it received any emails from that server. ‘Mandiant investigated 12 months of email archives and it found no emails to or from any of the IP addresses given to us by the media.’ On Wednesday, Cendyn provided another explanation to CNN. Cendyn claims the Trump Hotel Collection ditched Cendyn and went with another email marketing company, the German firm Serenata, in March 2016. Cendyn said it ‘transferred back to’ Trump’s company the mail1.trump-email.com domain. Serenata this week told CNN it was indeed hired by Trump Hotels, but it ‘never has operated or made use of’ the domain in question: mail1.trump-email.com.”

³⁰ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

³¹ <https://www.listrak.com/about>;

http://lancasteronline.com/news/local/fbi-gets-lititz-firm-s-help-in-probe-of-russian/article_ef5d5ed0-05ae-11e7-a003-471e5543b26a.html

³² http://lancasteronline.com/news/local/fbi-gets-lititz-firm-s-help-in-probe-of-russian/article_ef5d5ed0-05ae-11e7-a003-471e5543b26a.html

³³ http://lancasteronline.com/news/local/fbi-gets-lititz-firm-s-help-in-probe-of-russian/article_ef5d5ed0-05ae-11e7-a003-471e5543b26a.html

³⁴ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

³⁵ <http://ljean.com/files/AlfaBankThreatLetter.pdf>

³⁶ <http://ljean.com/files/AlfaBankLetter2.pdf>

2017,³⁷ all threatening legal action.³⁸ The partners at **Kirkland & Ellis** representing Alfa Bank were **Viet Dinh** and **Brian Benczkowski**.³⁹

Benczkowski has a longstanding relationship with Attorney General **Jeff Sessions**, having previously served as Staff Director for then-Sen. Sessions after Sessions was named Ranking Member of the **Senate Judiciary Committee** in 2009.⁴⁰ **Benczkowski** joined Donald Trump's transition team in September 2016, leading the Trump administration's transition team for the Justice Department before returning to private practice following the January 2017 presidential inauguration.⁴¹

In March 2017, **Benczkowski** began work on behalf of **Alfa Bank** as a private attorney at **Kirkland & Ellis**.⁴² On June 5, 2017, President Trump announced his intention to nominate **Benczkowski** to be Assistant Attorney General for the Criminal Division of the Department of Justice.⁴³

In July 2017, in advance of his Senate nomination hearing, **Benczkowski** submitted materials to the **Senate Judiciary Committee** on two investigations⁴⁴ commissioned by **Alfa Bank**. The first is a November 4, 2016, investigative report marked "*draft*" by **Mandiant**. The second report, overseen directly by **Benczkowski**, was conducted by **Stroz Friedberg** and dated July 19, 2017.

On July 25, 2017, **Benczkowski** testified during his Senate Judiciary Committee nomination hearing that **Stroz Friedberg** had "conducted this review [of the computer connections] with the view towards taking the results to the FBI and to the Justice Department, which is what my client and my partner did."⁴⁵

³⁷ <http://jjean.com/files/AlfaBankLetter3.pdf>

³⁸ <https://www.documentcloud.org/documents/3520990-ABCFAA.html#document/p2>

³⁹ Benczkowski also played a role in Alfa Bank's litigation against the news organization BuzzFeed. According to a press release by the Ranking Member of the Senate Judiciary Committee, Benczkowski also "reviewed the 'Steele dossier,' a private investigator's file on alleged links between Russia and the Trump campaign. He did this for Alfa Bank to consider suing Buzz Feed for defamation over their online publication of the dossier. Alfa Bank, in fact, did sue Buzz Feed on May 26 [2017]." Specifically, Christopher Steele, a former British intelligence officer who was assigned to Russia, provided reporting from sources in the "dossier" that Alfa Bank was involved in an alleged Russian government campaign to influence the results of the November 8, 2016, U.S. presidential election. On August 21, 2018, a federal judge in Washington, D.C. dismissed Alfa Bank's lawsuit against Steele, concluding that his work was covered by the first amendment. <https://www.theguardian.com/us-news/2018/aug/21/author-of-trump-russia-dossier-wins-libel-case-in-us-court-christopher-steele>

⁴⁰ <http://www.cnn.com/2017/07/24/politics/brian-benczkowski-alfa-bank/index.html>; <http://politicalticker.blogs.cnn.com/2009/05/13/sessions-announces-judiciary-staff/>; https://www.washingtonpost.com/news/powerpost/wp/2016/11/16/brian-benczkowski-once-dubbed-gops-go-to-guy-for-hearings-helping-manage-justice-department-transition/?utm_term=.80ce743c5faa

⁴¹ <https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=71649645-8A75-4C9A-8C45-8CEA26A4D4B7>

⁴² <https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=71649645-8A75-4C9A-8C45-8CEA26A4D4B7> Note: Asked why he accepted Alfa Bank as a client at his Senate nomination hearing, Benczkowski stated: "Well Senator, I'll say this [interruption] Senator, as I was asked to undertake this representation, I was aware that there had been a previous investigation by another law firm and by a very respected computer forensics firm called Mandiant. And it looked at the 2016 allegations and found them to be inaccurate. And there to be nothing to it. And so when the client [Alfa Bank] and Viet [law partner] came to me to represent this, I was comfortable accepting the representation and the work."

⁴³ <https://www.whitehouse.gov/the-press-office/2017/06/05/president-donald-j-trump-announces-intent-nominate-personnel-key>

⁴⁴ The Mandiant report stated that they conducted their review "in conjunction with Alfa-Bank," that they relied entirely on information provided by Alfa Bank, and that the material necessary to conduct a review of the 2016 server allegations was unavailable. The Stroz Friedberg similarly stated it could not review the 2016 allegations because Alfa Bank did not preserve the required information, stating the data "no longer exists" at Alfa Bank. See <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

⁴⁵ Senate Judiciary Confirmation Hearing for the nomination of Brian Allen Benczkowski, to be an Assistant Attorney General, Criminal Division, Department of Justice, July 25, 2017. <https://www.judiciary.senate.gov/imo/media/doc/Benczkowski%20Responses%20to%20QFRs.pdf>.

Benczkowski stated in materials submitted to the Senate: “Mandiant concluded that there was no evidence of substantive [emphasis added] contact, such as emails or financial links, between Alfa Bank and the Trump Organization in 2016.”⁴⁶ In his testimony, Benczkowski went further, adding that Mandiant “looked at the 2016 allegations and found them to be inaccurate. And there to be nothing to it.”⁴⁷

On July 24, 2017, *The New York Times* suggested that Alfa Bank—in the same manner as Benczkowski’s testimony—was mischaracterizing the findings of the Mandiant report. The *Times* reported:

*“According to people familiar with Mandiant’s review, its experts were shown largely metadata, the information that travels along with a message, for the communications that took place. The contents of the messages — if there were any — were not available.⁴⁸ Without a much deeper forensic examination, the company could not determine the purpose of the communications. Its resulting report was carefully hedged, noting that without more study, it could not give the bank a clean bill of health. But the bank used that report, however limited, to make the case that it had been exonerated.”*⁴⁹

Benczkowski represented to the Senate that “another independent investigation,” the one that Benczkowski directly oversaw by Stroz Friedberg, also exonerated Alfa Bank.⁵⁰ In his confirmation hearing Benczkowski testified that “Stroz Friedberg found that there, once again, was no communication link between the Trump Organization and Alfa Bank.”⁵¹ The materials submitted by Benczkowski to the committee are more specific, and state that the Stroz Friedberg investigation “found no evidence of any connections or communications between Alfa-Bank and the Trump Organization occurring in 2017 [emphasis added].”⁵² However, as detailed, the only serious allegations of communications between Alfa Bank and the Trump Organization pertain to 2016, not 2017.

⁴⁶ <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

⁴⁷ Senate Judiciary Confirmation Hearing for the nomination of Brian Allen Benczkowski, to be an Assistant Attorney General, Criminal Division, Department of Justice, July 25, 2017. <https://www.judiciary.senate.gov/imo/media/doc/Benczkowski%20Responses%20to%20QFRs.pdf>.

⁴⁸ The Mandiant Report claims that the company was provided access to 12 months of the Alfa Bank’s email archives, as well as records from the past 6 months for mail server logs, Proxy server logs, and the Deep Discovery Inspector tool. DNS logs were reportedly not retained by Alfa Bank beyond 24-hours. <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

⁴⁹ <https://www.nytimes.com/2017/07/24/us/politics/brian-benczkowski-justice-alfa-bank.html?mcubz=1>

⁵⁰ <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

⁵¹ Senate Judiciary Confirmation Hearing for the nomination of Brian Allen Benczkowski, to be an Assistant Attorney General, Criminal Division, Department of Justice, July 25, 2017. <https://www.judiciary.senate.gov/imo/media/doc/Benczkowski%20Responses%20to%20QFRs.pdf>.

⁵² <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

Section Two: What are DNS Records and What Can DNS Records Tell Us?

Worldwide communication on the internet is based on numerical Internet Protocol (IP) addresses that function in a manner similar to telephone numbers. Because large series of numbers are difficult for humans to remember, there is a global **Domain Name System (DNS)** that functions as a phonebook, “*resolving*” (looking-up) easy to remember text-based names (e.g. **www.senate.gov**) into IP addresses (**156.33.241.9**).

DNS look-ups almost always automatically precede and are followed by communication, such as emails, webmail messaging, chat messages, a connection via software, or website visits. There are different types of DNS look-ups. For example, one type of DNS look-up relates to websites;⁵³ another type of DNS look-up relates to email.⁵⁴ Because of this, DNS records can provide insights into the intentions and actions of specific computers.

Before a computer server can send an email, for example, it first must do a DNS look-up to identify the numerical address on the internet of the receiving email server. This is a necessary first step before any two computers can communicate.⁵⁵ Below is an example:

- Before a computer can connect with the website “www.banking.senate.gov,” the computer must do a DNS look-up of “www.banking.senate.gov” to find the numerical address on the internet of the computer servers handling “www.banking.senate.gov.” In the case of “www.banking.senate.gov,” the DNS look-up would find the numerical addresses to be “156.33.196.96; 156.33.195.97; 156.33.195.42; 156.33.195.98.”

In the internet world of email exchanges and computer connections, **if “Computer X” does a DNS look-up of “Computer Y,” it means that “Computer X” is trying to connect to “Computer Y.”**⁵⁶ An analogy would be a human dialing directory assistance on a telephone and asking for a phone number for a particular business or individual. Acquiring the phone number from the operator is a necessary first step before taking the second step: calling that individual or business. DNS records can reveal attempts to initiate communications and provide insight into intentions, patterns, and types of communications sought.⁵⁷

⁵³ See <https://www.name.com/support/articles/205516858-Understanding-DNS-record-types>; <https://support.dnssimple.com/articles/a-record/>

⁵⁴ See <https://practical365.com/exchange-server/mx-record/>; https://en.wikipedia.org/wiki/MX_record

⁵⁵ DNS look-ups alone cannot prove conclusively whether the communication attempt was successful.

⁵⁶ DNS look-ups are also conducted by the recipients of communications, in order, for example, to verify the authenticity of emails.

⁵⁷ While it is technically accurate to state that DNS logs do not prove that two-way communication took place, it’s a misleading statement. While DNS queries do not carry the content of the communication, neither do they happen for no reason. DNS queries almost always happen when a server is attempting to communicate.

Section Three: Summary of Findings

A review of 37 million DNS records identified anomalies and highly unusual connections to a **Trump Organization** computer server from two computer servers assigned to the Russia-based **Alfa Bank**; a server assigned to the Michigan-based health care company, **Spectrum Health**; and, to a lesser extent, a server assigned to the New Jersey-based payment processor, **Heartland Payment Systems**.⁵⁸

As detailed in this memo, additional research found that the **Trump Organization** server was *not* configured to effectively send bulk or marketing email (spam). Further, the DNS look-ups of the server were highly unusual for a marketing server, and its interactions with the internet differed significantly from a similar hospitality entity at an adjacent IP address. The DNS records also indicate that once *The New York Times* alerted **Alfa Bank** that the newspaper was aware of the bank's unusual computer connections to the Trump Organization server, human actions were likely taken by Alfa Bank and the Trump Organization (or their representatives). Finally, investigative reports commissioned by **Alfa Bank** to examine the server connections do not refute the DNS data indicating that an **Alfa Bank** server conducted persistent DNS look-ups of the **Trump Organization** server from May 2016 to September 2016.

⁵⁸ These interactions stood out because they were limited to small numbers of computers, repeated over time, and did not match the patterns of automated internet activity.

Section Four: Findings in Detail

Finding #1

1. A review of DNS records indicates that Alfa Bank in Russia, Spectrum Health in Michigan, and Heartland Payment Systems in New Jersey accounted for nearly all of the DNS look-ups for the Trump Organization server "mail1.trump-email.com" from May 4, 2016, to September 21, 2016.⁵⁹

As described, the DNS system of communication on the internet is similar to a human dialing directory assistance on a telephone and asking for a phone number for a particular business or individual. The next logical step for the person seeking the phone number for the business or individual is to make the call. In the DNS environment, if "Computer X" makes a DNS look-up for "Computer Y," it means "Computer X" is trying to connect to "Computer Y." DNS look-ups almost always *automatically* precede and are followed by communication, such as emails, webmail messaging, chat messages, a connection via software, or website visits. In short, DNS look-ups occur for a reason.

A data-set of more than 37 million DNS records from May 4, 2016 (00:00:00 UTC) to September 21, 2016 (11:33 PM UTC)⁶⁰—which are believed to be comprehensive,⁶¹ authentic, and credible—indicate that there were **3,546** DNS look-ups for the Trump Organization server "mail1.trump-email.com."⁶²

- Servers associated with **Alfa Bank** and **Spectrum Health** represent **97.67%** of the DNS look-ups of "mail1.trump-email.com" during this period.
- **2,761** (77.87%) of the DNS look-ups were from two IP addresses associated with **Alfa Bank**.
- **702** (19.80%) of the DNS look-ups were from an IP address associated with **Spectrum Health**.
- **76** (2.14%) of the DNS look-ups were from an IP address associated with **Heartland Payment Systems**.
- One IP address conducted two (.06%) DNS look-ups of the server, and five other IP addresses each conducted just one DNS look-up of the server. These look-ups all occurred at the same time.⁶³

⁵⁹ See attachments for additional information on these three entities.

⁶⁰ The DNS records reviewed for this memorandum section include data from 00:00:00 UTC May 4, 2016, to 11:33PM UTC September 21, 2016, the date reporters from The New York Times approached Alfa Bank about its connections to "mail1.trump-email.com."

⁶¹ The DNS data-set includes more than 37 million DNS records, or enough worldwide data to provide an accurate overall picture of the IP addresses around the world attempting to communicate with "mail1.trump-email.com."

⁶² Using an online DNS estimator tool, 100 inbound emails with a Time-To-Live (TTL) of 5 minutes (as similar to our data) would result in approximately 1.39 DNS queries per email. (<https://www.ultratools.com/tools/queryEstimatorTool>). This would be approximately 2006 emails related to Alfa Bank, 505 emails related to Spectrum Health, and 55 emails related to Heartland Payment Systems from May 4, 2016, to September 21, 2016. As described in this document, researchers do not believe the servers were exchanging traditional email.

⁶³ Data-set entitled "DNSLUPSMAIL1082417."

All Entities in Data-Set Attempting to Communicate with the Trump Server

DNS "A" Look-ups* of "mail1.trump-email.com" (66.216.133.29) from 5/4/16 to 9/21/2016
(11:33 PM UTC)

Box	"A" Look-Ups	IP Address	Entity Association	Percentage
1	1,392	217.12.96.15	Alfa Bank** (Russia)	39.26%
2	1,369	217.12.97.15	Alfa Bank** (Russia)	38.61%
3	702	167.73.110.8	Spectrum Health (MI, USA)	19.80%
4	76	63.241.252.2	Heartland Payment Systems*** (OH, USA)	2.14%
5	2	74.118.76.182	Peer to Peer (Rehoboth, RI, USA)****	0.06%
6	1	98.130.1.253	Ecommerce Corp (OH, USA)***	0.03%
7	1	71.5.34.5	DataCenter.BZ (OH, USA)****	0.03%
8	1	64.98.42.242	Tucows.com (Toronto, CA)****	0.03%
9	1	54.206.26.93	Amazon Web Services (AUS)****	0.03%
10	1	205.134.252.1 54	InMotion Hosting (Los Angeles, CA, USA)****	0.03%
Total	3,546			100%

* This table summarizes DNS "A" address queries⁶⁴ for "mail1.trump-email.com." Researchers also reviewed DNS "PTR" reverse name queries for 66.216.133.29 (the IP address associated with "mail1.trump-email.com"). Researchers found DNS "PTR" reverse name queries that originated from 167.73.110.8 (the IP address associated with Spectrum Health). This indicates, with a high degree of certainty, that persistent and sustained connections existed between the referenced Spectrum Health server and the "mail1.trump-email.com" server, and that these were not random or accidental DNS query packets.

** Alfa Bank combined DNS look-ups for "mail1.trump-email.com" equals 2,761, or 77.87%.

*** DNS look-ups began on June 21, 2016, and ceased on August 22, 2016.⁶⁵

**** The DNS look-up/s for these entities all occurred at similar times.

⁶⁴ An "A" address query is used for the conversion of domain names to corresponding IP addresses (numbers). For example, mail1.trump-email.com converts to 66.216.133.29. "PTR" reverse name queries are used to look up domain names based on an IP address. For example, 66.216.133.29 to mail1.trump-email.com.

⁶⁵ Data-set entitled "DNSLUPSMAIL1082417."

Finding #2

2. When compared to a similar business on the same network block,⁶⁶ the Trump Organization server remains noteworthy for the small number of entities (IP addresses) conducting DNS look-ups of “trump-email.com” and the sustained number of DNS look-ups from Alfa Bank and Spectrum Health.

Research and analysis were conducted to assess whether the DNS look-ups related to the **Trump Organization’s “trump-email.com”** were consistent with a similar, but smaller, hospitality organization also using Cendyn’s products and services.

From **Cendyn’s** marketing materials,⁶⁷ researchers identified **Denihan Hospitality Group (DHG)** as a Cendyn customer. **Cendyn** registered the domain name “denihan-email.com” on behalf of **DHG** on August 15, 2009⁶⁸ (Note: **Cendyn** registered the domain name “trump-email.com” on behalf of the **Trump Organization** the day before, on August 14, 2009).⁶⁹ The **DHG** servers analyzed by researchers are located on the same network block as the **Trump Organization** server, “mail1.trump-email.com” [66.216.133.29], and are located at adjacent IP addresses [66.216.133.30, 66.216.133.31]. On February 3, 2014, **Listrak** updated the registration for the IP range 66.216.133.0 – 66.216.133.255. This range included the respective servers associated with **DHG** [66.216.133.30, 66.216.133.31] and the **Trump Organization** [66.216.133.29].

