

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 16, 2017

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

The Honorable James Mattis
Secretary
Department of Defense
1400 Defense Pentagon
Washington, D.C. 20301-1400

The Honorable James Comey
Director, Federal Bureau of Investigation
Department of Justice
935 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Mr. President, Secretary Mattis, and Director Comey:

Lt. General Michael Flynn, who served as the President's campaign adviser and National Security Advisor, admitted last July that he was paid to travel to Moscow in December 2015 to speak at a gala hosted by the Kremlin-backed media outlet known as RT (formerly Russia Today), during which he dined with Russian President Vladimir Putin. However, General Flynn refused to disclose the amount or source of his payment.

The Oversight Committee has now obtained new documents showing that RT—which U.S. intelligence agencies have been warning since 2012 is an instrument of the Russian government—paid more than \$45,000 for General Flynn's participation. The documents reveal that General Flynn also received \$11,250 from a Russian charter cargo airline and \$11,250 from a top Russia-based cybersecurity corporation.

On February 13, 2017, the President fired General Flynn for concealing information about his communications with Russian officials. On March 7, 2017, General Flynn's company made a "retroactive" filing with the Department of Justice disclosing that he served as an agent of a foreign government while advising then-candidate Donald Trump. The filing disclosed lobbying work worth \$530,000 from August through November 2016 that "could be construed to have principally benefitted the Republic of Turkey." Although General Flynn's attorneys notified the transition team about his lobbying, both the President and Vice President claimed they knew nothing about his activities.

I cannot recall any time in our nation's history when the President selected as his National Security Advisor someone who violated the Constitution by accepting tens of thousands of dollars from an agent of a global adversary that attacked our democracy. I also cannot recall a time when the President and his top advisers seemed so disinterested in the truth about that individual's work on behalf of foreign nations—whether due to willful ignorance or knowing indifference.

In order to investigate what was known about General Flynn's activities when he entered the White House in January, I am writing to request information about whether General Flynn fully disclosed—as part of the security clearance and vetting process for his return to government—his communications with Russian agents, Turkish agents, and other foreign agents, as well as his payments from foreign sources. I also request that the Defense Department initiate steps to recover all foreign funds accepted by General Flynn in violation of the Emoluments Clause of the Constitution.

General Flynn's Public Statements

During an interview with *Yahoo News* on July 18, 2016, General Flynn admitted for the first time that he was paid for his trip to Moscow, but he dissembled regarding the source of those funds:

- Q: Were you paid for that event?
A: You'd have to ask my—the folks that I went over there to—
Q: Well, I'm asking you. You'd know if you were paid.
A: Yeah, I mean, I went over there as a speaking event. It was a speaking event.
Q: And—
A: What difference does that make? Does somebody go, "Oh, he was paid by the Russians!"?
Q: Well, Donald Trump has made a lot of the fact that Hillary Clinton has taken money from Wall Street—
A: Yeah, I didn't take any money from Russia, if that's what you're asking me.
Q: Well then, who paid you?
A: My speakers' bureau. Ask them.¹

On August 15, 2016, General Flynn continued to refuse to disclose the amount or source of these funds during an interview with the *Washington Post*:

- Q: Tell me about the RT relationship?
A: I was asked by my speaker's bureau, LAI. I do public speaking. It was in Russia. It was a paid speaking opportunity. I get paid so much. The speaker's bureau got paid so much, based on our contract.

¹ *Top Trump Adviser Defends Payment for Russia Speaking Engagement*, Yahoo News (July 18, 2016) (online at www.yahoo.com/news/trump-supporter-defends-payment-russian-175611942.html).

- Q: Can you tell me how much you got for that?
A: No.
Q: No? Because you don't want to get your fees out there?
A: Yeah, I don't.

General Flynn suggested during this interview that RT was no different than CNN or other U.S.-based media outlets:

- Q: Have you appeared on RT regularly?
A: I appear on Al Jazeera, Skye New Arabia, RT. I don't get paid a dime. I have no media contracts. ... [I am interviewed] on CNN, Fox ...
Q: Why would you go on RT, they're state run?
A: Well, what's CNN?
Q: Well, it's not run by the state. You're rolling your eyes.

Finally, he explained that he had no problem sitting next to Russian President Vladimir Putin while being paid to attend the gala:

- Q: Let me ask about sitting next to Putin ... because that's the symbol.
A: Yeah, I know, boring.
Q: But did you think about what the optics would be ...
A: Sure. I didn't have any problem.²

New Documents Obtained by Oversight Committee

The Oversight Committee has now obtained numerous documents confirming that RT was the source of these funds.

