

ROBBINS, RUSSELL, ENGLERT, ORSECK, UNTEREINER &
SAUBER LLP

1801 K STREET, N.W., SUITE 411 L
WASHINGTON, D.C. 20006
PHONE (202) 775-4500
FAX (202) 775-4510
www.robbinsrussell.com

Michael R. Bromwich

(202) 775-4521
mbromwich@robbinsrussell.com

June 5, 2018

Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington D.C. 20510-6275

Re: Response to June 4 Letter

Dear Senator Grassley:

Thank you for your letter to Mr. McCabe, dated June 4, 2018, which responded to my letter of the same date.

Your letter addresses two issues. First, you request additional information about the anticipated "scope, nature and extent" of Mr. McCabe's testimony before you are willing to proceed further with consideration of his request for statutory use immunity. Letter from Senator Grassley to Mr. McCabe, June 4, 2018, at 1. However, Mr. McCabe is in no position to define the scope, nature, and extent of his testimony; that depends entirely on the questions you and other members of the Committee choose to ask him. Mr. McCabe is more than willing, in a public hearing or private setting, to respond to questions that Committee members put to him, including but not limited to questions about "various controversies at the FBI related to and following the 2016 election." *Id.* Because this casts such a wide and unspecific net, we are unable to respond more fully to your request to specify Mr. McCabe's testimony, but we welcome further discussions on this issue.

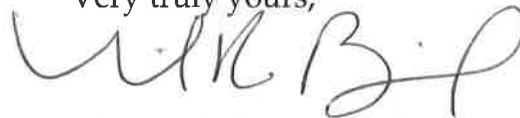
Second, your letter requests the non-disclosure agreements that bar us from providing the March 16, 2018, submission we made to the Department of Justice in

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connection with Mr. McCabe's termination. In response, we have attached the agreements that I signed and that was sent to Mr. McCabe for his signature. (The FBI ultimately took the position that Mr. McCabe's employment agreement contained the same prohibitions on disclosure as the NDA, and therefore did not require him to sign the NDA). We leave it to you to resolve with the Department of Justice and the FBI whether we can share the submission. Our position is simple: We will not provide a document the FBI has specifically prohibited us from sharing. We take no position on whether the non-disclosure agreement is invalid because it does not contain an exception for disclosures to Congress.

Finally, please advise your staff to address all communications directly to me and not to Mr. McCabe. As you know Mr. McCabe is a represented person and as such all correspondence should be directed to counsel.

Very truly yours,

A handwritten signature in black ink, appearing to read "MRB", written in a cursive style.

Michael R. Bromwich

Attachments:

Attorney Non-Disclosure Agreement

FBI Employee Non-Disclosure Agreement

cc: Honorable Dianne Feinstein, Ranking Member (with Attachments)



NONDISCLOSURE AGREEMENT

I, Michael R. Bromwich, an attorney licensed to practice in the state of
(Name of Attorney)

New York + The Dist. of Columbia as consideration for being granted access to certain FBI-related
(State)

information in connection with my legal representation of Federal Bureau of Investigation (FBI) employee,

Andrew McCabe, as to Administrative Inquiry
(Name of Employee)

263-HQ-, agree as follows:
(File Number from Notification Form)

I will not disclose orally, in writing, or by any other means, to any party other than the Director, FBI; Internal Investigations Section/Inspection Division, FBI; the Office of Professional Responsibility (OPR), FBI; the Office of the General Counsel, FBI; the United States Attorney General; the Office of the Inspector General, Department of Justice (DOJ); OPR, DOJ; or otherwise as required by law, court order, or subpoena (and then under seal to the extent permitted by law) - **without the prior written authorization of the FBI** - any information or material derived from or relating to FBI files or any other FBI-related information acquired by virtue of my legal representation of this matter.

I may, however, disclose such information to members and employees of my law firm or office pursuant to my legal responsibilities in this matter, but only based upon a need to know and provided that all persons who receive this information first shall be shown a copy of this nondisclosure agreement and, in a written and signed Certificate such as that annexed hereto, state that he or she has read this nondisclosure agreement and agrees to be bound by the terms thereof. I agree to retain such certificates until the conclusion of this matter and shall make such certificates available to the FBI upon request.

