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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 20, 2020

Mark E. Schamel
1200 Nineteenth Street, NW
Suite 500
Washington, DC 20036

Dear Mr. Schamel,

I have received your letter accusing me of making false statements regarding your client, Igor Danchenko. I have not made any such statements.

It is clear, based on the December 2019 report released by the Office of the Inspector General and information that has been made available to the Judiciary Committee, that the Federal Bureau of Investigation suspected your client of being an agent of the Russian government operating within the United States and that the FBI believed that your client “may be a threat to national security.” Letter from William Barr, Attorney General, to Lindsey Graham, Chairman, Senate Committee on the Judiciary (September 24, 2020), <https://www.judiciary.senate.gov/imo/media/doc/AG%20Letter%20to%20Chairman%20Graham%209.24.2020.pdf> (declassifying footnote 334 in the Inspector General’s report). In other words, the FBI suspected that your client was a Russian spy.

The materials you cite in your letter neither support your allegations, nor undercut the suspicions surrounding your client’s relationship with Russia. The Department of Justice’s Inspector General’s report on the FBI’s Crossfire Hurricane investigation, which you cite in your letter, states that your client “was the subject of an FBI counterintelligence investigation from 2009 to 2011 that assessed his/her documented contacts with suspected Russian intelligence officers.” *Id.* Furthermore, your lengthy quote from the Senate Intelligence Committee’s report does not address your client’s relationship to Russian intelligence.

More to the point, however, is the following information that the FBI provided to the Committee:

In May 2009, the FBI opened a preliminary investigation predicated on a specific interaction between three individuals who were then employed by a prominent U.S. think tank. Specifically, the FBI received reporting indicating a research fellow for an influential foreign policy advisor in the Obama Administration was at a work-related event in late 2008 with a coworker when they were approached by another employee of the think tank (“the employee”). **The employee reportedly indicated that if the two individuals at the table “did get a job in the government and had access to classified information” and wanted “to make a little extra money,” the employee knew some**

people to whom they could speak. . . . In December 2016, the FBI's Crossfire Hurricane investigation identified the employee as Christopher Steele's Primary Sub-source. . . .

The Primary Sub-source was identified as an associate of two FBI counterintelligence subjects. . . .

A review of FBI databases revealed that **the Primary Sub-source had contact in 2006 with the Russian Embassy and known Russian intelligence officers. . . .**

In September 2006, the Primary Sub-source was in contact with a known Russian intelligence officer. During these conversations, the Russian Intelligence Officer invited the Primary Sub-source to the Russian Embassy to see his office. The Primary Sub-source told the Russian Intelligence Officer that he/she was interested in entering the Russian diplomatic service one day. The two discussed a time when the Primary Sub-source was to visit. Four days later, **the Russian Intelligence Officer contacted the Primary Sub-source and informed him/her they could meet that day to work "on the documents and then think about future plans."** Later in October 2006, **the Primary Sub-source contacted the Russian Intelligence Officer seeking a reply "so the documents can be placed in tomorrow's diplomatic mail pouch. . . ."**

FBI information further identified, in 2005, the Primary Sub-source making contact with a Washington, D.C.-based Russian officer. **It was noted that the Russian officer and the Primary Sub-source seemed very familiar with each other. . . .**

[Moreover,] one interviewee did note that **the Primary Sub-source persistently asked about the interviewee's knowledge of a particular military vessel.**

Id. (emphasis added).

I have done nothing more than simply relay these matters of intense public interest to the American people, consistent with the facts before me and my responsibilities as Chairman of the Judiciary Committee. It is my duty as the Judiciary Committee Chairman to conduct oversight and provide transparency with regard to the FBI. Moreover, I have released the actual documents I have received related to your client to the public so that all may see the documents themselves.

Finally, with regard to your threat of litigation against me, the Federal Tort Claims Act (FTCA) bars suit for defamation or similar causes of action against an employee of the government for actions taken within the scope of his office or employment. *See* 28 U.S.C. §§ 2671-80. Public statements made by a Senator about matters of public concern, such as the FOX News interview you cite in your letter, are within the scope of my employment as a United States Senator and, therefore, fall within the coverage of the FTCA. *See, e.g., Council on Islamic Relations v. Ballenger*, 444 F.3d 659 (D.C. Cir. 2006) ("Speaking to the press . . . in response to a reporter's inquiry falls within the scope of a congressman's 'authorized duties.'"). Moreover, as you seem to understand based on your letter, claims by your client may be further barred by the Speech or Debate Clause, U.S. Const. art. I, sec. 6, cl. 1, which affords the Senate and its

members an absolute immunity for all conduct arising out of "matters which the Constitution places within the jurisdiction of either House." *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 504 (1975) (quotations omitted).

Because I have received press inquiries regarding your letter, I will be releasing this letter to you and the press simultaneously.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lindsey O. Graham". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lindsey O. Graham
Chairman