According to **DHG** materials, **DHG** identifies as a “*privately-held, full service hotel management and development company.*”⁷⁰ The company “*owns and/or operates boutique hotels in major urban markets throughout the U.S.,*” including “*properties operating under The James and Affinia Hotel Collection brands, as well as Manhattan independent boutique hotels, The Benjamin, and The Surrey.*”⁷¹

⁶⁶ A network block (or net block) is a range of IP addresses that is owned by a specific internet service provider or data center.

⁶⁷ <https://www.prweb.com/releases/cendyn/denihan/prweb2575944.htm>

⁶⁸ https://www.godaddy.com/whois/results.aspx?domain=denihan-email.com&recaptchaResponse=03AL4dnxovJuQ8oWQylzY7Qd0OF2ELVh6W9paAP9Qe4kOU5vpShtlvsNAovBflqbpq1TGrS_MUhfNVBFrOkfuN0LSn7np-JrkCgjlZYw68Bh9hjjLWaxEFOqhZ-iEyFAVY-T3QKZSzeER_b49ZR5RSHVcF1KjMtEco9yNKjLy-zzKR6RNEmNqB6h1MMAMPts8rM_XNF16vbiBDNLKOGx08aEc74P4RpVWYxqzV8Dc1gBMoERJTAk2ZDgvFxbujzK4JRr8IDTFD3PpZxBVNCqw-eDKf5ps6LHFDw

⁶⁹ <http://www.ljean.com/NetworkRecords/Trump-Owned-And-Mail-Systems-WHOIS-15.txt>

⁷⁰ <https://www.apnews.com/4e6a7c622266406592e6d3fd9f0e8a8d>; <https://www.businesswire.com/news/home/20180521005254/en/Denihan-Hospitality-Appoints-Michael-Goldrich-Vice-President>

⁷¹ <https://www.apnews.com/4e6a7c622266406592e6d3fd9f0e8a8d>; <https://www.businesswire.com/news/home/20180521005254/en/Denihan-Hospitality-Appoints-Michael-Goldrich-Vice-President>

In July 2016, DHG owned and/or operated 10 boutique hotels with 2,704 rooms.⁷² In 2014, DHG had approximately 2,500 employees.⁷³ DHG reported \$280.8 million in annual revenue in 2012.⁷⁴

By comparison, the **Trump Organization** is a privately held conglomerate of approximately 500 different companies⁷⁵—including **Trump Hotels** (formerly the **Trump Hotel Collection**)⁷⁶—that owns, markets, operates, or manages dozens of hotels, residences, and golf courses around the world.⁷⁷

In July 2016, Trump Hotels owned and/or operated 9 domestic and international hotel properties with 4,132 rooms.⁷⁸ According to a 2016 CNN article, the **Trump Organization** reported \$9.5 billion in revenues in 2015.⁷⁹ A December 2016 article in *The New York Times* stated that industry experts believe “no more than 4,000 people work for the **Trump Organization** worldwide.”⁸⁰

⁷² To calculate the total number of rooms owned and/or operated by Trump Hotels and DHG, researchers used The Wayback Machine by Internet Archive for the dates of July 1, 2016, through July 31, 2016. Researchers reviewed digital archives of company-hosted websites for hotels that were owned and/or operated by DHG and Trump Hotels. Researchers reviewed digital archives of third-party marketing materials where primary sources were unavailable. See the Appendix for details on these calculations.

⁷³ <https://www.linkedin.com/company/denihan-hospitality-group/>

⁷⁴ <https://skift.com/2013/08/21/the-fastest-growing-travel-companies-in-america-in-2013/>

⁷⁵ https://assets.donaldjtrump.com/Tax_Doc.pdf

⁷⁶ <https://www.trump.com/trump-hotels/>

<https://www.trump.com/trump-hotels/>

⁷⁷ <https://money.cnn.com/2016/12/29/news/donald-trump-golf-courses/index.html>; https://therealdeal.com/issues_articles/the-8-billion-dollar-man/

⁷⁸ To calculate the total number of rooms owned and/or operated by Trump Hotels and DHG, researchers used The Wayback Machine by Internet Archive for the dates of July 1, 2016, through July 31, 2016. Researchers reviewed digital archives of company-hosted websites for hotels that were owned and/or operated by DHG and Trump Hotels. Researchers reviewed digital archives of third-party marketing materials where primary sources were unavailable. See the Appendix for details on these calculations.

<https://web.archive.org/web/20160727134934/http://www.trump.com:80/hotel-collection;>

[https://web.archive.org/web/20160723083319/http://www.trump.com:80/hotel-collection/florida/trump-national-miami/;](https://web.archive.org/web/20160723083319/http://www.trump.com:80/hotel-collection/florida/trump-national-miami/)

[https://web.archive.org/web/20160801122722/http://www.trump.com:80/hotel-collection/hawaii/trump-intl-hotel-waikiki-beach/;](https://web.archive.org/web/20160801122722/http://www.trump.com:80/hotel-collection/hawaii/trump-intl-hotel-waikiki-beach/)

[https://web.archive.org/web/20160731132031/http://www.trump.com:80/hotel-collection/chicago/trump-intl-hotel/;](https://web.archive.org/web/20160731132031/http://www.trump.com:80/hotel-collection/chicago/trump-intl-hotel/)

[https://web.archive.org/web/20160728021723/http://www.trump.com:80/hotel-collection/las-vegas/trump-intl-hotel/;](https://web.archive.org/web/20160728021723/http://www.trump.com:80/hotel-collection/las-vegas/trump-intl-hotel/)

[https://web.archive.org/web/20160727135112/http://www.trump.com:80/hotel-collection/new-york/trump-intl-hotel/;](https://web.archive.org/web/20160727135112/http://www.trump.com:80/hotel-collection/new-york/trump-intl-hotel/)

<https://web.archive.org/web/20160803070735/http://www.trump.com:80/hotel-collection/soho/trump-soho;>

<https://web.archive.org/web/20160801122827/http://www.trump.com:80/hotel-collection/panama/trump-ocean-club;>

[https://web.archive.org/web/20160727115259/http://www.trump.com:80/hotel-collection/toronto/trump-intl-hotel/;](https://web.archive.org/web/20160727115259/http://www.trump.com:80/hotel-collection/toronto/trump-intl-hotel/)

<https://web.archive.org/web/20160727124157/http://www.trump.com:80/hotel-collection/ireland/trump-hotel-golf-links>

⁷⁹ <http://money.cnn.com/2016/12/15/investing/trump-organization-48th-largest-private-company/index.html>

⁸⁰ https://www.nytimes.com/2016/12/25/us/politics/trump-organization-business.html?_r=0

Denihan Hospitality Group (DHG) - July 2016	Trump Hotels - July 2016
<p>Denihan Hospitality Group (DHG) identifies as a privately held full-service hotel management and development company.⁸¹ In July 2016, <u>DHG owned and/or operated 10 hotel properties in the United States with 2,704 rooms.</u>⁸² The <u>hotel properties</u> include:</p> <ol style="list-style-type: none"> 1. Garden Suites Hotel by Affinia (FKA Lyden Gardens and Affinia Gardens) (New York), 2. Shelburne Hotel & Suites by Affinia (FKA Shelburne Murray Hill) (New York), 3. Fifty Hotel & Suites by Affinia (FKA Affinia 50) (New York), 4. Dumont NYC (FKA Affinia Dumont) (New York) (sold October 2016),⁸³ 5. The Benjamin (New York), 6. Manhattan NYC (FKA Affinia Manhattan and Southgate Tower Hotel) (New York) (sold October 2016),⁸⁴ 7. The James Hotel Chicago – Magnificent Mile, 8. The Surrey (New York), 9. The James New York – Soho, 10. The James New York – NoMad (FKA The Carlton).⁸⁵ 	<p>According to the company's website, the Trump Organization is a privately owned international conglomerate that includes Trump Hotels, Trump Winery, Trump Golf, Trump International Realty, and the organization's corporate division.⁸⁶ In July 2016, <u>Trump Hotels owned and/or operated 9 hotel properties in the United States, Canada, Panama, and Europe with 4,132 rooms.</u>⁸⁷ The <u>hotel properties</u> include:</p> <ol style="list-style-type: none"> 1. Trump® National Doral Miami, 2. Trump® International Hotel Waikiki (Hawaii), 3. Trump International Hotel & Tower® Chicago, 4. Trump® International Hotel Las Vegas, 5. Trump International Hotel & Tower® in New York, 6. Trump SoHo [Hotel] (New York), 7. Trump International Hotel & Tower Panama, 8. Trump International Hotel & Tower Toronto, 9. Trump International Golf Links® & Hotel in Doonbeg (Ireland).

⁸¹ <https://www.apnews.com/4e6a7c622266406592e6d3fd9f0e8a8d>

⁸² <https://web.archive.org/web/20160711022924/http://www.denihan.com:80/portfolio/hotel-brands>

To calculate the total number of rooms owned and/or operated by Trump Hotels and DHG, researchers used The Wayback Machine by Internet Archive for the dates of July 1, 2016, through July 31, 2016. Researchers reviewed digital archives of company-hosted websites for hotels that were owned and/or operated by DHG and Trump Hotels. Researchers reviewed digital archives of third-party marketing materials where primary sources were unavailable. See the Appendix for details on these calculations.

⁸³ <https://therealdeal.com/2016/10/20/pebblebrook-denihan-split-portfolio-of-6-manhattan-hotels/>

⁸⁴ <https://therealdeal.com/2016/10/20/pebblebrook-denihan-split-portfolio-of-6-manhattan-hotels/>

⁸⁵ <https://web.archive.org/web/20160711022924/http://www.denihan.com:80/portfolio/hotel-brands;>

⁸⁶ <http://www.trump.com/the-trump-organization/> Note: The Trump Organization also manages various commercial and residential properties and has licensed its name to multiple national and international residential and commercial projects (some of which have not been built) in India, China, Georgia, Azerbaijan, India, the Dominican Republic, Indonesia, Dubai, Toronto, Turkey, the Philippines, and Uruguay (<https://www.trump.com/real-estate-portfolio/>).

⁸⁷ To calculate the total number of rooms owned and/or operated by Trump Hotels and DHG, researchers used The Wayback Machine by Internet Archive for the dates of July 1, 2016, through July 31, 2016. Researchers reviewed digital archives of company-hosted websites for hotels that were owned and/or operated by DHG and Trump Hotels. Researchers reviewed digital archives of third-party marketing materials where primary sources were unavailable. See the Appendix for details on these calculations. <https://web.archive.org/web/20160727134934/http://www.trump.com:80/hotel-collection;>

Using the same sources and methods used to obtain the DNS data for “trump-email.com,” researchers obtained DNS data for “denihan-email.com.”⁸⁸ The DHG sample contains 20,605 DNS look-ups spanning a 48-day period from August 4, 2016, to September 22, 2016. These dates overlap with the DNS data available for the **Trump Organization** server, and allows for a comparison between the two organizations in terms of the volume of DNS look-ups and the number of entities (IP addresses) conducting DNS look-ups during the August 4, 2016, to September 22, 2016, period.⁸⁹

Comparison of the Two Organizations & Summary of the DNS Look-Ups for “trump-email.com” and “denihan-email.com.” August 4, 2016 – September 21, 2016			
		Comparison	
Box		DHG	Trump Organization
A	Number of Hotels Owned and/or Operated by Each Company in July 2016	10	9
B	Number of Rooms in Hotels Owned and/or Operated by Each Company in July 2016	2704	4132
C	Approximate # of Employees	2500	4000
D	Timestamp of First DNS Look-up	2016-08-04 T00:00:13	2016-08-04 T00:06:35
E	Timestamp of Last DNS Look-Up	2016-09-21 T23:57:02	2016-09-21 T23:33:35
F	Time Period Covered	48 Days	48 Days
G	Total DNS Queries	20,507	2,537
H	Number of Unique Entities (IPs) Conducting DNS Look-Ups	1052 IPs	10 IPs*
I	Number of Unique Entities (IPs) Conducting More than Two DNS Look-Ups	769 IPs	4 IPs*
J	Sustained Connections with an Organization Over the 48-Day Time Period	0	2**
K	Number of Look-Ups from Alfa Bank Servers for Time Period	0	2051

<https://web.archive.org/web/20160723083319/http://www.trump.com:80/hotel-collection/florida/trump-national-miami/>;
<https://web.archive.org/web/20160801122722/http://www.trump.com:80/hotel-collection/hawaii/trump-intl-hotel-waikiki-beach/>;
<https://web.archive.org/web/20160731132031/http://www.trump.com:80/hotel-collection/chicago/trump-intl-hotel/>;
<https://web.archive.org/web/20160728021723/http://www.trump.com:80/hotel-collection/las-vegas/trump-intl-hotel/>;
<https://web.archive.org/web/20160727135112/http://www.trump.com:80/hotel-collection/new-york/trump-intl-hotel/>;
<https://web.archive.org/web/20160803070735/http://www.trump.com:80/hotel-collection/soho/trump-soho/>;
<https://web.archive.org/web/20160801122827/http://www.trump.com:80/hotel-collection/panama/trump-ocean-club/>;
<https://web.archive.org/web/20160727115259/http://www.trump.com:80/hotel-collection/toronto/trump-intl-hotel/>;
<https://web.archive.org/web/20160727124157/http://www.trump.com:80/hotel-collection/ireland/trump-hotel-golf-links/>

⁸⁸ A CSV file in the same format as previous samples, consisted of timestamp, source IP, QNAME, and query result.

⁸⁹ When studying trump-email.com, we cut off our sample at 23:59:59 on 2016-09-21, because on September 22, 2016, publicity around trump-email.com drew traffic that was likely a mix of researchers, curiosity-seekers, and potential hackers. The remainder of this analysis is based on the set of queries for both servers that are between the timestamps 2016-08-04T00:00:00 and 2016-09-21T23:59:59.

Comparison of the Two Organizations & Summary of the DNS Look-Ups for "trump-email.com" and "denihan-email.com." August 4, 2016 – September 21, 2016			
		Comparison	
Box		DHG	Trump Organization
L	Number of Look-Ups from Spectrum Health Servers for Time Period	0	464
M	Number of Look-Ups from Heartland Payment Systems Server for Time Period	0	15
*Two the Four IPs are associated with Alfa Bank. ** Alfa Bank and Spectrum Health			

DHG owned and/or operated fewer hotel rooms (2,704) than the Trump **Organization** owned and/or operated (4,132), yet DHG received a substantially higher number of DNS look-ups from a far more diverse number of unique entities (IP addresses). Specifically, while DHG is two-thirds the size of the **Trump Organization** in terms of hotel rooms owned/operated, the DHG servers received almost 10 times as many DNS look-ups as the **Trump Organization** (20,507 versus 2,537) during the same 48-day period. Moreover, the 20,507 DNS look-ups of DHG servers were widely distributed among 1,052 unique entities (IP addresses).⁹⁰

By contrast, the 2,537 DNS look-ups of the **Trump Organization** server came from just 10 unique entities (IP addresses). If the data is limited to entities (IP addresses) conducting more than two DNS look-ups during this 48-day period, the contrast becomes even more stark: DHG was communicating with 769 unique entities (IP addresses) over the 48-day period, while the **Trump Organization** was communicating with just four: two associated with **Alfa Bank** (217.12.96.15 and 217.12.97.15), one associated with **Spectrum Health** (167.73.110.8) and one associated with **Heartland Payment Systems** (63.241.252.2).

While the two companies—the **Trump Organization** and DHG—have similar businesses, the servers associated with **Alfa Bank**, **Spectrum Health**, and **Heartland Payment Systems** are not found in the DHG DNS data.

In addition to the *volume* of DNS look-ups and the number of unique entities (IP addresses) conducting the DNS look-ups, the pattern over time of the DNS look-ups is significantly different for the two organizations. Most of the entities (IP addresses) conducting DNS look-ups of the DHG server appear sparsely over the 48-day period and the DNS look-ups are correlated to specific times.⁹¹ For example, during the 48-day period of interest, there are times when there

⁹⁰ Except for an IP address associated with Amazon Web Services (54.206.26.93), the five random "junk" entities conducting DNS look-ups of the Trump Organization server also conducted DNS look-ups of the DHG servers.

⁹¹ The Denihan DNS sample contains queries from over a thousand IP addresses and 400 distinct networks. The majority of observed DNS look-ups appear in two patterns. The vast majority of the DNS look-ups are what we call Type A clients. These are clients conducting DNS queries of Denihan sparsely, with days or weeks between events. The DNS queries from Type A clients are often correlated in time, creating widely dispersed "type A bursts." A far smaller number of entities are what we call Type B clients. Type B clients conduct occasional intense DNS look-

are bursts of DNS look-ups of the **DHG** server from a broad range of entities (IP addresses). The entities (IP addresses) looking up the **DHG** server are then either completely dormant, or there are significant gaps in time before they communicate with the **DHG** server again. Researchers indicate that this behavior may be in response to some action first taken by the **DHG** server itself, for example, a marketing email being sent from one of its servers. In contrast, the top three entities (IP addresses) conducting DNS look-ups of the **Trump Organization** server all exhibit constant, sustained interaction over the 48-day period.⁹² In addition, these DNS look-ups of the **Trump Organization** server, while consistent, do not appear to match activity reflecting an automated process (such as in the case of the suspected mass marketing email referenced above in the context of the **DHG** sample).

ups, lasting up to a few days, before ceasing. Notably, the Type B interactions usually begin at the same time as the “Type A” bursts. A smaller number of entities, which represent 5 of the top 6 entities ranked by total volume of DNS look-ups, conduct a large number of sustained DNS inquiries, but remain inactive at times. Since we know Cendyn’s business is email marketing, it is possible that Type A DNS queries come from servers that were triggered in some way by a broad-spectrum action initiated at Cendyn, such as sending a bulk marketing email. If these vertically-correlated Type A bursts represent the start of a marketing campaign, then it may be that the Type B DNS queries (which initially resemble Type A Clients) are follow-up contacts to a bulk marketing email. In contrast to Denihan, the queries for the Trump Organization server coming from Alfa Bank and Spectrum Health are sustained during the entire 48-day period. Heartland Payment Systems is active sporadically for a distinct period of time. The remaining 6 entities all appeared to conduct a DNS look-up of the Trump Server at similar times, not unlike the Type A query detailed above.