Specifically, the Committee has obtained a document labeled "Event Sheet" indicating that RT transferred funds in the amount of \$45,386 to General Flynn's speakers' bureau, Leading Authorities, Inc., which included a \$33,750 payment to General Flynn, \$386 to cover the cost of visas, and a 25% commission of \$11,250 for Leading Authorities.

The Committee has also obtained a copy of a check dated December 2, 2015, for \$33,750 to the Flynn Intel Group LLC from Leading Authorities. The document includes the notation RTTV-12/10/2015 referring to General Flynn's trip to Moscow to speak at the gala hosted by RT in December 2015.

Although some documents list RT TV-America as the "client," other documents demonstrate that the trip was orchestrated by RT TV-Russia, the Moscow-based headquarters of

² *Trump Adviser Michael T. Flynn On His Dinner With Putin and Why Russia Today is Just Like CNN*, Washington Post (Aug. 15, 2016) (online at www.washingtonpost.com/news/checkpoint/wp/2016/08/15/trump-adviser-michael-t-flynn-on-his-dinner-with-putin-and-why-russia-today-is-just-like-cnn/?utm_term=.203df7052c59).

RT's global network.

The Committee has obtained a copy of an email dated November 13, 2015, sent by an official from RT TV-Russia explaining: "We will be covering the payment of General Flynn's fee from our London office."

The Committee also obtained a copy of the transaction sheet for the payment, which confirms that RT transferred the funds from a financial institution in London known as National Westminster Bank PLC.

On November 20, 2015, an official from RT TV-Russia sent an email explaining why General Flynn was invited to this event: "Using your expertise as an intelligence professional, we'd like to talk about the decision-making process in the White House—and the role of the intelligence community in it."

Another email sent by an official from RT TV-Russia on October 14, 2015, explained that the event would be an opportunity for General Flynn to network with "political influencers from Russia and around the world." A follow up email from another RT TV-Russia official on October 19, 2015, noted that "we're ready to cover all the traveling costs."

The documents confirm that RT separately arranged for and provided funds for General Flynn's accommodations for several nights at the Hotel Metropol, which "is in the heart of Moscow next to Red Square," as an RT official explained in an email sent on November 9, 2015.

The documents show that RT also provided funds for General Flynn's business class airline tickets to and from Moscow, as well as for local transportation, meals, and incidentals. The documents do not include the amounts RT paid for these expenses.

According to the documents, RT also provided funds to cover all of the expenses for General Flynn's son, Michael Flynn Jr., to accompany him on the trip, including business class airfare and separate accommodations at the Hotel Metropol. The amount RT paid for his total expenses also was not provided.

Michael Flynn Jr. received an email directly from an RT official on October 19, 2015, inviting his father to the event and offering to cover all expenses: "RT will be delighted to cover all expenses related to travel, transportation and accommodation for the duration of the event." He personally followed up with Leading Authorities on October 23, 2015, asking: "Any update on this event below? Is Steve out in London working this one? This is the event in Russia."

The documents indicate that General Flynn sought more money from RT, but was asked to reduce his price. An RT official sent an email on November 9, 2015, writing that General Flynn's price was "a bit too high" and asking him "to reconsider the fee" and "reduce the price."

In addition to these payments, the documents obtained by the Committee indicate that General Flynn received \$11,250 for services on August 19, 2015, from Volga-Dnepr Airlines,

which is based in Russia and describes itself as “the world leader in the unique, oversize and heavy cargo market, successfully representing the Russian airfreight industry in the international market.”³ In 2007, the airline reportedly flew an ice rink to Guatemala as part of Russia’s successful bid to host the 2014 Winter Olympics in Sochi.⁴

In 2007, the United Nations suspended Volga-Dnepr from its list of approved vendors following the criminal prosecution of two Russian officials serving at the United Nations who steered lucrative contracts in exchange for hundreds of thousands of dollars in bribes.⁵ Based on an investigation by the U.N. Procurement Task Force, Volga-Dnepr was suspended in light of “alleged inappropriate relationships” with one of the indicted Russian officials.⁶ As of October 2016, Volga-Dnepr was not listed an approved vendor with the United Nations.⁷

The documents obtained by the Committee also show that General Flynn received an additional \$11,250 for services on October 20, 2015, from Kaspersky Government Security Solutions, Inc., a U.S. subsidiary of Kaspersky Lab, which has been described as the “top Russian cybersecurity company” and “the foremost researcher uncovering Western government spyware for the past several years.”⁸

Eugene Kaspersky, the corporation’s founder and Chief Executive Officer, reportedly “was educated at a KGB-sponsored cryptography institute, then worked for Russian military intelligence.” Over the past several years, the company reportedly has been replacing high-level managers with “people with closer ties to Russia’s military or intelligence services,” although Mr. Kaspersky denies these allegations.⁹

³ *Group Profile*, Volga-Dnepr Group (online at www.volga-dnepr.com/en/about/group_profile/) (accessed Mar. 10, 2017).