I further agree that all documents released by the FBI in this matter remain the property of the FBI and that, upon the conclusion of this matter or at the FBI's earlier request, I will return all such documents and any copies of them to the FBI.

I acknowledge that the unauthorized disclosure of the aforementioned information would violate this agreement, might additionally violate federal law, regulations or policy, and could form the basis for legal action.

Michael R. Bromwich

(Signature of Attorney)

March 8, 2018

(Date)



FBI DISCIPLINARY PROCESS: DISCLOSURE OF INFORMATION TO ATTORNEYS

The FBI recognizes that, for you to receive effective assistance of counsel during an administrative inquiry, it may be necessary for you to disclose to your attorney information or materials derived from FBI files or obtained by virtue of your employment with the Bureau. Because much FBI information is by its nature very sensitive, the FBI and its employees have an obligation to protect that information from unauthorized disclosure to persons outside the FBI, even to attorneys representing FBI employees.

You are therefore reminded that, during the course of this process, you continue to be bound by federal laws and regulations prohibiting the unauthorized disclosure of FBI information and by the terms of the agreement you signed when you became an FBI employee in which you agreed never to divulge, publish, reveal or otherwise disclose any information or material from or relating to FBI files or any other information acquired by virtue of your official employment, duties, or status, without the written permission of the Director.

The following is a list of the types of FBI information you may not disclose to your attorney without prior authorization and the procedures you should use to obtain the necessary authorization to release the information to your attorney.

1. Classified information, whether marked or unmarked, whether written or oral, that is classified pursuant to the provisions of the Executive Order 12958.
2. Information protected from disclosure by the Privacy Act, which includes information in FBI files retrievable by an individual's name or other identifying data, including information pertaining to other FBI employees.
3. Information that reveals sensitive law enforcement, intelligence, or counterintelligence techniques, sources or methods; or that reveals the sensitive, confidential or proprietary techniques, sources, or methods of other agencies or government entities.
4. Information that would reveal grand jury material protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure.
5. Information that would reveal the identity of a confidential source or informant.
6. Information that relates to any sensitive operational details or the substantive merits of any ongoing or open investigation, inquest, probe, prosecution, appeal or case.
7. Information consisting of the proprietary information of another entity, including trade secrets.
8. Information pertaining to wiretaps or intercepts protected or regulated by Title III (18 U.S.C. §§ 2510-2520).
9. Information pertaining to currency transaction reports regulated or protected by 31 U.S.C. §§ 5311-5319.
10. Tax return information regulated or protected by 26 U.S.C. § 6103.
11. Information, the disclosure of which is prohibited by any other Federal statute or regulation.
12. Information, the disclosure of which would divulge opinions, recommendations, and advice generated in the decision-making process of the federal government.

If you believe that your attorney will require access to classified information to assist you in this matter, you must first contact the Internal Investigations Section for guidance in securing the appropriate security clearance for your attorney. Classified information may not be disclosed either orally or in documentary form unless and until your attorney has received a security clearance from the Department of Justice. If your attorney has an appropriate security clearance, he or she will be permitted to review classified documents only in FBI workspace so as to ensure that classified documents are not compromised. All oral communications with your attorney regarding classified information must take place in person in FBI workspace with appropriate safeguards.

If you believe that your attorney will require access to any information other than classified information that is derived from FBI files or obtained by virtue of your employment, you must request from the Internal Investigations Section in writing, authority to disclose such information, whether you are seeking to disclose the information orally or in document form. Your request should specify the nature of the information and its location in FBI files, if known, and should state the reason why you believe it is necessary to disclose the information. The decision on whether disclosure will be authorized will be based upon the nature of the information requested and your need for it. If the Internal Investigations Section consents to the disclosure, your attorney will be required first to sign the attached agreement not to disclose the information further.

You should sign this form and submit it to the Division Head or his/her designee for transmittal to Internal Investigations Section/Inspection Division, Room 11865, FBIHQ. The division will retain a copy for its records.

I have read the above information regarding the restrictions on disclosing FBI information to my attorney. I understand that I am bound by the restrictions set forth in this notice.

Employee's Signature

Date

Printed Name

263-HQ-
File Number (from bottom of Notification Form)

Name, Address and Telephone Number of Attorney