⁹² The three entities (IP addresses) are associated with Alfa Bank (two IPs) and Spectrum Health (1 IP).

Finding #3

3. The FBI reportedly concluded in 2016 that there could be an “*innocuous explanation*” for the Alfa Bank “*computer connections*” to the Trump Organization server, such as “*marketing email or spam.*” A review of DNS records indicates that the Trump Organization server (“mail1.trump-email.com”) was *not* configured to effectively send marketing or bulk email (spam). Moreover, the pattern of DNS look-ups was *not* consistent with automated marketing or bulk email (spam) operations.

Note: On October 31, 2016, *The New York Times* reported that FBI “*officials spent weeks examining computer data showing an odd stream of activity to a Trump Organization server and Alfa Bank,*” but that the FBI “*ultimately concluded that there could be an innocuous explanation, like a marketing email or spam, for the computer contacts.*”⁹³ Analysis of DNS records indicate the reported FBI conclusion was inaccurate.

(a) “Mail1.trump-email.com” Was Not Included in the SPF Record: In 2016, a computer server named “mail1.trump-email.com” was operating on the Trump Organization computer server network. The server name was first established on August 14, 2009.⁹⁴ The name of this Trump Organization computer server, “mail1.trump-email.com” (referred to as an “A” name) was similar to other Trump Organization server names. The numerical IP address (66.216.133.29) of “mail1.trump-email.com” was among a block of other servers contracted for commercial communication purposes (such as bulk marketing email and Customer Relations Management⁹⁵ software for hospitality companies),⁹⁶ but “mail1.trump-email.com” was *not* configured like other Trump Organization email servers,⁹⁷ nor did it behave like a commercial bulk email server, or like the other commercial servers on the same network block⁹⁸ (See Finding #2).⁹⁹

⁹³ <https://www.nytimes.com/2016/11/01/us/politics/fbi-russia-election-donald-trump.html?mcubz=1>

⁹⁴ See Whois records at <http://www.ljean.com/NetworkRecords/Trump-Owned-And-Mail-Systems-WHOIS-15.txt>

⁹⁵ Note: In the corporate world, Customer Relationship Management (CRM) software, or other special purpose portals, may be set-up on servers for communication exclusively with preferred partners or prospects. For example, the same server where a hospitality company logs-in to manage meetings may have multiple messaging and meeting services, including email capabilities. Research on Cendyn software capabilities revealed that its software suite offers communications and payment sending capabilities via their eProposal and Guestfolio CRM software.

⁹⁶ Listrak is a Lititz, Pennsylvania, company that maintains servers to send marketing and bulk emails on behalf of corporate clients, including the Trump Organization. For more information, see http://lancasteronline.com/news/local/fbi-gets-lititz-firm-s-help-in-probe-of-russian/article_ef5d5ed0-05ae-11e7-a003-471e5543b26a.html

⁹⁷ As noted elsewhere, the network configuration of “mail1.trump-email.com” shows that it was set-up to use at least Port 25, the port used for email, and was configured with SMTP software. Also, according to a third-party analysis, the volume and cadence of the DNS traffic is indicative of human-controlled communications like email. However, other evidence indicates that this server was not likely being used for standard SMTP email. As described in this section, the server was not included in the SPF record for the Trump Organization domain and no MX queries were observed in the data, which rules out standard email, including for bulk marketing. See appendix for additional information.

⁹⁸ A network block (or net block) is a range of IP addresses that is owned by a specific internet service provider or data center.

⁹⁹ Note: According to advertising claims by Listrak (which operated the Trump Organization Server on behalf of Cendyn) and its software vendor Port25, Listrak’s bulk email servers are capable of sending an average of 2.5 million emails per hour, many orders of magnitude higher than what was observed from this Trump server (See <https://port25.com/wpcontent/uploads/downloads/2015/01/Listrak-Case-Study.pdf>; “Marketing automation vendor Listrak deploys on average 2.5 million emails per hour per server.” It is also notes that “The company’s top 20 marketers average roughly 800K subscribers each.”) An examination of DNS records for a server right next to the Trump server in this address block, operated on behalf of Denihan Hospitality Group, during this same timeframe, shows significantly less volume of traffic than the advertised bulk email capabilities of Listrak, but still 100 times the number of connections in terms of volume and diversity as compared to the Trump server. The Trump server interacted consistently with only three companies, making a handful of connections daily (Daily volumes ranged from single digits

What is a SPF Record?

Sender Policy Framework (“SPF”) is an email authentication protocol on the internet under which the owner of an email domain (such as gmail.com, or trump-email.com) publishes a list of IP addresses in the Domain Name System (DNS) that are authorized to send outgoing email from that domain. This allows spam filters to easily check if the origin of an email is actually from an authorized domain. Some email providers, including some large Fortune 500 companies, are configured to refuse incoming email if the SPF authorization check fails.¹⁰⁰ As such, if you are in the business of sending marketing or bulk email, you would want your servers to be included in an appropriate SPF record to ensure that your emails are successfully delivered to the largest number of users.¹⁰¹

A check of public online DNS databases shows the **Trump Organization** controlled the domain name “trump-email.com,” which includes “mail1.trump-email.com.”¹⁰² While the domain “trump-email.com” had an SPF authorization record, that SPF authorization record did not include the “mail1.trump-email.com” server.¹⁰³ This means that “mail1.trump-email.com” was configured in such a way that would have prevented it from effectively sending marketing or bulk emails.¹⁰⁴

to double digits, until the trump-email.com zone was deleted on September 23, 2016, at which time volumes spiked to thousands a day caused by Spectrum Health trying to reconnect to the missing hostname, mail1.trump-email.com). Trump vendor Cendyn has stated that their contract to send marketing emails for Trump ended in March 2016.⁹⁹ The stated change away from bulk marketing email is congruent with the change seen in the DNS data— from May 2016 through September 2016 the Trump server was only making a small, focused number of connections with three other entities.

¹⁰⁰ A failed SPF look-up, even the “softfail” form embedded in the DNS record for the Trump server (“~all”) is detrimental for email delivery. Thus, it is unlikely that “mail1.trump-email.com” was used for sending messages, including marketing messages, on behalf of the parent zone, “trump-email.com.”

¹⁰¹ <https://blog.returnpath.com/how-to-explain-spf-in-plain-english/>; <https://postmarkapp.com/blog/explaining-spf>; <http://www.openspf.org/Introduction>;

¹⁰² See https://www.godaddy.com/whois/results.aspx?domain=trump-email.com&recaptchaResponse=03AOmkcwKPCWjGn0ORd8D0csoynKgB-Tp-8bZSaBqt_7uSTF32t6gz4hvKSaBMLimx27aTDuGsjVjpAEge9APOG5-6C5ElyZDITwm42khMWQ2v60kdDkckWSK5bXm0nHKLlyYWLkbJ5bmMxkKWlUyU0QhsEdFZBBq47S6iBNIF44a7U-XJnwFycY9rY72U1ChioW2xcK5ihr2VYqA0leupLSFtjSOr-mlpHFllr_AsagUYDMsU3lgaZ_Yer2Y4wbMXS5saXztJ0wXFbnpQQisR5hCRnnC-u8klPFRrgnk3JgJ0nDhK9C9-X2wW_eJmHBpp3ckz2wlhWBNLpjrYwApqrPMHhxWrXnWl9p9JlXvGQnttLbNxAImFNzIAnwB0iWTsmj7VzC2dG

¹⁰³ See additional data available which details how public online passive DNS databases, such as the DNS informational site dnsdb.io, show several Resource Record sets [RRsets] in the trump-email.com zone. In relevant part these include: (“mail1.trump-email.com A 66.216.133.29.” “trump-email.com TXT |v=spf1 ip4:198.91.42.0/23 ip4:64.135.26.0/24 ip4:64.95.241.0/24 ip4:206.191.130.0/24 ip4:63.251.151.0/24 ip4:69.25.15.0/24 mx ~all”). The last line is a Sender Policy Framework (“SPF”) record, and identifies domains and address ranges used in outbound email. While complex, the SPF record essentially lists the machines authorized to send outbound email on behalf of the trump-email.com domain. The listed IP address ranges include mail servers that send emails, such as office correspondence. SPF can help recipients identify fraudulent messages (e.g., spam from 3rd party networks claiming to come from trump-email.com). If the sending host claims to come from trump-email.com, but is not inside one of the listed SPF ranges, mail recipients are alerted that the mail may be fraudulent under Internet Engineering Task Force protocol and are therefore more likely to reject the email or to label it as spam. Importantly, the SPF CIDR ranges in this case did not encompass 66.216.133.29, the address for “mail1.trump-email.com.” Thus, the SPF record for the Trump Organization server conveyed a policy of advising mail recipients to discard mail from this server. As such, no competent email marketing service provider would intentionally set up an email operation in this way. A mistake in setting a mail server up in this manner would have been rapidly detected and corrected. For email marketing operations, delivery to inboxes rather than spam folders is of paramount importance. A failed SPF lookup, even the “softfail” form embedded in the DNS record for the Trump Organization server (“~all”) is detrimental for email delivery. Thus, it is unlikely that “mail1.trump-email.com” was used for sending messages, including marketing messages, on behalf of the parent zone, “trump-email.com.”

¹⁰⁴ Additional Evidence that the Trump Organization Server was not Sending Traditional Email: If “mail1.trump-email.com” was being used for mail marketing purposes, recipient organizations would have made DNS queries to retrieve the SPF record to authenticate the email. However, the DNS records show no queries for the SPF text record – no type 16 text queries at all. Moreover, third-party tests conducted during the period

SPF Authorization Record for trump-email.com ¹⁰⁵
trump-email.com TXT v=spf1 ip4:198.91.42.0/23 ip4:64.135.26.0/24 ip4:64.95.241.0/24 ip4:206.191.130.0/24 ip4:63.251.151.0/24 ip4:69.25.15.0/24 mx ~all ¹⁰⁶
NOT INCLUDED IN SPF RECORD: mail1.trump-email.com A 66.216.133.29

- (b) **“Mail1.trump-email.com” Was Not Identified as a Sender of Spam:** If **“mail1.trump-email.com”** had been used to send marketing or bulk emails, researchers would expect to find the IP address for **“mail1.trump-email.com”** in public spam block lists.¹⁰⁷ In other words, if large amounts of marketing emails were emanating from **“mail1.trump-email.com,”** it’s likely that some receivers of those emails would have marked them as spam.¹⁰⁸ However, in a search of 57 public spam block lists, the only list that contains the IP address (**66.216.133.29**) for **“mail1.trump-email.com,”** is dnsbl.spfbl.net, which appears to enforce SPF configuration based on its self-description (as described, while the domain **“trump-email.com”** had an SPF authorization record, that SPF authorization record did **not** include the **“mail1.trump-email.com”** server).¹⁰⁹

in question show that Alfa Bank consistently performed SPF/DKIM authentication look-ups as a matter of practice. This provides additional evidence that the Trump Organization server was not sending marketing email.

¹⁰⁵ <https://dnsdb.io/en/search?q=trump-email.com>, identified in 2016. Public online passive DNS databases, such as the DNS informational site dnsdb.io show records related to the trump-email.com zone.

¹⁰⁶ “~” indicates a “softfail” recommendation.

¹⁰⁷ See

http://www.slate.com/articles/news_and_politics/politics/2016/11/the_trump_server_evaluating_new_evidence_and_countertheories.html; which includes the following from Dr. L. Jean Camp, a computer expert, who says, “It’s highly implausible that spam would continue for so many months, that it would never be reported to a spam blocker, or that nobody else in the world would see the spam during that time frame.”

¹⁰⁸ The search for the IP address (66.216.133.29) associated with the Trump Organization Server was conducted in September 2017. It is unclear, as of September 17, 2017, how long IP addresses associated with spam remain on the public spam block lists. Previous researchers have indicated that similar searches conducted during the May 2016 to September 2016 time period also failed to identify the IP address as a sender of spam.

¹⁰⁹ See <http://spfbl.net/en/dnsbl/>

57 Public Spam Block Lists¹¹⁰

Spam Database Lookup Results for 66.216.133.29

rDNS/PTR record for 66.216.133.29 is "mail1.trump-email.com".

Some mail servers will not accept mail from IP addresses with no rDNS/PTR record or a generic PTR record.

The following are blacklist test results. Being listed with a DNSBL does not always indicate the IP address is a source of spam. Some DNSBL's criteria are based on the IP address' country or connection type. If you are listed with a DNSBL click on the link for removal criteria.

● all.ssh.net	● b.barmcudafaccontrol.org	● bl.emblib.org
● bl.spamcannibal.org	● bl.spamcop.net	● blacklist.woody.ch
● bogons.cymru.com	● cdl.abuseat.org	● cdl.anti-spam.org.cn
● combined.abuse.ch	● cb.wpbl.info	● dnsbl1.uscourts.net
● dnsbl-2.uscourts.net	● dnsbl-3.uscourts.net	● dnsbl.anticat.ch
● dnsbl.cyberlogic.net	● dnsbl.dronebl.com	● dnsbl.irms.de
● dnsbl.sorbs.net	● dnsbl.fcfbl.net	● drone.abuse.ch
● dunm.aunads.org	● dul.dnsbl.sorbs.net	● dyna.spamrats.com
● dunm.rtfen.com	● eximnodes.fur.dnsbl.sectoor.de	● http.dnsbl.sorbs.net
● ips.backscatterer.org	● ix.dnsbl.manitu.net	● korea.services.net
● m3sc.dnsbl.sorbs.net	● nostr.spamrats.com	● oredb.aunads.org
● pb1.spamhaus.org	● noxy.bl.gweep.ca	● psbl.su.net.com
● relays.bl.gweep.ca	● relays.nether.net	● sbl.spamhaus.org
● shot.rtl.jp	● singular.ttk.pla.hu	● smta.dnsbl.sorbs.net
● socks.dnsbl.sorbs.net	● spam.abuse.ch	● spam.dnsbl.anonmails.de
● spam.dnsbl.sorbs.net	● spam.spamrats.com	● spambot.bis.digibase.ca
● spampl.imp.ch	● spamsources.fabel.dk	● ubl.lashback.com
● ubl.unsubscore.com	● virus.rtl.jp	● web.dnsbl.sorbs.net
● wormbl.imp.ch	● xbl.spamhaus.org	● z.mailspike.net
● zen.spamhaus.org	● zombio.dnsbl.sorbs.net	

- (c) **Records Indicate “Mail1.trump-email.com” Was Not Sending Automated Bulk/Marketing Emails:** Because DNS records have time stamps with precision down to the second, it is possible to identify patterns in DNS records. For example, if a server is processing marketing or bulk emails, there will be regular high-volume DNS look-ups, followed by low volume periods (an email is sent to thousands/millions of users, and then the email server is dormant before sending an email to thousands/millions of users again).¹¹¹ Conversely, in human-driven email-type message delivery or communications, the DNS look-ups would likely reflect a much lower volume of DNS look-ups, with a pattern of look-ups associated with typical non-bulk email exchanges: quick replies in some cases, and slight delays in others. A statistical analysis of the timing of the “**mail1.trump-email.com**” DNS look-ups by **Alfa Bank** and **Spectrum Health** found that the inter-arrival times (the time space between DNS look-ups that may precede an email being delivered) are not consistent with automated, bulk email.¹¹²

Additional supporting evidence indicating that “**mail1.trump-email.com**” was not operating as a marketing or bulk email server can be found in the technical attachment.

¹¹⁰ Using the site: <http://www.dnsbl.info/dnsbl-database-check.php>

¹¹¹ As described in this memo, the lack of a SPF authorization record associated with “mail1.trump-email.com” significantly complicates the use “mail1.trump-email.com” for marketing or bulk email.

¹¹² See “Time Series Analysis” attachment (based on third-party data) which describes the pattern of DNS look-ups reflecting typical human-based email exchanges. In the attachment, a third-party researcher calculates the inter-arrival time between DNS look-ups for “mail1.trump-email.com” using a simple time series analysis. As would be expected, spam, viruses, bulk newsletter emails, and marketing emails exhibit less “back-and-forth.” Put another way, people rarely reply to marketing emails, bulk newsletters, or spam. Conversely, people frequently respond to emails directly addressed to them and personalized. The data detailed in the attachment identifies the DNS look-ups as reflecting human-driven interactions that is not consistent with automation, backups, or infectious behavior.

In summary, the **Trump Organization** appropriately maintained an SPF authorization record for its servers that were authorized to send official email from "trump-email.com." This SPF Record did not include "mail1.trump-email.com." Some email providers, including some large Fortune 500 companies, are configured to refuse incoming email if the SPF authorization fails.¹¹³ For these reasons, "mail1.trump-email.com" would not have been an effective means to send marketing or bulk email. Further, had "mail1.trump-email.com" been sending marketing or bulk emails, the IP address sending those bulk emails would likely appear in public spam block lists. With the exception of one block list that rejects email without SPF authorization records, the IP address for "mail1.trump-email.com" does not appear. Based on these facts, it is unlikely that "mail1.trump-email.com" was being used to send marketing or bulk email during the period of interest. Finally, because DNS records have time stamps with precision down to the second, it is possible to identify patterns in DNS records. The pattern of DNS look-ups for "mail1.trump-email.com" was found not to be consistent with automated, bulk email.

¹¹³ Per Internet Engineering Task Force guidance, most organizations will accept mail with a "softfail" SPF record like the referenced Trump Organization server SPF entry. The email, however, is likely to be filtered to spam or promotional folders rather than delivered directly to an inbox.

Finding #4**4. Testing indicates that the server assigned to the Trump Organization ("mail1.trump-email.com") was configured to accept email.¹¹⁴**

Research indicates that "mail1.trump-email.com" was running an email server and was accepting connections on Port 25, the server port dedicated to email.¹¹⁵

When a third-party researcher used *Pingability* (a server and website monitoring and alert service) to open a connection (essentially sending a test email) to Port 25 of "mail1.trump-email.com," the researcher found that "mail1.trump-email.com" was correctly running SMTP software (Simple Mail Transfer Protocol, the protocol used to exchange email on the internet).

The following error was received by the researcher: "521 lvpmta14.lstrk.net does not accept mail from you." This error message reveals:

- "521": This response code means that the server will not accept email on the testing incoming connection.¹¹⁶
- "lstrk.net": This response code means the connection is being made to a Listrak server.¹¹⁷
- "does not accept mail from you": This response code means the server would not accept the test email.