⁴ *Volga-Dnepr Delivers Ice-Skating Rink to Guatemala to Support Russia’s Bid for 2014 Winter Olympics*, SKRIN News (July 3, 2007) (LexisNexis 2017).

⁵ *Russian Firm That Paid \$700G to Crooked U.N. Official Still on Approved Vendor List*, Fox News (Mar. 15, 2017) (online at www.foxnews.com/story/2007/03/15/russian-firm-that-paid-700g-to-crooked-un-official-still-on-approved-vendor.html).

⁶ *UN Bans Two Vendors Following Internal Investigation*, UN News Centre (Mar. 16, 2007) (online at www.un.org/apps/news/story.asp?NewsID=21901&Cr=&Cr1=).

⁷ United Nations, Procurement Division, *UN Secretariat Registered Vendors* (Oct. 25, 2016) (online at www.un.org/Depts/ptd/un-secretariat-registered-vendors).

⁸ *Kaspersky Security Shakes Up U.S. Leadership Amid Geopolitical Concerns*, Reuters (Dec. 17, 2015) (online at www.reuters.com/article/us-kaspersky-cybersecurity-usa-idUSKBN0U103B20151218).

⁹ *The Company Security Your Internet Has Close Ties to Russian Spies*, Bloomberg Businessweek (Mar. 19, 2015) (online at www.bloomberg.com/news/articles/2015-03-19/cybersecurity-kaspersky-has-close-ties-to-russian-spies). See also *A Practical Guide to Making Up a Sensation*, Eugene Kaspersky—Official Blog (Mar. 20, 2015) (online at

Request for Defense Department to Initiate Action on Emoluments Clause Violation

Based on the documents obtained by the Oversight Committee, it is now clear that General Flynn accepted funds from an instrument of the Russian government. I request that the Department of Defense initiate steps to recover all funds accepted by General Flynn in violation of the Emoluments Clause of the Constitution.

On December 11, 2012—**while General Flynn was serving as the Director of the Defense Intelligence Agency**—the Central Intelligence Agency’s Open Source Center issued an analysis warning that RT was engaged in “a Kremlin-directed campaign to undermine faith in the US Government and fuel political protest.”¹⁰

This analysis explained that RT was “created and financed by the Russian Government.” The analysis reported: “The Kremlin spends \$190 million a year on the distribution and dissemination of RT programming.” The analysis also reported: “Russia has more than tripled RT’s financing, from \$120 million in 2008 to \$380 million in 2012.” In addition, the analysis reported that “Putin personally intervened to protect RT from budget cuts planned for 2013.”

In terms of staffing, the analysis reported: “The Kremlin staffs RT and closely supervises RT’s coverage.” The analysis highlighted that Presidential Administration Deputy Chief of Staff Aleksey Gromov “reportedly manages political TV coverage in Russia and is one of the founders of RT.” The analysis also reported RT Editor in Chief Margarita Simonyan as stating: “since RT receives budget from the state, it must complete tasks given by the state.”

The analysis highlighted that RT “has deliberately sought to obscure any legal ties to the Russian Government.” The analysis exposed this effort by explaining:

RT America formally disassociates itself from the Russian Government by using a Moscow-based autonomous nonprofit organization to finance its US operations. According to RT’s leadership, this structure was set up to avoid the Foreign Agents Registration Act and to facilitate licensing abroad.

On January 6, 2017, the Office of the Director of National Intelligence issued a report making the following assessments regarding the 2016 presidential election:

We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia’s goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and

<https://eugene.kaspersky.com/2015/03/20/a-practical-guide-to-making-up-a-sensation/>).