This test reveals that either the server was configured to reject email from everyone, or that the server was configured to accept only emails from specific senders. The SMTP software associated with Listrak, "Port25 powerMTA," is a commercial SMTP software which offers an "access control list" (ACL) capability. This would permit the Trump Organization server, "mail1.trump-email.com," to filter out connections and emails based on their originating IP address and accept email only from approved parties. In this case, it's possible that "mail1.trump-email.com" was configured to only permit connections from specific entities (IP addresses). Given the DNS look-ups, those entities (IP addresses) could be Alfa Bank, Spectrum Health, and

¹¹⁴ As described in the technical attachment, this finding does not lead our researchers to conclude that the server was exchanging traditional email. In fact, the lack of MX or TXT queries makes it highly unlikely that these four entities were sending ordinary SMTP email amongst themselves. Nonetheless, the DNS data overwhelming points to the fact that there was a special communications relationship between the four entities discussed in this memorandum during the period of interest. In other words, whatever the purpose of the server named "mail1.trump-email.com" during the period of interest, that purpose was something almost exclusively used by Alfa Bank, Spectrum Health, and to a lesser extent, Heartland Payments Systems.

¹¹⁵ The mail server may not have been the only application or program running on the server. Indeed, there are some indications that the server may have included a program that allowed for other types of communication outside of email. For example, reporting indicates that Cendyn's Metron meeting software and CendynOne Customer Relations Management system were deployed on this server. See attachments for additional information.

See <https://port25.com/case-study-email-service-provider-listtrak/>

¹¹⁶ Foundational Technical Standard RFC 1846.

¹¹⁷ Listrak is a Lititz, Pennsylvania, company that sends marketing and bulk emails on behalf of corporate clients, including the Trump Organization during the period examined. For more information, see Appendix. http://lancasteronline.com/news/local/fbi-gets-lititz-firm-s-help-in-probe-of-russian/article_ef5d5ed0-05ae-11e7-a003-471e5543b26a.html

Heartland Payment Systems—as these are the only entities (IP addresses) conducting continued DNS look-ups for the Trump Organization server.

Finding #5

5. The data indicates that in September 2016 there was likely human interaction and coordination between personnel working on behalf of Alfa Bank (or their designees) and personnel working on behalf of the Trump Organization (or their designees).

Note: *In this section, analysis is provided of DNS records generated after September 21, 2016, which earlier in this memorandum is described as the end date for the DNS data-set analyzed in other sections. As this section explains, the additional DNS records from after September 21, 2016, are unlike those that precede them. Prior to September 21, 2016, the DNS records by cadence indicate human-directed communications. After this date, a human-directed event (the deletion of the zone "trump-email.com") that resulted in severing the server connections produced a surge of automated computer activity trying to reestablish those connections.*

Some of the information on the unusual DNS activity described in this memo was provided to *The New York Times* in late summer 2016. As part of its investigative efforts, *The New York Times* contacted representatives of Alfa Bank on September 21, 2016, and asked for an explanation for the abnormal communications behavior between Alfa Bank servers and a server assigned to the Trump Organization.¹¹⁸

On September 23, 2016, two days after *The New York Times* approached Alfa Bank, the Trump Organization deleted the email server "mail1.trump-email.com" (the server was first registered to the Trump Organization on August 14, 2009.¹¹⁹)¹²⁰ In technical terms, the "A" record (i.e. the name) was deleted. The deletion of the "A" record for the server ("mail1.trump-email.com") on the Trump Organization network would not have been automated, rather it would have been a deliberate human action taken by a someone working on behalf of the Trump Organization and *not by Alfa Bank*. An analyst, quoted in the *Slate* article by Franklin Foer, observed that "*the knee was struck in Moscow, and the leg kicked in New York.*"¹²¹

When the Trump Organization deleted the "A" record for this Trump Organization server, any attempt to communicate with the server would fail. DNS records reveal that immediately after "mail1.trump-email.com" was deleted, the servers associated with Alfa Bank and Spectrum Health repeatedly attempted to do a DNS look-up of "mail1.trump-email.com," but the DNS look-up repeatedly failed, as the "A" record had been deleted.¹²² (To continue the telephone

¹¹⁸http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹¹⁹ <http://www.ljean.com/NetworkRecords/Trump-Owned-And-Mail-Systems-WHOIS-15.txt>

¹²⁰ See

http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html "The server was first registered to Trump's business in 2009 and was set up to run consumer marketing campaigns."

¹²¹http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹²² The DNS look-ups by Alfa Bank and Spectrum Health suggest that both were trying to reconnect to "mail1.trump-email.com" to reestablish communications.

analogy, there was no longer a phone number associated with the name of the business—as the phone number had been discontinued and disconnected. In this case, there was no longer an IP address associated with the server named “mail1.trump-email.com”).

Note: In addition to the surge in failed DNS look-ups for “mail1.trump-email.com” from the Alfa Bank and Spectrum Health servers, there were observed failed DNS look-ups originating from a new Alfa Bank IP address (217.12.97.137) seeking the name “mail.trump-email.com.moscow.alfaintra.net” for a period of 5-6 minutes.¹²³ The DNS look-ups begin at 2016-09-23T13:50:50 (starting 2 minutes and 44 seconds after the last successful DNS look-up for “mail1.trump-email.com”) and end at 2016-09-23T13:56:29. These DNS look-ups were not seen previously in the data and are never seen again outside of this 5-6 minute period.¹²⁴ The timing of the DNS look-ups by this new IP address associated with Alfa Bank coincide exactly with the deletion of the “A” record by a representative of the Trump Organization.¹²⁵

The last successful DNS look-up of “mail1.trump-email.com” was by Alfa Bank on September 23, 2017, at 13:48:06hrs UTC. The first DNS look-up for “mail1.trump-email.com” that failed was by Spectrum Health on September 23, 2017, at 14:11:40hrs UTC.

Entry	Time Stamp (UTC)	IP Address	DNS Look-Up	Result
3739	2016-09-23T13:48:06	217.12.96.15 (Alfa Bank)	mail1.trump-email.com	RCODE:No Error
3750	2016-09-23T14:11:40	167.73.110.8 (Spectrum Health)	mail1.trump-email.com	RCODE:Server Failure

¹²³ Data-set entitled “DNSLUPSMAIL1082417.” This was likely a mistyped address by a human on the Alfa Bank network.

¹²⁴ Data-set entitled “DNSLUPSMAIL1082417.” Per a third-party analysis: [REDACTED- [REDACTED] (@ [REDACTED]) registered a dynamic DNS record that points to 217.12.97.137.

¹²⁵ See also <http://www.ljean.com/NetworkRecords/intranet/index.html>; Intra Net DNS Leakage explanation by J. Camp. A summary of the analysis by Dr. Camp explains: An intranet is a company's internal network, intra or inside the boundaries of the company. Intranets are not intended to be accessible or visible from the outside except via special access. These private networks are for business and are not publicly accessible. Such networks run off a green list or white list of approved parties. DNS leakage does occur occasionally between a company's internal network and the internet due to errors and misconfigurations. Here we see clear indication that the Moscow division of the INTERNAL Alfa Bank network most definitely has purposeful communications with a hostname registered by the Trump Organization. The concatenation below is a DNS leak of an internal configuration. If a machine were spamming a company, you would block it. You would be highly unlikely to change your internal intranet records to make sure the connection continued. Here we see a change to the Trump-Email.com zone from DNS by Cendyn. (Cendyn has stated that the host was indeed in use for “a bank” that wanted to have “meetings” with Alfa Bank). This query is unusual in that it merges two hostnames into one. It makes the most sense as a human error in inserting a new hostname in some dialog window, but neglected to hit the backspace to delete the old hostname. Of course, this run-on hostname doesn't exist; it's just two hostnames run together. Some 90 seconds later, the networks stopped talking about this host (at 2016-09-23T13:56:29.000Z), and further queries were not seen. But the brief minute life of the query associates the trump-email server to a new zone: the Alfa Bank intranet network. The moscow.alfaintra.net is the internal LAN of Alfa Bank. Like most careful organizations, the bank intranet is only resolved and reachable via a VPN (or by being inside the Bank's network of course). The internal LAN network contains ldap servers, a Microsoft Active Directory server, a HipChat server, a few Apple Caching Servers, some Microsoft Key Management Service (KMS) systems, etc. The hybrid hostname suggests that Alfa was attempting to accommodate the Trump host in its network. After the 90-second “fat finger” event, the queries ceased as the record was corrected, and the targeted domain entered correctly.

After the "A" record was deleted for "mail1.trump-email.com" on September 23, 2016, Alfa Bank and Spectrum Health continued to conduct DNS look-ups for "mail1.trump-email.com." The response to these DNS look-ups indicated that there was no longer a server named "mail1.trump-email.com." In the case of Alfa Bank, this behavior persisted until late Friday night, on September 27, 2016 (Moscow time).¹²⁶ At that point, Alfa Bank ceased its DNS look-ups of "mail1.trump-email.com." Less than ten minutes later (2016-09-27T19:48:55), a server assigned to Alfa Bank was the first source in the DNS data-set (37 million DNS records from January 1, 2016, to January 15, 2017) to conduct a DNS look-up for the server name "trump1.contact-client.com."¹²⁷ The answer received was 66.216.133.29, the same IP address used for "mail1.trump-email.com" that was deleted in the days after *The New York Times* inquired with Alfa Bank about the unusual server connections. No servers associated with Alfa Bank ever conducted a DNS look-up for "trump1.contact-client.com" again, and the next DNS look-up for "trump1.contact-client.com" did not occur until October 5, 2016 (2016-10-05T18:11:03). Three of these five look-ups from October 2016 originated from Russia (see chart below).

	Date	IP Address	DNS Look-Up	ASN	Entity	Reverse DNS Name of IP
1	2016-09-27T19:48:55	217.12.97.15	trump1.contact-client.com	15632	ALFA-BANK-AS, RU	ns2.alfadirect.net
2	2016-10-05T18:11:03	203.109.188.30	trump1.contact-client.com	9500	VODAFONE-TRANSIT-AS NZ Ltd., NZ	akl-ftc-mrdns1.ihug.net
3	2016-10-05T18:11:03	203.89.226.26	trump1.contact-client.com	9328	DATACOM-AU Datacom, AU	mdb2.globalcenter.net.au
4	2016-10-10T17:13:49	91.205.144.100	trump1.contact-client.com	47923	LANCRAFT-AS, RU	[Errno 1] Unknown host
5	2016-10-10T17:13:51	91.205.144.100	trump1.contact-client.com	47923	LANCRAFT-AS, RU	[Errno 1] Unknown host

¹²⁶ The DNS look-ups for "mail1.trump-email.com" from Spectrum Health rapidly continued until September 30, 2017, at 16:15 (UTC), only to appear one last time on December 14, 2016, at 18:37 (UTC).

¹²⁷ Cendyn controls the domain name "contact-client.com." See <http://whois.domaintools.com/contact-client.com>. Charles Deyo is the CEO of Cendyn. "Domain Name: CONTACT-CLIENT.COM Registrar URL: <http://www.godaddy.com> Registrant Name: Charles Deyo Registrant Organization: Name Server: NS3.CDCSERVICES.COM Name Server: NS2.CDCSERVICES.COM Name Server: NS1.CDCSERVICES.COM DNSSEC: unsigned"

	Date	IP Address	DNS Look-Up	ASN	Entity	Reverse DNS Name of IP
6	2016-10-10T17:14:21	91.205.144.100	trump1.contact-client.com	47923	LANCRAFT-AS, RU	[Errno 1] Unknown host

Sometime between November 11, 2016, and November 28, 2016, the “A” record for this server, “trump1.contact-client.com,” was also deleted.¹²⁸ There are no DNS records indicating **Spectrum Health** ever conducted a DNS look-up for “trump1.contact-client.com.”

The fact that Alfa Bank was the first entity (IP address) to conduct a DNS look-up for “trump1.contact-client.com” in the data-set could indicate that someone at Alfa Bank was in some manner made aware of the new Trump Organization server name.¹²⁹ To continue the telephone analogy, it is as if a person at the Trump Organization created a new unlisted telephone number, and shortly thereafter, the first incoming call received was from Alfa Bank, the most frequent caller of the old telephone number. Put another way, the only way Alfa Bank would have known to “*call the telephone number,*” was if it was informed what number to call. Thus, to use the analyst’s analogy previously referenced, this time, the reflex action was reversed: the knee was struck in the Trump Organization in New York (the deletion of the server), and the leg kicked in Alfa Bank in Moscow (the look-up of the new Trump Organization server).

¹²⁸ See data-set entitled “DNSLUPSMAIL1082417,” where “trump1.contact-client.com” begins to appear as “non-existent domain.”

¹²⁹ The first DNS look-up could have been generated by an Alfa Bank Information Technology employee reconfiguring a mail server, or it could have been any user at Alfa Bank addressing a new email to a user at “trump1.contact-client.com.”

TIMELINE

- 2009 – “[Mail1.trump-email.com](#)” is registered on behalf of the Trump Organization on August 14, 2009, to manage consumer marketing campaigns by Cendyn, a third-party vendor.¹³⁰
- March 2016 – Cendyn claims to send the last marketing email for the Trump Organization.¹³¹ Cendyn’s contract with the Trump Organization is replaced by Serenata, a German email marketing company who states that it never used “[mail1.trump-email.com](#).”¹³²
- May 2016 through September 2016 – During this period, “[mail1.trump-email.com](#)” is regularly, and almost exclusively, communicating with Alfa Bank, Spectrum Health, and Heartland Payment Systems.¹³³
- September 21, 2016 – As part of an investigation, *The New York Times* contacts representatives of Alfa Bank and asks for an explanation for the unusual communications between the Alfa Bank servers and “[mail1.trump-email.com](#).”¹³⁴
- September 23, 2016 – Two days after *The New York Times* approaches Alfa Bank, the Trump Organization deletes the “A” record for “[mail1.trump-email.com](#),” which was initially registered to the Trump Organization in 2009 (this deletion occurred prior to any approach by *The New York Times* to the Trump Organization).¹³⁵
- September 27, 2016 – A server assigned to Alfa Bank is the first entity (IP address) in the DNS data-set to conduct a DNS look-up for a server named “[trump1.contact-client.com](#).” The answer received is 66.216.133.29, the same IP address previously used for “[mail1.trump-email.com](#).”¹³⁶
- November 2016 – The “A” record for “[trump1.contact-client.com](#)” is deleted.¹³⁷

¹³⁰ <http://www.ljean.com/NetworkRecords/Trump-Owned-And-Mail-Systems-WHOIS-15.txt>

¹³¹ <https://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

¹³² <https://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

Serenata Intraware GmbH is a German marketing company based in Munich, Germany, and San Francisco, California. Founded in 1996 and led by CEO Johann Deil, Serenata identifies as “one of the foremost authorities on [customer relationship management (CRM)] technology in the world.” <https://www.worldtravelawards.com/news-2442>. On September 17, 2015, Serenata announced that Trump Hotel Collection selected Serenata as its CRM partner “to deliver the integrated, seamless solutions required to meet Trump’s unwavering standard of excellence.” <https://www.hospitalitynet.org/news/4071796.html>

¹³³ Data-set entitled “DNSLUPSMAIL1082417.”

¹³⁴ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹³⁵ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹³⁶ Cendyn controls the domain name “contact-client.com.” See <http://whois.domaintools.com/contact-client.com>.

Charles Deyo is the CEO of Cendyn. “Domain Name: CONTACTCLIENT.

COM Registrar URL: <http://www.godaddy.com> Registrar Name: Charles Deyo Registrar Organization: N ame Server: NS3.CDCSERVICES.COM Name Server: NS2.CDCSERVICES.COM Name Server: NS1.CDCSERVICES.COM DNSSEC: unsigned”

¹³⁷ See data-set entitled “DNSLUPSMAIL1082417,” where “trump1.contact-client.com” begins to appear as “nonexistent domain.”

In summary, two days after *The New York Times* approached Alfa Bank about its unusual connections to "mail1.trump-email.com," someone working on behalf of the Trump Organization deleted the name of the server that had been the subject of the DNS look-ups by Alfa Bank, Spectrum Health, and Heartland Payment Systems. The first entity (IP address) in the DNS data-set (37 million DNS records from January 1, 2016, to January 15, 2017) to conduct a DNS look-up for "trump1.contact-client.com," associated with the same IP address (66.216.133.29), was a server associated with Alfa Bank.

The deletion of "mail1.trump-email.com" was a human action, not automated. Similarly, the initial DNS look-up by the Alfa Bank server of "trump1.contact-client.com" was likely the result of human input and interaction.

Finding #6

6. The Alfa Bank funded-investigations by Stroz Friedberg (*overseen by Brian Benczkowski, the current Assistant Attorney General of the Criminal Division at the Department of Justice*) and Mandiant do not refute the allegations made regarding the server connections, or the findings of this memo.

On June 5, 2017, President Trump announced his intention to nominate **Brian Benczkowski** to be Assistant Attorney General for the Criminal Division of the Department of Justice.¹³⁸ **Benczkowski** had previously served on the **Trump Administration Transition Team**.

Benczkowski has a longstanding relationship with Attorney General **Jeff Sessions**, having previously served as Staff Director for then-Sen. Sessions after Sessions was named Ranking Member of the **Senate Judiciary Committee** in 2009.¹³⁹ **Benczkowski** joined Donald Trump's transition team in September 2016 and led the transition team for the Justice Department before returning to private practice after the 2017 presidential inauguration.¹⁴⁰

In March 2017, as a lawyer at Kirkland & Ellis, **Benczkowski** oversaw an investigation commissioned by **Alfa Bank** into the **Alfa Bank** server connections to a Trump Organization server.

In July 2017, in advance of his Senate nomination hearing, **Benczkowski** submitted materials to the **Senate Judiciary Committee** on two investigations¹⁴¹ commissioned by **Alfa Bank**. The first is a November 4, 2016, investigative report marked "*draft*" by **Mandiant**. The second report, overseen directly by **Benczkowski**, was conducted by **Stroz Friedberg** and dated July 19, 2017.

Benczkowski testified that **Mandiant** "*looked at the 2016 allegations and found them to be inaccurate. And there to be nothing to it.*"¹⁴² However, a July 24, 2017, *New York Times* article provided a different description of the report, stating:

*"According to people familiar with **Mandiant's** review, its experts were shown largely metadata, the information that travels along with a message, for the communications that took place. The contents of the messages — if there were any — were not available. Without a much deeper forensic examination, the*

¹³⁸ <https://www.whitehouse.gov/the-press-office/2017/06/05/president-donald-j-trump-announces-intent-nominate-personnel-key>

¹³⁹ <http://www.cnn.com/2017/07/24/politics/brian-benczkowski-alfa-bank/index.html>; <http://politicalticker.blogs.cnn.com/2009/05/13/sessions-announces-judiciary-staff/>; https://www.washingtonpost.com/news/powerpost/wp/2016/11/16/brian-benczkowski-once-dubbed-gops-go-to-guy-for-hearings-helping-manage-justice-department-transition/?utm_term=.80ce743c5faa

¹⁴⁰ <https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=71649645-8A75-4C9A-8C45-8CEA26A4D4B7>

¹⁴¹ The Mandiant report stated that they conducted their review "in conjunction with Alfa-Bank," that they relied entirely on information provided by Alfa Bank, and that the material necessary to conduct a review of the 2016 server allegations was unavailable. The Stroz Friedberg similarly stated it could not review the 2016 allegations because Alfa Bank did not preserve the required information, stating the data "no longer exists" at Alfa Bank. See <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

¹⁴² Senate Judiciary Confirmation Hearing for the nomination of Brian Allen Benczkowski, to be an Assistant Attorney General, Criminal Division, Department of Justice, July 25, 2017. <https://www.judiciary.senate.gov/imo/media/doc/Benczkowski%20Responses%20to%20QFRs.pdf>.

company could not determine the purpose of the communications. Its resulting report was carefully hedged, noting that without more study, it could not give the bank a clean bill of health. But the bank used that report, however limited, to make the case that it had been exonerated.”¹⁴³

- (a) **Mandiant Report:** The 14-page Mandiant report [including cover (page 1), table of contents (page 2), and numerous images and exhibits] states on page 8 that Mandiant did not have access to the necessary DNS records to complete their investigation:

“At the time Mandiant initiated their investigation, Alfa-Bank’s log retention was set to 24 hours. Alfa-Bank indicated this was due to normal operations generating a high volume of requests; therefore, physical space for log storage was not economically feasible”¹⁴⁴

Without access to the necessary data, Mandiant explored the possibility that “trump-email.com” had been used for marketing or bulk email purposes and that a security software tool may have been responsible for the Alfa Bank DNS look-ups of “mail1.trump-email.com” in response to such emails.¹⁴⁵

The Mandiant report details how “in conjunction with Alfa-Bank,” they observed that Alfa Bank security software (Trend Micro Deep Discovery Inspector) would conduct a DNS look-up of all domain names mentioned in the bodies of the emails received to determine whether they were malicious. They tested this by sending a “fictitious” domain name (“dns-servertrump-email.com”) and found that this “caused 11 automated DNS requests” (these DNS requests included “A and AAAA requests,” two different types of DNS requests).¹⁴⁶

The Mandiant report is careful not to state that the referenced security software caused the Alfa Bank DNS look-ups of “mail1.trump-email.com,” (however, the reader can be left with that impression due to the how the report is structured.) After discussing the Alfa Bank security software (Trend Micro Deep Discovery Inspector) Mandiant’s report states it “investigated how the ‘trump-email.com’ domain was used in the past,” and found that “the domain formerly offered hotel promotion deals for a Trump hotel.”¹⁴⁷ The report states that Mandiant searched 12-months of email archives provided by Alfa Bank and was able to locate three marketing email hits for “mail1.trump-email.com.” However, all three emails were sent prior to February 5, 2016, and therefore were not germane to the

¹⁴³ <https://www.nytimes.com/2017/07/24/us/politics/brian-benczkowski-justice-alfa-bank.html?mcubz=1>

¹⁴⁴ See Mandiant Report Page 8, <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>. Note: The Mandiant Report asserts that Alfa Bank began retaining DNS records after October 2016.

¹⁴⁵ As detailed in this report, the server was not being used for marketing purposes during the period in question.

¹⁴⁶ As a further refutation of the Mandiant report, there are no AAAA DNS requests in the DNS records from May 4, 2016, to September 21, 2016. If the Alfa Bank security software was responsible for the Alfa Bank DNS look-up of the Trump Organization server, based on Mandiant’s testing and hypothesis, there would be AAAA DNS look-ups in the data collected. Moreover, it would be exceptionally odd for the Trump Organization server to be just sending marketing email repeatedly to just Alfa Bank, Spectrum Health, and Heartland Payment Systems.

¹⁴⁷ See Mandiant Report, page 11.

time period in question (This finding is congruent with the assertions of **Cendyn**, which told CNN that the company ceased email marketing operations for the **Trump Organization** in March 2016.).¹⁴⁸

There are three key issues with the **Mandiant** report:

- First, the test conducted by **Mandiant** of the **Alfa Bank** security software (Trend Micro Deep Discovery Inspector) used a “*fictitious*” domain name and found it “caused 11 automated DNS requests.” However, “mail1.trump-email.com” was an actual domain name (not fictitious), and there is no indication or test of how many, if any, DNS requests would occur if a real domain name was used to conduct a comparable test.
- Second, between May 4, 2016, and September 21, 2016, there were 2,761 Alfa Bank DNS look-ups for “mail1.trump-email.com.” **Mandiant** states they found only three marketing emails from “mail1.trump-email.com” in the email archives of **Alfa Bank** (retained from the preceding 12 months). **Mandiant** could find no emails during the period of time in question. Moreover, by **Mandiant**’s own calculations – the three emails produced would only have accounted for approximately 33 DNS look-ups of “mail1.trump-email.com,” not 2,761 look-ups.
- Third, the three emails referenced could not be responsible for any of the 2,761 Alfa Bank DNS look-ups for “mail1.trump-email.com,” as these emails were found to have been sent significantly before the date range in question, May 4, 2016, to September 21, 2016 (nothing after March 2016).

In conclusion, the **Mandiant** report acknowledges that **Alfa Bank** could not provide the DNS records needed to review the **Alfa Bank** DNS look-ups for the Trump Organization server from May 4, 2016, to September 21, 2016. While **Mandiant** then indicates that marketing email could have caused the Alfa Bank security software to conduct a limited number of DNS look-ups, **Mandiant** and Alfa Bank could not produce any marketing email from the **Trump Organization** during the period in question to support the theory, nor could **Mandiant** account for the volume of DNS look-ups.

(b) **Stroz Friedberg Investigative Report:** The Alfa Bank-funded **Stroz Friedberg** 6-page investigative report [*including cover (page 1), a table of contents (page 2), and a promotional closing (page 6)*] states on page 3 that the company was unable to assess the allegations pertaining to the 2016 server communications between Alfa Bank and the Trump Organization because of a lack of data:

¹⁴⁸ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/index.html>; <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>; One of the three emails is from 2015, the remaining two are from February 2016.

“However, because the information is from 2016 (when Alfa-Bank’s practice was to preserve DNS log data only for 24 hours), log data at the bank no longer exists for that timeframe. As such, we were unable to verify whether or not the information is valid.”

Notwithstanding **Stroz Friedberg’s** acknowledgement that they could not assess the 2016 allegations, **Benczkowski** testified that **Stroz Friedberg** *“communicated directly with the bank to get the information that they needed to conduct their review”* and that *“Stroz Friedberg found that there, once again, was no communication link between the Trump Organization and Alfa Bank.”*¹⁴⁹

The **Stroz Friedberg** report suggests there were allegations that the server connections between **Alfa Bank** and the **Trump Organization** continued in 2017. A comprehensive search of news and blog posts from October 31, 2016 (when the original story was detailed in *Slate*) to August 30, 2017, uncovered no claims that Alfa Bank and Trump Organization servers were communicating in 2017.¹⁵⁰ Notwithstanding the lack of allegations, the materials submitted by **Benczkowski** to the Senate state that Stroz Friedberg’s investigation *“found no evidence of any connections or communications between Alfa-Bank and the Trump Organization occurring in 2017.”*¹⁵¹ As per the above, the only serious allegations of communications between **Alfa Bank** and the **Trump Organization** pertain to 2016, not 2017.¹⁵²

¹⁴⁹ Senate Judiciary Confirmation Hearing for the nomination of Brian Allen Benczkowski, to be an Assistant Attorney General, Criminal Division, Department of Justice, July 25, 2017. <https://www.judiciary.senate.gov/imo/media/doc/Benczkowski%20Responses%20to%20QFRs.pdf>.

¹⁵⁰ Search conducted October 2017.

¹⁵¹ <http://i2.cdn.turner.com/cnn/2017/images/07/24/dinh.to.grassley.feinstein.pdf>

¹⁵² While the Stroz Friedberg report states, “[m]ultiple news articles and blog posts speculated that these 2016 and 2017 DNS queries are indicative of communication between Alfa-Bank and The Trump Organization,” no reputable allegations could be found contending there was any communication between the Trump Organization Server and the Alfa Bank server in 2017.

Finding #7

7. The public statements by the Trump Organization, the Trump Campaign, Spectrum Health, and Alfa Bank on the server connections are contradictory and omit pertinent facts. Heartland Payment Systems has never commented on its server connections to the Trump Organization server.¹⁵³

The parties who have commented on the alleged server allegations have offered varying and contradictory statements.¹⁵⁴

(a) **Alfa Bank**: In October 2016, a representative for Alfa Bank, Barbour, Griffith, & Rogers (BGR), a U.S. based lobbying and public relations firm, told *Slate Magazine* that “*neither Alfa Bank nor its principals, including Mikhail Fridman and Petr [Pyotr] Aven, have or have had any contact with Mr. Trump or his organizations.*”¹⁵⁵ The representative added that Alfa Bank and its officers have not “*sent Mr. Trump or his organizations any emails, information or money*” and that the “*assertion of a special or private link is patently false.*”¹⁵⁶

Months later, in March 2017, Alfa Bank released a statement that seemed to confirm their servers were in contact with a server from the Trump Organization. In a CNN article published on March 8, 2017, Alfa Bank commented on the “*server communication*” stating that “*the most likely explanation is that the server communication was the result of spam marketing*” from the Trump Organization. Alfa Bank noted that company executives “*have stayed at Trump hotels, so it's possible they got subsequent spam marketing emails from the Trump Organization.*”¹⁵⁷ Per Alfa Bank, “[t]hose emails might have set off defensive cybersecurity measures at the bank, whose servers would respond with a cautious DNS lookup.”¹⁵⁸ Alfa Bank added that it “*used antispam software from Trend Micro, whose tools would do a DNS lookup to know the source of the spam.*”¹⁵⁹

Alfa Bank has also suggested in letters to Indiana University Professor and DNS expert Dr. L. Jean Camp that the DNS records may have been fabricated, while also indicating that the DNS records were improperly acquired from Alfa Bank.¹⁶⁰

(b) **Cendyn & Serenata**: Both Cendyn and Serenata have denied utilizing the Trump Organization server for email marketing after March 2016. In response to the

¹⁵³ See chart of public statements in attachments.

¹⁵⁴ See technical attachment for detailed refutations of these statements.

¹⁵⁵ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicatin_g_with_russia.html

¹⁵⁶ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicatin_g_with_russia.html

¹⁵⁷ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

¹⁵⁸ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

¹⁵⁹ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

¹⁶⁰ jean.com/files/AlfaBankLetter2.pdf

aforementioned October 31, 2016, *Slate Magazine* article, the Trump Organization called on Cendyn, a third-party vendor that operated the “mail1.trump-email.com” server on its behalf, to conduct an analysis of the alleged server connections.¹⁶¹ In November 2016, Cendyn confirmed there was a server connection, but reported that an “*existing banking customer of Cendyn, completely unrelated to Trump, recently used Cendyn’s ‘Metron’ Meeting Management Application to send communication [sic] to AlfaBank.com.*”¹⁶² On multiple occasions, including on March 2017, Cendyn stated that its contract to provide email marketing services to the Trump Organization ended in March 2016—prior to the period in question—with the Trump Organization hiring Serenata, a German email marketing company, to replace them.¹⁶³ In March 2017, Serenata told CNN that it was hired by Trump Hotels, but that it “never has operated or made use of” the server “mail1.trump-email.com.”¹⁶⁴

- (c) ***Spectrum Health***: In October 2016, Spectrum Health stated that after conducting a “*rigorous*” investigation, the company *did not find “actual communications (no emails, chat, text, etc.) between Spectrum Health and Alfa Bank or any of the Trump organizations.”*¹⁶⁵ Spectrum Health then stated in March 2017 that it found a “*small number of incoming spam marketing emails’ from ‘Cendyn, advertising Trump Hotels,’*” that occurred in 2015. As noted, this is before the period in question.¹⁶⁶

On March 17, 2017, **Alfa Bank**, through a press release, stated that it was the victim of at least three “*DNS attacks*” in February and March 2017 by hackers intending “*to make it seem as if the Trump Organization is currently communicating*” with the bank.¹⁶⁷ Computer experts and journalists did not appear to agree with Alfa Bank’s statement, and our researchers could not locate any reports of individuals claiming that the “*DNS attacks*” indicated a 2017 connection between the Trump Organization and Alfa Bank.¹⁶⁸

As of September 1, 2018, **Heartland Payment Systems** has never publicly commented on its connections to the Trump Organization server.

¹⁶¹ <http://www.complex.com/life/2016/11/donald-trump-server-communicating-with-russia>

¹⁶² <http://www.complex.com/life/2016/11/donald-trump-server-communicating-with-russia>

¹⁶³ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/> Serenata Intraware GmbH is a German marketing company based in Munich, Germany, and San Francisco, California. Founded in 1996 and led by CEO Johann Deil, Serenata identifies as “one of the foremost authorities on [customer relationship management (CRM)] technology in the world.” <https://www.worldtravelawards.com/news-2442> In September 2015, Serenata announced that Trump Hotel Collection selected Serenata as its CRM partner “to deliver the integrated, seamless solutions required to meet Trump’s unwavering standard of excellence.” <https://www.hospitalitynet.org/news/4071796.html>

¹⁶⁴ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/index.html>.

¹⁶⁵ http://www.slate.com/articles/news_and_politics/cover_story/2016/10/was_a_server_registered_to_the_trump_organization_communicating_with_russia.html

¹⁶⁶ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

¹⁶⁷ [http://www.cnn.com/2017/03/17/politics/alfa-bank-trump-dns-hack/;](http://www.cnn.com/2017/03/17/politics/alfa-bank-trump-dns-hack/)

<https://alfabank.com/media/news/2017/03/17/>

¹⁶⁸ Search conducted October 2017.

Appendix

Technical Attachment

Review of Claims Regarding "mail1.trump-email.com"

This attachment is intended for a reader with technical expertise.

Recap & Purpose

Several sources and informal collaborators have assembled a body of data about the behavior of a server named "mail1.trump-email.com" during 2016 and 2017. Several claims have been made about the meaning of this data in the media and web forums. This document attempts to neutrally analyze those claims based on direct access to the DNS data. The researchers and technical experts consulted for this memo include experts with knowledge of the theory and practice of administering DNS, SMTP, and TCP/IP networks. Our researchers spent more than twelve months examining the primary data, secondary documents, and all other available information.

Assumptions

The DNS data-set, which encompasses more than 37 million records, includes 27,390 queries for "trump-email.com" spanning the period from January 1, 2016, to January 15, 2017. The data-set, which was closely reviewed by researchers, is believed to be authentic. We further stipulate that these logs are a large, representative sample of all DNS traffic on the internet for this domain name during this period.

Examining these logs, our researchers found that the behavior during the period of May 4, 2016, to September 21, 2016, was strikingly different from the periods before and after. During these 141 days, significant traffic relating to the Trump Organization was observed from three entities: Alfa Bank, Spectrum Health, and Heartland Payment Systems. Hereafter, May 4, 2016, to September 21, 2016, will be referred to as the "*period of interest*."

Interpretations

The unusual DNS activity during the period of interest has an explanation; however, the DNS logs themselves cannot provide that explanation. The following are the two contrasting explanations that have been the most heavily promoted, and the technical observations that argue for and against each one.

Theory 1: The DNS Look-Ups are a Result of Spam Marketing Email

This theory says that the DNS look-ups of the Trump Organization server were merely a normal side effect of a large-scale spam/bulk email marketing campaign that Cendyn was

performing on behalf of Trump Organization – i.e., marketing email sent from the Trump Organization Server triggered many DNS look-ups to authenticate the email, or to check for malicious links in the body of the emails. This is the "*nothing to see here*" argument. Almost all technical observations argue that Theory 1 is false.

Evidence in Favor of Theory 1

- The domain was registered by Cendyn, an email marketing company, on behalf of the Trump Organization.
- Cendyn made a public statement that they conducted email marketing in the past on behalf of Trump hotels (but ended the practice in March 2016).¹⁶⁹
- The Trump Organization made a public statement that they contracted with Cendyn for email marketing (but ended the practice in 2010).¹⁷⁰
- When a researcher connected to port 25 on "mail1.trump-email.com" during the period of interest, the SMTP banner identified it as a "Listrak" email server.¹⁷¹

Evidence Against Theory 1

- The period of interest happened months after the end of the email marketing relationship between Cendyn and the Trump Organization, according to statements by both organizations.
- The number of unique source IP addresses resolving "mail1.trump-email.com" during the period of interest is very small and would reflect a marketing campaign to just three organizations: a Russian bank, a New Jersey payment processor, and a Michigan health care company. When our researchers looked at queries logged for the domain of a different Cendyn client, for example, there were more than a thousand sources.
- No examples of email sent containing "trump-email.com" during the period of interest have been produced, despite significant effort to find such emails (*see* Mandiant report).

¹⁶⁹ <http://www.cnn.com/2017/03/09/politics/fbi-investigation-continues-into-odd-computer-link-between-russian-bank-and-trump-organization/>

¹⁷⁰ In the Slate Magazine piece from October 31, 2016, Hope Hicks stated that the Trump Organization server "has not been used since 2010." http://www.slate.com/articles/news_and_politics/politics/2016/11/the_trump_server_evaluating_new_evidence_and_countertheories.html

¹⁷¹ Listrak is a Lititz, Pennsylvania, company that maintains servers to send marketing and bulk emails on behalf of corporate clients, including the Trump Organization. For more information, see http://lancasteronline.com/news/local/fbi-gets-lititz-firm-s-help-in-probe-of-russian/article_ef5d5ed0-05ae-11e7-a003-471e5543b26a.html

- The IP address for "mail1.trump-email.com" was not authorized to send email on behalf of "trump-email.com," according to the SPF record for that domain (which did exist).
- There were no "TXT" queries observed for "trump-email.com," which would have been generated if mail servers were receiving incoming email from "trump-email.com" and checking the SPF policy (Experimentation found that the mail servers for 20% of large corporations enforced SPF, including Alfa Bank.)
- A study of the intervals between query arrival times found that they were more suggestive of human activity than mass/bulk marketing email.¹⁷²
- The DNS queries from Alfa Bank and Spectrum Health actually increased in frequency after the "mail1.trump-email.com" zone was deleted on September 23, 2016. It makes little sense for the operators to delete the zone, then increase the volume of email mentioning it.
- Servers used to send mass marketing email are typically found bouncing in and out of the more than a dozen published spam blacklists. A marketing company will work hard to keep out of blacklists, but regressions constantly happen. Our researchers did not see either the domain or the IP address in any of dozens of public blacklists.