¹⁰ Central Intelligence Agency, Open Source Center, *Russia—Kremlin’s TV Seeks to Influence Politics, Fuel Discontent in US* (Dec. 11, 2012) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/ksi.pdf>).

potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump.¹¹

This 2017 report confirmed the previous findings in the 2012 analysis regarding RT as an agent of the Russian government, referring to RT as the “Kremlin’s principal international propaganda outlet” and warning that RT “has actively collaborated with WikiLeaks.”

The Emoluments Clause, which is set forth in Article I, Section 9, Clause 8 of the U.S. Constitution, prohibits any person “holding any Office of Profit or Trust” from accepting gifts or payments from any foreign country. The Department of Defense has made clear that this restriction “prohibits receipt of consulting fees, gifts, travel expenses, honoraria, or salary by all retired military personnel, officer and enlisted, Regular and Reserve, from a foreign government.”¹²

For example, in June 2013, the Defense Department highlighted this restriction on retired officers in particular:

Significantly, **retired** regular military officers are also subject to the Emoluments Clause because they are subject to recall, and, therefore, hold an “Office of Profit or Trust” under the Emoluments Clause.¹³

According to the Department of Defense, a “foreign state” includes commercial entities that are owned or controlled by a foreign government or are considered instruments of the foreign government:

A foreign state includes any organization that is owned or operated by a foreign government, including federal, regional and local level governments. ... Thus, foreign governmental entities, such as commercial entities owned or controlled by a foreign government and foreign public universities controlled by a foreign government, can be considered instrumentalities of “foreign states” for purposes of the Emoluments Clause.¹⁴

¹¹ Office of the Director of National Intelligence, National Intelligence Council, *Intelligence Community Assessment: Assessing Russian Activities and Intentions in Recent US Elections* (Jan. 6, 2017) (ICA 2017-01D) (online at www.dni.gov/files/documents/ICA_2017_01.pdf).

¹² Department of Defense, *Summary of Emoluments Clause Restrictions* (online at www.dod.mil/dodgc/defense_ethics/resource_library/summary_emoluments_clause_restrictions.pdf) (accessed on Mar. 15, 2017).

¹³ Department of Defense, *Application of the Emoluments Clause to DoD Civilian Employees and Military Personnel* (Mar. 2013) (online at www.dod.mil/dodgc/defense_ethics/resource_library/emoluments_clause_applications.pdf) (emphasis in original).

¹⁴ *Id.*

The Department of Defense has also warned its retired officers against accepting “indirect” foreign payments, including from pass-through companies in the United States:

There are several types of scenarios in which an employee will be deemed to have received an “emolument” where the payment is indirectly received from a foreign state. Such scenarios include consulting, law, or other partnership distributions, as well as payments (such as salary) from domestic professional corporations. Federal personnel, especially retired military personnel, need to be aware of these potential traps for the unwary.¹⁵

On February 1, 2017, I joined Ranking Members Adam Schiff, Adam Smith, Bennie Thompson, John Conyers, and Eliot Engel in sending a letter to Defense Secretary James Mattis raising concerns about General Flynn’s actions and requesting any documents relating to whether General Flynn requested permission to receive funds from RT or any other source.¹⁶ On February 14, 2017, the Acting Secretary of the Army confirmed after a “thorough records search” that he had “not found any documents” indicating that General Flynn requested permission for his speaking engagement or reported it as required.¹⁷

On February 16, 2017, the Oversight Committee wrote to Leading Authorities requesting documents related to General Flynn’s trip to Moscow and other payments from additional sources.¹⁸ Leading Authorities responded on February 28, 2017, providing the documents described above.¹⁹

¹⁵ *Id.*

¹⁶ Letter from Ranking Member Elijah E. Cummings et al., House Committee on Oversight and Government Reform, to Secretary James Mattis, Department of Defense (Feb. 1, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-02-01.%20EEC%20Smith%20Conyers%20Thompson%20Schiff%20&%20engel%20to%20Mattis.DOD_re_Flynn_.pdf).

¹⁷ Letter from Acting Secretary Robert M. Speer, Department of the Army, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, et al. (Feb. 14, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Army.021417.Response%20to%20EEC%20Smith%20Conyers%20Thompson%20Schiff%20%20re%20Flynn%20Emoluments.pdf>).

¹⁸ Letter from Chairman Jason Chaffetz and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Mark D. French, Leading Authorities, Inc. (Feb. 16, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017.02.16.Chaffetz%20EEC%20to%20Leading%20Authorities%2C%20Inc%20re.%20Flynn.pdf>).