Theory 2: The DNS Look-Ups Indicate There Was a Covert Email Server Side Channel

It has been claimed that "mail1.trump-email.com" was a "secret email server" that was used by the Trump Organization, Alfa Bank, and Spectrum Health. This theory fits many of the observations unexplained by the spam/marketing email theory, but is undermined by others.

Evidence in Favor of Theory 2

- The machine was named "mail1."
- When a researcher attempted to connect to port 25 on "mail1.trump-email.com" during 2016, they found an SMTP banner, so an MTA was running there, at least.¹⁷³
- The timing analysis showed heteroscedasticity that is a good fit for human two-way communication.¹⁷⁴

¹⁷² See Time Series Analysis in Appendix by third party.

¹⁷³ "Port25 powerMTA," is a commercial SMTP software that offers an "access control list" (ACL) capability. This would permit the Trump Organization server, "mail1.trump-email.com," to filter out emails based on their originating IP address and only accept email connections from approved parties. See third-party analysis.

¹⁷⁴ See Time Series Analysis in Appendix by third party.

- The preponderance of DNS traffic coming from just four sources is overwhelming evidence that some special communication relationship existed among the four entities (two Alfa Bank servers, Spectrum Health, and Heartland Payment Systems). However, this evidence does not mean that the communication had to be conducted via email, or exclusively via email; other communication applications could have been used. In fact, researchers have confirmed that Cendyn offers its clients an array of services, including the ability to conduct communications and exchange payments.¹⁷⁵
- The "mail1.trump-email.com" record was deleted (returning SERVFAIL) on September 23, 2016, which was two days after *The New York Times* contacted Alfa Bank. *The New York Times* did not contact representatives of Cendyn or the Trump Organization. It is either a coincidence, or *The New York Times* questions caused Alfa Bank to contact the Trump Organization, who then made changes to its domain.
- After the name was deleted, the query frequency from Alfa Bank dramatically increased on September 26, 2016, then the queries ceased altogether on September 27, 2016. The query frequency from Spectrum Health dramatically increased on September 23, 2016, and queries ceased on September 30, 2016. This would make sense if a mail relay was attempting delivery to "mail1.trump-email.com." Or it could indicate another type of application that conducted persistent reconnection attempts.
- For a period of 6 minutes immediately after the name was deleted, queries were logged from a different IP address at Alfa Bank, seeking "mail.trump-email.com.moscow.alfaintra.net." The concatenation of a target name with a local search domain can happen when a query fails, but nothing would automatically change the "mail1" component to "mail." After 6 minutes, these queries are never seen again, and nothing similar is seen from any other source in the world. Our researchers have no better theory than a human attempting to change something, while coordinating with administrators or representatives of the Trump Organization, given the precise timing.
- On September 27, 2016, ten minutes after Alfa Bank sent its last query for "mail1.trump-email.com," it sent the first query in the DNS data-set¹⁷⁶ for the qname, "trump1.contact-client.com." The domain resolved to the same IP address that used to be "mail1": 66.216.133.29. This is compelling evidence that someone provided "trump1.contact-client.com" to Alfa Bank for some communication purpose (although, again, this evidence does indicate the purpose was to send email).

¹⁷⁵ Preliminary research into Cendyn software services indicate that Cendyn provides clients with communications and payment sending capabilities via their eProposal and Guestfolio CRM software platforms.

¹⁷⁶ The 37 million DNS records from January 1, 2016, to January 15, 2017.

Evidence Against Theory 2

- The Trump Organization claimed there was no email communication, marketing or otherwise, between Alfa Bank and the Trump Organization.
- It would be unusual for the customer (Trump Organization) of an email marketing vendor (Cendyn or Serenata) to have sufficient control of the provisioned server to install different software and change its function on its own.
- There are no DNS queries of type "MX" in the logs, which would be expected if one simply tried to send an email in standard fashion to "someone@mail1.trump-email.com."¹⁷⁷
- The SPF policy for "trump-email.com" did not include this machine.
- An attempt to talk to port 25 on "mail1.trump-email.com" was refused with an SMTP 521 message, "*this server does not accept mail from you.*"

Inconclusive

- It could be argued that the lack of TXT queries (such as for the SPF policy) does not say much about a scenario where only four entities (IP addresses) are communicating, given the observation that only about one in five companies is enforcing SPF. However, third-party tests conducted during the period in question show that Alfa Bank consistently performed SPF/DKIM authentication look-ups, but not when querying the Trump server's DNS records.¹⁷⁸

¹⁷⁷ https://www.eventhelix.com/RealtimeMantra/Networking/SMTP_Sequence_Diagram.pdf; See also, Address Resolution and Mail Handling, from RFC2821 (official authoritative direction from the Internet Engineering Task Force) regarding SMTP protocol: "Once an SMTP client lexically identifies a domain to which mail will be delivered for processing (as described in sections 3.6 and 3.7), a DNS lookup MUST be performed to resolve the domain name [22]. The names are expected to be fully-qualified domain names (FQDNs): mechanisms for inferring FQDNs from partial names or local aliases are outside of this specification and, due to a history of problems, are generally discouraged. The lookup first attempts to locate an MX record associated with the name. If a CNAME record is found instead, the resulting name is processed as if it were the initial name. If no MX records are found, but an A RR is found, the A RR is treated as if it was associated with an implicit MX RR, with a preference of 0, pointing to that host. If one or more MX RRs are found for a given name, SMTP systems MUST NOT utilize any A RRs associated with that name unless they are located using the MX RRs; the "implicit MX" rule above applies only if there are no MX records present. If MX records are present, but none of them are usable, this situation MUST be reported as an error. When the lookup succeeds, the mapping can result in a list of alternative delivery addresses rather than a single address, because of multiple MX records, multihoming, or both. To provide reliable mail transmission, the SMTP client MUST be able to try (and retry) each of the relevant addresses in this list in order, until a delivery attempt succeeds. However, there MAY also be a configurable limit on the number of alternate addresses that can be tried. In any case, the SMTP client SHOULD try at least two addresses."

¹⁷⁸ Additional Evidence that the Trump Organization Server was not Sending Traditional Email: If "mail1.trump-email.com" was being used for mail marketing purposes, recipient organizations would have made DNS queries to retrieve the SPF record to authenticate the email. However, the DNS records show no queries for the SPF text record – no type 16 text queries at all. Moreover, third-party tests conducted during the period in question show that Alfa Bank consistently performed SPF/DKIM authentication look-ups as a matter of practice. This provides additional evidence that the Trump Organization server was not sending marketing email.

Theory 3: The DNS Look-Ups Are Associated with Malware

It could be malware. But if the DNS look-ups are instead associated with malware or some infection vector, one would expect to see a more automated look-up pattern (Indeed, one would likely see the resolution of a 3rd party command-and-control domain, instead of basically three entities.). The lookup volume and paucity of qname diversity likely rules out this theory.

The problem with the malware hypothesis is that it could never be falsified. Even if malware caused the queries, the question remains: why are only these entities affected?

Conclusion

Our researchers conclude that Theory 1 (*The DNS Look-Ups are a Result of Spam Marketing Email*) is almost certainly false. Spam is nothing new on the internet, and mass mailings create easily observed phenomena, such as a wide dispersion of backscatter queries from spam filters. No such evidence is found in the logs.

Theory 2 (*The DNS Look-Ups Indicate There Was a Covert Email Server Side Channel*) is probably also incorrect for being too specific. The lack of MX or TXT queries makes it highly unlikely that these four entities were sending ordinary SMTP email. It would be an awkward and unusual configuration at best. Nonetheless, overwhelming evidence says that there was a special relationship between these four entities during the period of interest. Whatever purpose the machine named "mail1.trump-email.com" served, that purpose was something nearly exclusively used by Alfa Bank, Spectrum Health, and Heartland Payments Systems. Further, systems administrators for Alfa Bank and the Trump Organization likely took human action to re-establish access to the server when it was interrupted.

Again, the DNS traces will not by themselves reveal the nature of the special relationship that existed among the four entities. It could still be true that the machine was used by the four companies for some purpose unrelated to the Trump Organization (although the parties would have known they were using a "trump-email.com" name to access it).

Irrelevant and Incorrect Analysis

Our researchers reviewed an enormous amount of secondary analysis of the data in the media and web forums that is incorrect, irrelevant, or both. Some of these claims are enumerated below to address the inevitable, "but what about..." questions.

1. Incorrect: "The DNS traffic was a covert channel."

It is possible to tunnel or conceal arbitrary data in the DNS protocol, and it is sometimes done to evade firewall restrictions or hide activity. To do this at any useful scale requires use of TXT

or other unusual DNS query times, or a high volume of queries, if information is to be hidden inside ordinary-looking DNS payloads. There are no signs of complex manipulation in the "mail1.trump-email.com" traffic, and there is not remotely enough volume for a steganographic technique (such as uppercase-encoding) to be viable.

2. Incorrect: "The Spectrum Health machine was a Tor exit node."

It is unclear where this theory originated. Anyone can inspect the list of Tor exit nodes at any time. There is no reason to believe any of the IP addresses relevant to this case were ever part of Tor.

3. Irrelevant: "The Deep Discovery Inspector application creates DNS traffic."

The Mandiant report released by lawyers for Alfa Bank describes a Trend Micro product named "*Deep Discovery Inspector*" (DDI). Mandiant found that DDI issued "*11 automated DNS requests within the first 14 seconds*" of receipt of an email containing a fictitious domain name in the body of the text. Even assuming this is true, it does not matter. As the Mandiant report indicates, the only examples of spam email containing "trump-email.com" to Alfa that have ever been produced are from dates prior to February 5, 2016—well before the period of interest. Notably, no DNS queries were seen from Alfa Bank in the DNS data-set from January 1, 2016, to May 3, 2016.

A second problem with the DDI hypothesis is that the Mandiant report found that DDI issued both A and AAAA queries. However, AAAA queries were never seen in the DNS logs collected during the period of interest.

4. Irrelevant: "The Alfa firewall would have blocked direct communication on mail ports between Alfa-Bank DNS servers and mail1.trump-email.com."

Even if the wildest conspiracy theory were true, there is no reason for an Alfa Bank DNS server to attempt to connect to port 25 on "mail1.trump-email.com." This claim, from the "management summary" (sic) of the Mandiant report, not substantiated in the report body, is meaningless.

5. Irrelevant: "The DNS records do not prove two-way communication."

This claim has been made in public relations statements (i.e. by Cendyn) and even by "expert" observers. It is technically accurate that the DNS logs do not prove that communication took place. But it is a misleading statement. DNS queries do not carry the content of the communication, but neither do they happen for no reason. They happen when a server is attempting to communicate.

Lacking evidence for any spurious cause for the queries, such as a specifically misconfigured machine, the simplest and most reasonable assumption is that the DNS traffic was created by application-layer software attempting to open a TCP connection. And there is no reasonable assumption for why software would attempt to open a connection except that it wanted to exchange information (i.e. communicate).

6. Irrelevant: "trump-email.com was registered by Cendyn, not Trump."

This is not contested, it simply re-confirms that Cendyn operated a server of some kind on behalf of the Trump Organization. It says nothing about what that server was used for, or by whom.

7. Irrelevant: "Cendyn used to send marketing email on behalf of Trump Organization."

This is not contested. Examples have been produced that are years old. However, no email containing "trump-email.com" during the period of interest has ever been identified, despite significant efforts to locate such email. By the Mandiant report's description of its own content, if Alfa Bank had any emails, Mandiant should have been able to locate them.

8. Irrelevant: The entire Stroz Friedberg report.

A document titled "*Summary of Cyber Incident Investigation*" was commissioned by Alfa Bank, written by "Stroz Friedberg, LLC," and submitted to the Senate by then-Department of Justice nominee Brian Benczkowski. The document's own introduction explains its irrelevancy: "*Alfa Bank engaged Stroz Friedberg on March 14, 2017*" to review "*suspicious entries in its DNS logs*" from February and March 2017. No matter what could be found in DNS and forensic logs at Alfa Bank from February 2017, it has nothing to do with the 2016 period of interest.

9. Incorrect: "The DNS look-ups of the Trump Organization Server was DDoS attack."

A Distributed Denial of Service (DDoS) attack is an attempt to make an online service unavailable by overwhelming it with traffic from multiple sources. The look-ups of the Trump Organization Server were miniscule in both total number and in number of sources.

EXHIBIT B

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SEOUL
SHANGHAI
SINGAPORE
TOKYO
TORONTO

February 3, 2021

VIA ELECTRONIC MAIL

Mr. William Taylor
Counsel for Daniel Jones and The Democracy
Integrity Project
Zuckerman Spaeder LLP
1800 M Street NW
Suite 1000
Washington, DC 20036-5807

RE: *AO Alfa-Bank v. John Doe et al.*,
Case No. 50-2020-CA-006304-XXXX-MB
Alfa Bank – Jones Entities Confidentiality Letter Agreement

Dear Mr. Taylor:

This letter is to memorialize the agreement between AO Alfa-Bank (“Alfa Bank”), Daniel Jones (“Mr. Jones”), Advance Democracy, Inc. (“ADI”), Penn Quarter Group (“PQG”), and The Democracy Integrity Project (“TDIP”) (together with Mr. Jones hereinafter and collectively the “Jones Entities”), for purposes of the Jones Entities responding to the subpoenas issued in the above-captioned litigation. Accordingly, the letter agreement is entered into for the sole purpose

of facilitating discovery in the litigation and protecting the confidentiality and other interests of the Jones Entities throughout the course of this litigation.

1. **Scope.** All documents produced in the course of discovery, all responses to discovery requests and all deposition testimony and deposition exhibits and any other materials which may be subject to discovery (hereinafter collectively “Documents”) shall be subject to this Letter Agreement concerning confidential information as set forth below. This Letter Agreement does not preclude, or otherwise affect, the Jones Entities from withholding or redacting any Document on the basis of any applicable privilege including, but not limited to, the attorney-client privilege and the attorney work product doctrine. The Jones Entities shall produce a privilege log reflecting any privilege claims.

2. **Form and Timing of Confidential Designation.** Confidential Documents shall be so designated by placing or affixing the word “CONFIDENTIAL” on the Document in a manner which will not interfere with the legibility of the Document. With respect to any Confidential documents produced as electronically stored information (“ESI”), the producing Party may label the production media “CONFIDENTIAL” and/or alter the file name of the native ESI to include “Conf.” and shall inform counsel for Alfa Bank in writing of the designation at the time of production.

3. **Documents Which May be Designated Confidential.** The Jones Entities may designate a Document as Confidential if the Document constitutes, reflects, or contains (i) information protected from disclosure by statute, (ii) sensitive personal information, (iii) trade secrets, (iv) proprietary or confidential research, development, or commercial information, (iv) other business-sensitive information, or (v) other non-public information that the Party

believes in good faith would create a risk of harm if disclosed. Information or Documents which are known to be available in the public sector may not be designated as Confidential.

4. **Protection of Confidential Material.** Documents designated Confidential under this Letter Agreement shall not be used or disclosed by Alfa Bank or counsel for Alfa Bank for any purposes whatsoever other than preparing for or conducting the litigation in which the Documents were disclosed (including any appeal of that litigation). The Documents designated as Confidential can be reviewed by the following individuals and/or entities: (i) counsel for Alfa Bank and employees of counsel for Alfa Bank who are engaged in assisting in the litigation or have responsibility for the preparation and trial of the lawsuit; (ii) Alfa Bank and its employees; (iii) consultants, investigators, or experts employed by Alfa Bank or counsel for Alfa Bank to assist in the preparation and trial of the lawsuit; (iv) outside service-providers and consultants regarding document and ESI processing, hosting, review, and production, including any e-Discovery consultants and trial consultants; and (v) other persons only upon consent of the producing Party and on such conditions as are agreed to. Alfa Bank shall ensure that any individual and/or entity permitted to receive the Documents will not disclose the Documents or their contents to any individual and/or entity not permitted to review the Documents under the terms of this agreement and will not use the Documents for any purpose other than assisting with lawsuits filed by Alfa Bank in which the Documents are produced.

5. **Challenges to Designation as Confidential.**

a. If any disputes arise with respect to a Confidential designation, the burden of proving the necessity of a Confidential designation remains with the producing Party.

b. If Alfa Bank or counsel for Alfa Bank contends that Documents designated Confidential are not entitled to confidential treatment, it shall give written notice to counsel for the Jones Entities who affixed the designation of the specific basis for the challenge. The producing Party shall have fifteen (15) days from written notice from counsel for Alfa Bank to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the Confidential designation.

c. Notwithstanding any challenge to the designation of Documents as Confidential, all material previously designated Confidential shall continue to be treated as subject to the full protections of this Letter Agreement until one of the following occurs:

- (1) The producing Party withdraws its claim that the Documents are Confidential in writing;
- (2) The producing Party fails to move timely for an Order designating the Documents as Confidential; or
- (3) A court rules that the Documents should no longer be designated as Confidential.

6. **Inadvertent Failure to Designate.** The inadvertent failure of the Jones Entities to designate specific documents or materials as Confidential shall not be deemed a waiver in whole or in part of a claim of confidentiality as to such documents or materials. In the event that the Jones Entities fail to designate a Document as Confidential, the producing Party may correct the error by notifying counsel for Alfa Bank in writing and making the appropriate designation. Alfa Bank shall then treat that Document in accordance with the designation and shall take reasonable

steps to ensure that any person to whom Alfa Bank or its counsel has previously disclosed that Document treats the Document in accordance with the designation as well.

7. **Unauthorized Disclosure of Confidential Documents.** In the event that Alfa Bank or its counsel learns that a Document marked as Confidential has been disclosed, inadvertently or otherwise, to a person not authorized as a recipient of that Document under this Letter Agreement, Alfa Bank, upon learning of that disclosure, shall do the following:

- (1) Promptly notify the person to whom the disclosure was made that the disclosure contains Confidential information subject to this Letter Agreement;
- (2) Promptly make reasonable efforts to obtain the return of the Confidential Document or information, and preclude its dissemination, from the person to whom the disclosure was made; and
- (3) Within five (5) business days, serve the Jones Entities with a written notice stating the identity of the person to whom the disclosure was made, the nature and circumstances of the disclosure, and the steps taken to obtain the return of the Confidential Document or information and ensure against its further dissemination or use.