¹⁹ Letter from Matthew R. Jones, Leading Authorities, Inc., to Chairman Jason Chaffetz and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Feb. 28, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017.02.28.Jones%20to%20Chaffetz%20and%20Cummings.pdf>).

According to guidance issued by the Defense Department and Comptroller General, any payment received by retired officers in violation of the Emoluments Clause creates a debt in favor of the U.S. Government. This guidance requires that the Department of Army confirm the debt, then send it to the Defense Finance and Accounting Agency, which initiates collection procedures. As the guidance makes clear, ignorance of these requirements is no defense.²⁰

I request that the Defense Department initiate this process and report back to me when it is complete. I also request that you submit, by May 1, 2017, documents confirming that these funds—including the payment General Flynn received and the value of all benefits received during the trip—have been recovered or are in the process of being recovered.

Request for Documents Relating to General Flynn's Security Clearance

In order to obtain access to classified information, government employees must submit Standard Form 86 (SF-86), Questionnaire for National Security Positions. The SF-86 explains: "All questions on this form must be answered completely and truthfully." In addition, it warns applicants: "The U.S. Criminal Code (title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines and/or up to five (5) years imprisonment." The questions applicants must answer include the following:

- Section 19—Foreign Contacts: Do you have, or have you had, close and/or continuing contact with a foreign national within the last seven (7) years with whom you, or your spouse, or cohabitant are bound by affection, influence, common interests, and/or obligation?
- Section 20A—Foreign Activities:
 - Section 20A.1: Have you, your spouse, cohabitant, or dependent children EVER had any foreign financial interests (such as stocks, property, investments, bank accounts, ownership of corporate entities, corporate interests or businesses) in which you or they have direct control or direct ownership?
 - Section 20A.2: Have you, your spouse, cohabitant, or dependent children EVER had any foreign financial interests that someone controlled on your behalf?

oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-02-28%20LAI%20Response%20to%20OGR.PDF).

²⁰ Department of Defense, *Application of the Emoluments Clause to DoD Civilian Employees and Military Personnel* (Mar. 2013) (online at www.dod.mil/dodgc/defense_ethics/resource_library/emoluments_clause_applications.pdf).

- Section 20A.3: Have you, your spouse, cohabitant, or dependent children EVER owned, or do you anticipate owning, or plan to purchase real estate in a foreign country?
- Section 20B—Foreign Business, Professional Activities, and Foreign Government Contacts:
 - Section 20B.1: Have you in the past seven (7) years provided advice or support to any individual associated with a foreign business or other foreign organization that you have not previously listed as a former employer?
 - Section 20B.2: Have you, your spouse, cohabitant, or any member of your immediate family in the past seven (7) years been asked to provide advice or serve as a consultant, even informally, by any foreign government official or agency?
 - Section 20B.3: Has any foreign national in the past seven (7) years offered you a job, asked you to work as a consultant, or consider employment with them?
 - Section 20B.4: Have you in the past seven (7) years been involved in any other type of business venture with a foreign national not described above (own, co-own, serve as business consultant, provide financial support, etc.)?
 - Section 20B.5: Have you in the past seven (7) years attended or participated in any conferences, trade shows, seminars, or meetings outside the U.S.?
 - Section 20B.6: Have you or any member of your immediate family in the past seven (7) years had any contact with a foreign government, its establishment (such as embassy, consulate, agency, military service, intelligence or security service, etc.) or its representatives, whether inside or outside the U.S.?
- Section 20C—Foreign Travel: Have you traveled outside the U.S. in the last seven (7) years?

In order to review General Flynn's compliance with security clearance requirements, I request that each of your offices provide by April 7, 2017, all documents in the possession or control of the Executive Office of the President, the National Security Council, the Department of Defense, and the Federal Bureau of Investigation relating to:

1. information provided by General Flynn in response to all questions in Sections 19, 20A, 20B, and 20C in any security clearance applications, certifications, or requests for periodic reinvestigation over the past ten years;
2. all investigative and adjudicative files concerning or relating to Guideline B ("Foreign Influence") or Guideline C ("Foreign Preference") associated with General Flynn's security clearances, certifications, periodic reinvestigations, or any other

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vetting for his positions;

3. all documents relating to General Flynn's contacts with foreign nationals; and
4. all documents relating to General Flynn's receipt of funds from any foreign source.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Elijah E. Cummings". The signature is stylized with a large, sweeping "E" and a long, horizontal stroke at the end.

Elijah E. Cummings
Ranking Member

cc: The Honorable Jason Chaffetz, Chairman