8. **Return of Confidential Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all Documents treated as Confidential under this Letter Agreement and copies thereof shall be returned to the producing Party unless: (1) the Document has been entered as evidence or filed (unless introduced or filed under seal); (2) the Parties stipulate to destruction in lieu of return; or (3) as to Documents containing the notations, summations, or other mental impressions of individuals and/or entities outlined above in section

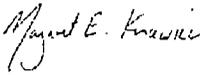
Mr. William Taylor
February 3, 2021
Page 6

4, that individual and/or entity elects destruction. Notwithstanding the above requirements to return or destroy Documents, counsel for Alfa Bank may retain attorney work product which refers or relates to information designated Confidential. This work product continues to be Confidential under the terms of this Letter Agreement. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose Confidential Documents or any information that has been designated as Confidential.

Mr. William Taylor
February 3, 2021
Page 7

If the foregoing is acceptable to you, please so indicate by executing a copy of this Letter Agreement in the space indicated below.

Very truly yours,



By: _____

Date : February 26, 2021

Margaret Krawiec
Attorney for AO-Alfa Bank

Accepted and agreed as of the date set forth below:

By: Wm. Taylor

Date : February 3, 2021

William Taylor
Attorney for the Jones Entities

EXHIBIT C



House Permanent Select Committee on Intelligence

Report on Russian Active Measures

March 22, 2018

~~Classified by: 5080841~~
~~Derived from: Multiple Sources~~
~~Declassify on: 20431231~~

EXHIBIT
17
Jones

PENGAD 000-631-8888

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(U) Chapter 6 - Summary of Related Committee Oversight Efforts

(U) During the course of the Committee's investigation into Russian active measures targeting the 2016 U.S. presidential election, the Committee identified several issues within its jurisdiction that required additional attention and oversight outside of the broader investigation.

Sufficiency of "Unmasking" Procedures

(U) In March 2017, the Committee became aware of senior Obama Administration officials' requests for U.S. person identities related to President-elect Trump's transition team. These U.S. person identities were previously redacted in IC reporting. The Committee initiated its investigation of the process for requesting identities, colloquially referred to as "unmasking," to determine the sufficiency of existing policies and procedures related to the release of U.S. person identities. As a result, the Committee recognized gaps in the "unmasking" processes, including the lack of IC-wide standards related to the justification for requesting U.S. person identity information. Therefore, the Committee's findings related to these processes necessitated an immediate change in policy.

(U) The Committee believed that the IC should use specific procedures related to the "unmasking" of U.S. person identities in IC reporting, including additional review requirements for "unmasking" presidential transition team officials during a presidential transition.¹ The Committee felt that a

change in policy was necessary for the IC to protect U.S. person privacy and the sanctity of the peaceful transition of presidential administrations, all while resulting in no operational impact. As part of negotiations of the FISA Amendments Act of 2017, DNI Coats and the White House agreed to develop a new IC-wide policy for handling "unmasking" requests. Therefore, on January 11, 2018, DNI Coats signed Intelligence Community Policy Guidance 107.1 (see Appendix D), which includes requirements for:

- IC element heads or designee approval for requests for U.S. person identity information;
- Documentation for names or titles of individuals who will receive the U.S. person identify information;
- A fact-based justification for each U.S. person identity request; and
- IC element General Counsel concurrence for U.S. person identity requests that relate to Presidential transition team members prior to those identities being approved for release.

[REDACTED]

(U) Using a series of intermediaries, the DNC and Hillary for America (Clinton campaign) paid a research firm to conduct opposition research on candidate Trump and his ties with Russia. Fusion GPS (Fusion) is the trade name of a Washington, D.C.-based company that conducts research primarily

on behalf of corporate clients.² Marc Elias, chair of Perkins Coie's election law practice who represented the DNC and the Clinton campaign, hired Fusion in spring 2016 and paid Fusion \$1 million to conduct opposition research on candidate Trump. Fusion subsequently hired former British Secret Intelligence Service officer Christopher Steele for \$160,000 to obtain information on candidate Trump via a Russia-based primary sub-source and numerous sub-sub-sources network who were purported to be current and former Russian government officials. The information Steele collected was reported back through a series of memos to Fusion and Perkins Coie. Steele produced sixteen memos, which comprise what has become known as the Steele dossier.³

(U) By the end of September 2016—in addition to Fusion and Perkins Coie—Steele provided the information in the Steele dossier to the DOJ, Department of State, numerous press outlets, and the FBI. [REDACTED]

[REDACTED]

[REDACTED]

(U) After uncovering this information, the Committee voted to publicly release two memos, one written by the Majority on January 18, 2018 (see Appendix E) and another written by the Minority on January 29, 2018 (see Appendix F). In addition to the Committee's oversight of this matter, the Senate Judiciary Committee identified the same issues in a criminal referral sent by Chairman Grassley and Senator Graham to the DOJ on January 4, 2018, describing Christopher Steele's exploits in detail (see Appendix G).

(U) Ongoing lines of effort include (1) continued oversight of DOJ and FBI (see Appendix H for relevant correspondence); (2) inquiries into the State Department's handling of information from Steele, including the dossier;⁴ and (3) post-election anti-Trump research by Steele and/or Fusion GPS.⁵

1. H.R. 4578, § 207, 115th Cong.

2. HPSCI, "Executive Session Interview of Glenn Simpson," Nov. 14, 2017.

3. The dossier, however, has no fixed composition. The version published by BuzzFeed does not necessarily entirely correspond with documents provided to other parties.

4. Former State Department official [REDACTED] has stated publicly that, over a period of approximately two years, he provided over "100 of Steele's reports with the Russia experts at the State Department," including Assistant Secretary of State Victoria Nuland. In September 2016, Winer was personally briefed by Steele on the dossier, and shared a two-page summary with Nuland, who ensured that Secretary of State John Kerry was made aware of Steele's information. Additionally, [REDACTED] received from Clinton associate [REDACTED] information collected by an individual named [REDACTED] Shearer which "alleged the Russians had compromising information on Trump of a sexual and financial nature." Winer shared with [REDACTED] information with Steele, who provided it to the FBI. [REDACTED], "Devin Nunes is investigating me. Here's the truth..." *Washington Post*, Feb. 8, 2018; Susan S. Glasser, "Victoria Nuland: The Full Transcript," *POLITICO*, Feb. 5, 2018; Appendix G. The Committee believes that additional State Department officials were aware of Steele's efforts in 2016.
5. [REDACTED] who currently leads "a research and investigatory advisory" called the Penn Quarter Group (PQG), is a former employee of The Daschle Group, U.S. Senate Select Committee on Intelligence (SSCI), and FBI; while at SSCI, he served as the "chief author" of "The Committee Study of the Central Intelligence Agency's Detention and Interrogation Program." The Penn Quarter Group, "Our Leadership," thecq.com/team/leadership; LinkedIn, [REDACTED] <https://www.linkedin.com/in/danieljones>. In late March 2017, Jones met with FBI regarding PQG, which he described as "exposing foreign influence in Western elections." [REDACTED] told FBI that PQG was being funded by 7 to 10 wealthy donors located primarily in New York and California, who provided approximately \$50 million. [REDACTED] further stated that PQG had secured the services of Steele, his associate [REDACTED], and Fusion GPS to continue exposing Russian interference in the 2016 U.S. Presidential election. [REDACTED] planned to share the information he obtained with policymakers on Capitol Hill and with the press, and also offered to provide PQG's entire holdings to the FBI. FBI, [REDACTED] FD-302, Mar. 28, 2017.

EXHIBIT D



ZUCKERMAN
SPAEDER

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May 2, 2018

VIA E-MAIL AND HAND DELIVERY

Dana Boente, Esq.
General Counsel
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, DC 20535

Re: FBI 302

Dear Mr. Boente:

We represent Daniel J. Jones. We write to seek a meeting to discuss two issues concerning a reported FBI 302 that was described in a footnote in the House Permanent Select Committee on Intelligence's ("HPSCI") "Report on Russian Active Measures," which was publicly released on April 27, 2018 (footnote 5, page 113).

The first issue is the inaccuracy of the information contained in the HPSCI report that purports to be from a FBI 302 dated March 28, 2017. Citing the FBI 302, the HPSCI majority writes: "In late March 2017, Jones met with FBI regarding PQG [The Penn Quarter Group], which he described as . . . funded by 7-10 wealthy donors . . . who provided approximately \$50 million." These assertions are inaccurate.

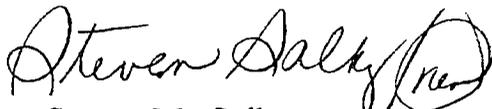
The second issue is the violation of the terms under which Mr. Jones met with the FBI and provided sensitive information. Before Mr. Jones provided information to two FBI Special Agents in March 2017, he was assured by the FBI Special Agents that his identity would be protected from exposure and that any information Mr. Jones provided to the FBI would not be associated with him. Neither of these FBI commitments to Mr. Jones were honored.

Further, Mr. Jones was never notified by the FBI that information relating to his contact with the Special Agents would be provided to a congressional committee. Nor did the FBI contact our client to inform him that a FBI 302 concerning his confidential contact with the Bureau —and details on the data he provided—would be turned over to a congressional committee.

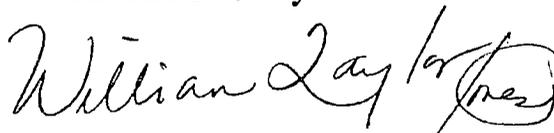
Given the apparent inaccuracies in the FBI 302, the breach of confidentiality, and the social media threats and harassment that have resulted subsequent to the HPSCI report regarding the FBI 302, we request a meeting before May 9, 2018, to discuss how best to correct the record.

We look forward to your prompt response.

Sincerely,

Handwritten signature of Steven M. Salky in cursive script, with a circled 'me' at the end.

Steven M. Salky

Handwritten signature of William W. Taylor, III in cursive script, with a circled 'me' at the end.

William W. Taylor, III

EXHIBIT E



ZUCKERMAN
SPAEDER

Steven M. Salky
PARTNER
Zuckerman Spaeder LLP
ssalky@zuckerman.com
(202) 778-1828

June 25, 2018

VIA E-MAIL AND HAND DELIVERY

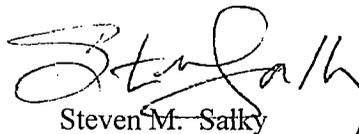
Dana Boente, Esq.
General Counsel
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, DC 20535

Re: FBI 302

Dear Dana:

We write to follow-up on our letter of May 2, 2018. Although Steve and you spoke twice on the phone last week and although Steve was told he would hear from an agent assigned to discuss the matters in our prior letter, we have not received any follow up communication. We remain concerned about both the inaccuracy of the FBI 302 (at least as described by the House Permanent Subcommittee on Intelligence Report on Russian Active Measures) and about its production to HPSCI. We respectfully request the opportunity to meet with you and/or your designated representative to discuss our concerns.

Sincerely,



Steven M. Salky



William W. Taylor, III *by SMS*

EXHIBIT F

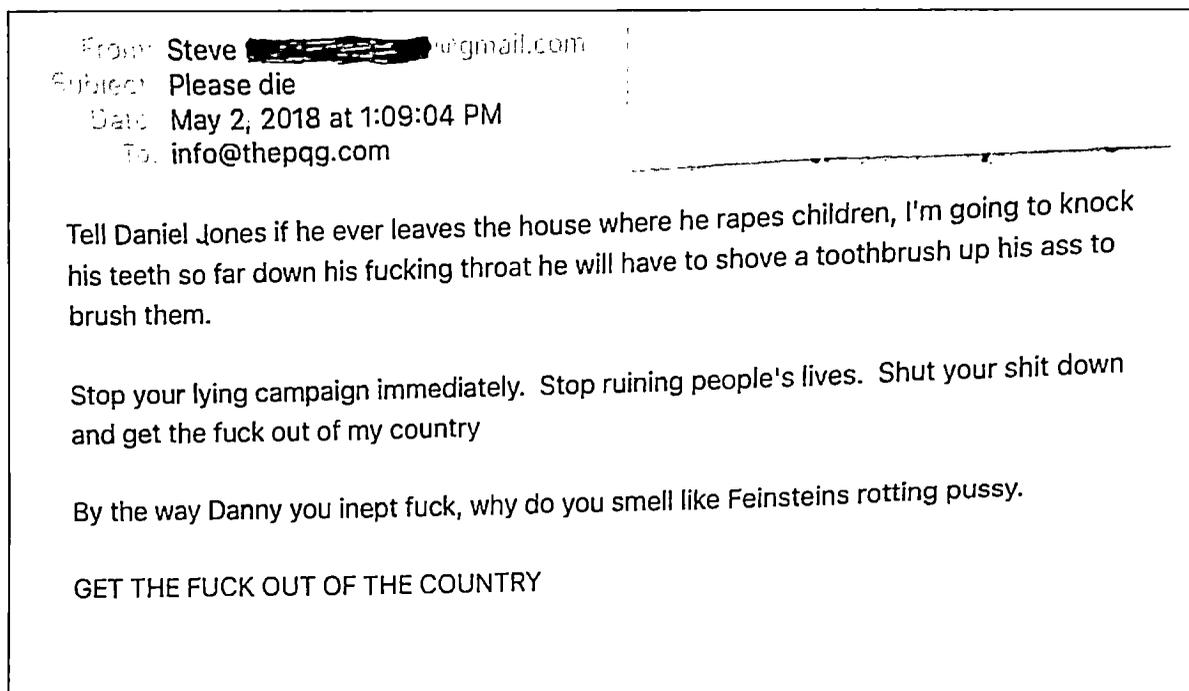
Misinformation and Sample of Threats Against Daniel J. Jones

Date of Data Analysis: August 30, 2021

Section A: Misinformation

After the release of a U.S. House Intelligence Report on April 27, 2018, which included inaccurate information about Daniel Jones, threats against Mr. Jones increased. Between April 1, 2018, at 12:00am UTC, and April 1, 2019, at 12:00am UTC, there were approximately 8,410 posts¹ on Twitter that mentioned Daniel Jones² and the false information relating to "\$50 million" from the House report.³ This data only includes posts that are still accessible on Twitter as of August 30, 2021. This review does not include Twitter posts that have already been taken down from the platform, or suspended, for inciting violence or for other violations. An analysis of Twitter data indicates this specific misinformation about Mr. Jones and the so-called "\$50 million" may have reached as many as 27.7 million Twitter users.⁴

Section B: Example of a Threat via Email



¹ Twitter posts are defined as tweets, retweets, or replies.

² Posts were determined to mention Daniel Jones if they included any of the following terms: "Daniel Jones," "Dan Jones," "Daniel J. Jones," "Daniel J Jones"

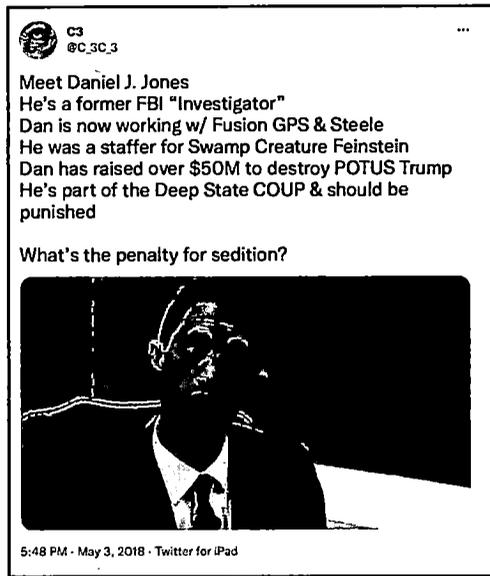
³ Posts were determined to mention \$50 million if they included any of the following terms: "\$50 million," "\$50M," "50 million," "50M"

⁴ This analysis is based on the number of followers of each account who posted the misinformation and does not take into account potential follower overlap.

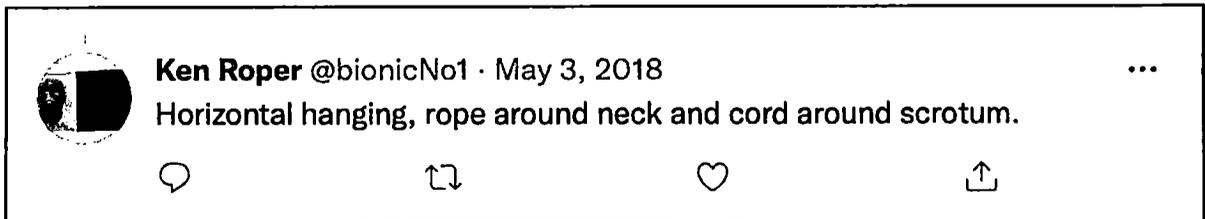
Section C: Example of Threats on Twitter

Although numerous posts with threatening language directed at Mr. Jones have already been removed from Twitter, other violent content remains. Below is a sample of content that remains accessible on the platform:

1. A post on May 3, 2018, from Twitter user @C_3C_3⁵ on May 3, 2018, accused Mr. Jones of “*sedition*,” with comments promoting various ways Mr. Jones should be tortured, executed, or both.



Twitter user @bionicNo1 replied to the above post, writing: “Horizontal hanging.”⁶



⁵ https://twitter.com/C_3C_3/status/992204323626110977;

Screenshots taken August 30, 2021. Post also available on the Internet Archive:

https://web.archive.org/web/20210830132320/https://twitter.com/C_3C_3/status/992204323626110977

⁶ <https://twitter.com/bionicNo1/status/992245398591827968>

Twitter was a platform for a lot of "hate speech" in the past few years. What's the
of a party was a little more in the past few years. 2017

 **Minty @MintyParkerLA** · Jun 7, 2018 ...
Replying to @C_3C_3
Q: What's the penalty for sedition?
A: A never-ending enema?

- Other replies to the above post include calls for **death, hanging**, and other **violence**.⁸

 **Nationalist Captain America ★★ ★ @spectrums...** · May 3, 2018 ...
Replying to @C_3C_3 and @sowtrout
Death penalty to them all who take, and took part in sedition, treason.

  1  

 ***Patricia* @WickedPatriot** · May 3, 2018 ...
Replying to @C_3C_3
Hanging ?

  1  1 

 **Christie Finn @HoofHugs** · May 3, 2018 ...
Replying to @C_3C_3
Hanging works.

 **Laura Wilson Gallery @LauraWilsonGal** · May 3, 2018 ...
Replying to @C_3C_3
Hang 'em high, baby...

  1  

 **Les is More @faulk_les** · May 15, 2018 ...
Replying to @C_3C_3
Casteration ?? Asking or a friend !!

⁷ <https://twitter.com/MintyParkerLA/status/1004884832638230528>

⁸ https://twitter.com/C_3C_3/status/992204323626110977

2. A similar Twitter post⁹ from December 28, 2018, produced additional threats.

[REDACTED] "they should nail his nuts to a 4 foot tall oak stump and kick his ass off backwards..."¹⁰

 **Wictor_Babe** @BabeWictor · Dec 28, 2018 ...
Replying to @C_3C_3
They should nail his nuts to a 4 foot tall oak stump and kick his ass off backwards...
1 Retweet Like Share

[REDACTED] "Tall tree short rope" ¹¹

 **Alan Stewart** @AlanSte75898462 · Dec 28, 2018 ...
Replying to @C_3C_3
Tall tree short rope
Retweet Like 1 Share

[REDACTED] Other replies to the above post include calls for [REDACTED] violence.¹²

 **XXX Robert Buckingham** @RobertBucking20 · Dec 28, 2018 ...
Replying to @C_3C_3 and @junogsp7
Lock him in a cell with butch he will take care of the sneak for us
Retweet Like 1 Share

⁹ https://twitter.com/C_3C_3/status/1078733659459538947;
https://twitter.com/C_3C_3/status/1078733659459538947/retweets/with_comments;
Screenshots taken August 30, 2021. Post also available on the Internet Archive:
https://web.archive.org/web/20210830003917/https://twitter.com/C_3C_3/status/1078733659459538947
¹⁰ <https://twitter.com/BabeWictor/status/1078782697756155904>
¹¹ <https://twitter.com/AlanSte75898462/status/1078809222832254977>
¹² https://twitter.com/C_3C_3/status/1078733659459538947

 **Heidi M Ross** @heidimross · Dec 28, 2018 ...
Replying to @C_3C_3
Military Tribunal and death

 **Robert Sanchez** @RealRJSanchez · Dec 28, 2018 ...
Replying to @C_3C_3 and @usa1st247
Same as Treason 18 U.S. Code § 2384 - Seditious conspiracy up to and including Death

  3  5 

 **Steven M Wolfe** @StevenMWolfe4 · Dec 28, 2018 ...
Replying to @C_3C_3 and @Falconeer
Death? Asking for a friend.

 **Rider On The Storm....** @AdamK87500975 · Dec 28, 2018 ...
Replying to @C_3C_3
in a jeopardy voice What is Death. I'll take Traitors for 1000, Alex

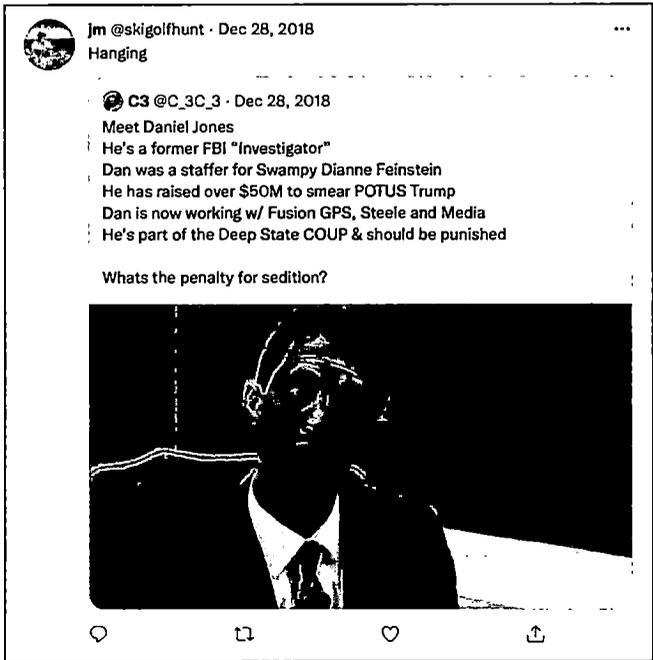
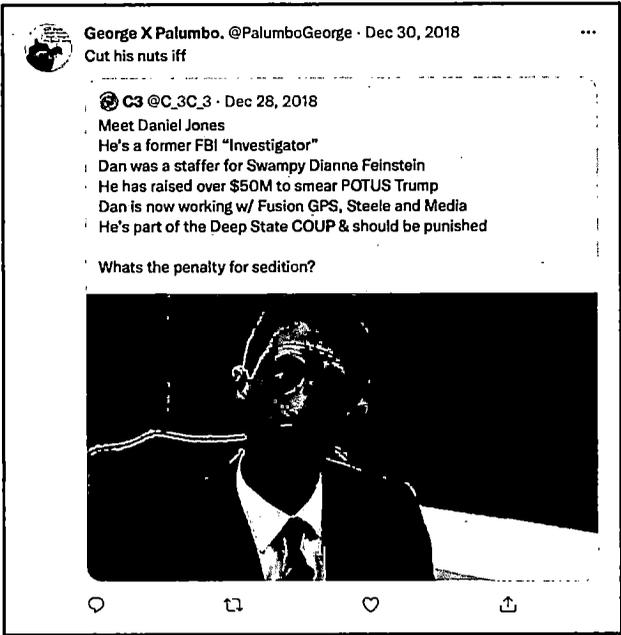
   2 

 **sunflower** 🌻🇺🇸🌻🇺🇸🌻 @sunflow24234217 · Dec 28, 2018 ...
Replying to @C_3C_3
Executions are tantamount 🇺🇸🇺🇸🇺🇸🇺🇸🇺🇸

 **judyann451** @judyannaggie · Dec 28, 2018 ...
Replying to @C_3C_3 and @dianne1h
Hanging!

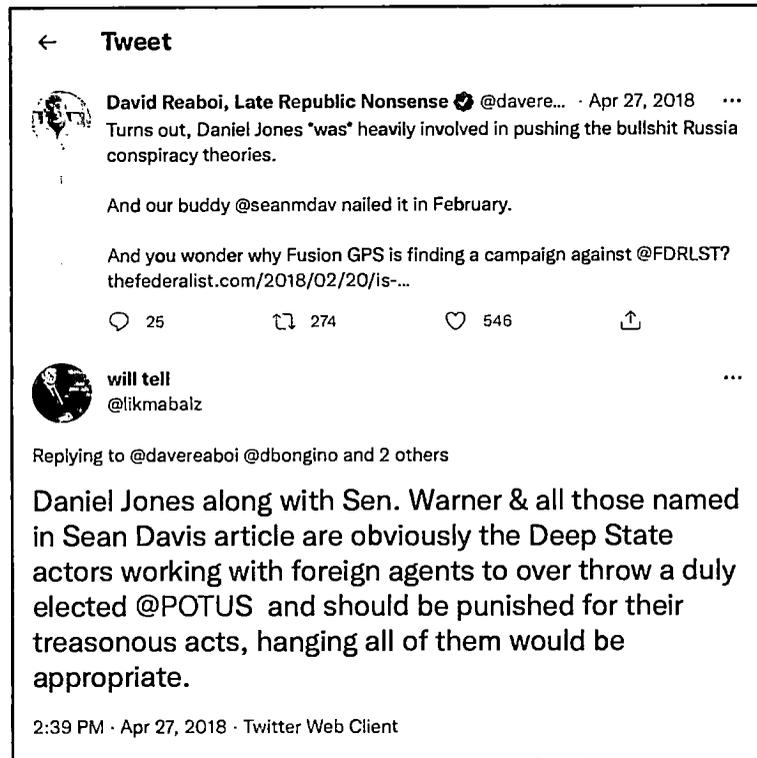
   



¹³ <https://twitter.com/PalumboGeorge/status/1079459252761231361>

¹⁴ <https://twitter.com/skigolfhunt/status/1078734502359416837>

3. Replies to a post on April 27, 2018, from Twitter user @likmabalz, included the suggestion that **"hanging all of them would be appropriate."**¹⁵



The screenshot shows a tweet from David Reaboi (@davere...) on April 27, 2018, discussing Daniel Jones's involvement in Russia conspiracy theories. Below it is a reply from will tell (@likmabalz) on the same date, suggesting that hanging the individuals mentioned in a Sean Davis article would be appropriate.

Tweet

David Reaboi, Late Republic Nonsense @davere... · Apr 27, 2018 ...
Turns out, Daniel Jones "was" heavily involved in pushing the bullshit Russia conspiracy theories.

And our buddy @seanmdav nailed it in February.

And you wonder why Fusion GPS is finding a campaign against @FDRLST? thefederalist.com/2018/02/20/is-...

25 274 546

will tell @likmabalz

Replying to @davereaboi @dbongino and 2 others

Daniel Jones along with Sen. Warner & all those named in Sean Davis article are obviously the Deep State actors working with foreign agents to over throw a duly elected @POTUS and should be punished for their treasonous acts, hanging all of them would be appropriate.

2:39 PM · Apr 27, 2018 · Twitter Web Client

4. A post on June 8, 2018, from Twitter user @bradscott78013, calls for **"hanging them together!"**¹⁶



The screenshot shows a tweet from Mainstream Media - Enemy of the People (@bradscott78013) on June 8, 2018, stating "Leakers and liars hang together!" and linking to a report about Daniel Jones.

Mainstream Media - Enemy of the People @bradscott78013

Leakers and liars hang together!

Breaking: Feinstein's Former Intel Staffer Daniel Jones is Also Connected to NY Times Reporter in Leak Investigation thegatewaypundit.com/2018/06/breaki... via @gatewaypundit

5:27 PM · Jun 8, 2018 · Twitter for iPhone

¹⁵ <https://twitter.com/likmabalz/status/989937142876004354>;
Screenshot taken August 30, 2021. Post also available on the Internet Archive:
<https://web.archive.org/web/20210830003953/https://twitter.com/likmabalz/status/989937142876004354>

¹⁶ <https://twitter.com/bradscott78013/status/1005199695885545478>;
Screenshot taken August 30, 2021. Post also available on the Internet Archive:
<https://web.archive.org/web/20210830003708/https://twitter.com/bradscott78013/status/1005199695885545478>



Superior Court of the District of Columbia
 CIVIL DIVISION
 500 Indiana Avenue, N.W., Suite 5000
 Washington, D.C. 20001 Telephone: (202) 879-1133

The Democracy Integrity Project and Daniel J. Jones
 Plaintiff

vs.

Case Number 2021 03225

AO Alfa-Bank
 Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

William W. Taylor, III
 Name of Plaintiff's Attorney

Zuckerman Spaeder LLP
 Address
1800 M Street, NW, Suite 1000, Washington, DC 20036

202-778-1800
 Telephone

如需翻译,请打电话 (202) 879-4828

Veillez appeler au (202) 879-4828 pour une traduction

Để có một bản dịch, hãy gọi (202) 879-4828

번역을 원하시면, (202) 879-4828 로 전화하십시오 የአግባብ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

By Adrian J. Marsh
 Deputy Clerk
 Date 9/14/2021

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
 Veá al dorso la traducción al español



TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL
 500 Indiana Avenue, N.W., Suite 5000
 Washington, D.C. 20001 Teléfono: (202) 879-1133

The Democracy Integrity Project and Daniel J. Jones
 Demandante

contra

Número de Caso: _____

AO Alfa-Bank
 Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le requiere entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veinte (20) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

A usted también se le requiere presentar la Contestación original al Tribunal en la Oficina 5000, sito en 500 Indiana Avenue, N.W., entre las 8:30 a.m. y 5:00 p.m., de lunes a viernes o entre las 9:00 a.m. y las 12:00 del mediodía los sábados. Usted puede presentar la Contestación original ante el Juez ya sea antes que Usted le entregue al demandante una copia de la Contestación o en el plazo de cinco (5) días de haberle hecho la entrega al demandante. Si usted incumple con presentar una Contestación, podría dictarse un fallo en rebeldía contra usted para que se haga efectivo el desagravio que se busca en la demanda.

William W. Taylor, III
 Nombre del abogado del Demandante

SECRETARIO DEL TRIBUNAL

Zuckerman Spaeder LLP
 Dirección
 1800 M Street, NW, Suite 1000, Washington, DC 20036

Por: _____
 Subsecretario

202-778-1800
 Teléfono

Fecha _____

如需翻译, 请打电话 (202) 879-4828 Veuillez appeler au (202) 879-4828 pour une traduction Để có một bản dịch, hãy gọi (202) 879-4828
 번역을 원하시면, (202) 879-4828 로 전화하십시오 የአገልግሎት ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO, O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍAN RETENERLE SUS INGRESOS, O PODRÍAN TOMAR SUS BIENES PERSONALES O RAÍCES Y VENDERLOS PARA PAGAR EL FALLO. SI USTED PRETENDE OPONERSE A ESTA ACCIÓN, NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO.

Si desea conversar con un abogado y le parece que no puede afrontar el costo de uno, llame pronto a una de nuestras oficinas del Legal Aid Society (202-628-1161) o el Neighborhood Legal Services (202-279-5100) para pedir ayuda o venga a la Oficina 5000 del 500 Indiana Avenue, N.W., para informarse de otros lugares donde puede pedir ayuda al respecto.

Vea al dorso el original en inglés
 See reverse side for English original

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH

INFORMATION SHEET

The Democracy Integrity Project and Daniel J. Jones

Case Number: **2021 03225**

vs

Date: September 14, 2021

AO Alfa-Bank

One of the defendants is being sued in their official capacity.

Name: (Please Print) William W. Taylor, III Firm Name: Zuckerman Spaeder LLP	Relationship to Lawsuit <input checked="" type="checkbox"/> Attorney for Plaintiff <input type="checkbox"/> Self (Pro Se) <input type="checkbox"/> Other: _____
Telephone No.: 202-778-1800 Six digit Unified Bar No.: 084194	

TYPE OF CASE: Non-Jury 6 Person Jury 12 Person Jury
 Demand: \$ 10,000+ Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

Case No.: _____ Judge: _____ Calendar#: _____

NATURE OF SUIT: (Check One Box Only)

A. CONTRACTS

COLLECTION CASES

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 01 Breach of Contract
<input type="checkbox"/> 02 Breach of Warranty
<input type="checkbox"/> 06 Negotiable Instrument
<input type="checkbox"/> 07 Personal Property
<input type="checkbox"/> 13 Employment Discrimination
<input type="checkbox"/> 15 Special Education Fees | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent
<input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent
<input type="checkbox"/> 27 Insurance/Subrogation
<input type="checkbox"/> 07 Insurance/Subrogation
<input type="checkbox"/> 28 Motion to Confirm Arbitration Award (Collection Cases Only) | <input type="checkbox"/> 16 Under \$25,000 Consent Denied
<input type="checkbox"/> 18 OVER \$25,000 Consent Denied
<input type="checkbox"/> 26 Insurance/Subrogation
<input type="checkbox"/> Over \$25,000 Consent Denied
<input type="checkbox"/> 34 Insurance/Subrogation
<input type="checkbox"/> Under \$25,000 Consent Denied |
|--|--|--|

B. PROPERTY TORTS

- | | | |
|---|--|--------------------------------------|
| <input type="checkbox"/> 01 Automobile
<input type="checkbox"/> 02 Conversion
<input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a) | <input type="checkbox"/> 03 Destruction of Private Property
<input type="checkbox"/> 04 Property Damage | <input type="checkbox"/> 05 Trespass |
|---|--|--------------------------------------|

C. PERSONAL TORTS

- | | | |
|--|---|---|
| <input type="checkbox"/> 01 Abuse of Process
<input type="checkbox"/> 02 Alienation of Affection
<input type="checkbox"/> 03 Assault and Battery
<input type="checkbox"/> 04 Automobile- Personal Injury
<input type="checkbox"/> 05 Deceit (Misrepresentation)
<input type="checkbox"/> 06 False Accusation
<input type="checkbox"/> 07 False Arrest
<input type="checkbox"/> 08 Fraud | <input type="checkbox"/> 10 Invasion of Privacy
<input type="checkbox"/> 11 Libel and Slander
<input type="checkbox"/> 12 Malicious Interference
<input type="checkbox"/> 13 Malicious Prosecution
<input type="checkbox"/> 14 Malpractice Legal
<input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death)
<input type="checkbox"/> 16 Negligence- (Not Automobile, Not Malpractice) | <input type="checkbox"/> 17 Personal Injury- (Not Automobile, Not Malpractice)
<input type="checkbox"/> 18 Wrongful Death (Not Malpractice)
<input type="checkbox"/> 19 Wrongful Eviction
<input type="checkbox"/> 20 Friendly Suit
<input type="checkbox"/> 21 Asbestos
<input type="checkbox"/> 22 Toxic/Mass Torts
<input type="checkbox"/> 23 Tobacco
<input type="checkbox"/> 24 Lead Paint |
|--|---|---|

SEE REVERSE SIDE AND CHECK HERE IF USED

Information Sheet, Continued

C. OTHERS

- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA)
(D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 02 Att Before Judgment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 05 Ejectment | |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input checked="" type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
|--|--|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code §
2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code §
42-3301, et seq.) | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |

/s/ William W. Taylor, III

Attorney's Signature

September 14, 2021

Date

Attachment 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
IN RE SUPERIOR COURT SUBPOENA)	
TO NON-PARTY)	
THOMAS KIRK McCONNELL,)	
Professional Staff Member of the)	
United States Senate Committee)	
on Armed Services)	
)	
in the matter of)	
)	Misc. No. 1:21-mc-00100-DLF
AO ALFA-BANK,)	
)	
Plaintiff,)	
)	
v.)	[Underlying civil action filed in
)	Fifteenth Judicial Circuit Court, Palm
JOHN DOE, <i>et al.</i> ,)	Beach County, Florida,
)	Case No. 50-2020-CA-006304]
Defendants.)	
_____)	

**NOTICE OF WITHDRAWAL OF MOTION TO QUASH SUBPOENAS AND
DISMISSAL OF THIS MISCELLANEOUS ACTION**

The United States Senate Committee on Armed Services (the “Committee”) and Thomas Kirk McConnell, Professional Staff Member of the Committee, by and through undersigned counsel, hereby respectfully withdraw their Motion to Quash Subpoenas, ECF No. 2, filed July 27, 2021. Upon agreement between AO Alfa-Bank and the Senate parties, plaintiff has withdrawn the third-party subpoenas issued to Mr. McConnell in *AO Alfa-Bank v. John Doe, et al.*, Case No. 50-2020-CA-006304 (15th Judicial Circuit Court, Palm Beach Cnty., Fla.), which were submitted and issued through the D.C. Superior Court under Case No. 2021-02459, and removed to this Court. The subpoenas having been withdrawn, the Committee and Mr.

McConnell hereby withdraw their motion to quash and notice the dismissal of this miscellaneous action, without prejudice.

Respectfully submitted,

/s/ Patricia Mack Bryan
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Dated: September 9, 2021

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