

Exhibit G

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October 2, 2020

Honorable Emmet G. Sullivan
United States District Judge
United States District Court for the
District of Columbia
333 Constitution Ave., NW
Washington, DC 20001

Re: United States v. Michael T. Flynn, Case No. 17-CR-232

Dear Judge Sullivan:

We write to the Court in this matter on behalf of our client, former FBI Deputy Director Andrew G. McCabe. It has come to our attention that on September 24, 2020, in the above captioned case, counsel for the defendant filed its *Third Supplement in Support of Agreed Dismissal*. As part of that filing, at page 9, counsel stated the following:

“Newly produced notes of Andrew McCabe show that at 5:15 pm on May 10, 2017, McCabe briefed the Senate Select Committee on Intelligence. They were trying very hard to pin something on General Flynn. Exhibit B.”

Exhibit B is a heavily redacted page from one of Mr. McCabe’s personal notebooks that he maintained during his service as FBI Deputy Director.

The date “5/10/17” that appears on Exhibit B is not in Mr. McCabe’s handwriting and he did not enter the date that now appears there. Further, contrary to counsel’s claim, Mr. McCabe did not brief the Senate Intelligence Committee on anything on May 10. That was the day after President Trump had fired FBI Director Comey and Mr. McCabe was consumed with various other responsibilities. Mr.

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McCabe did participate in a public Senate Select Committee on Intelligence hearing and closed briefing on worldwide threats, along with other intelligence community officials, on May 11. Neither the public hearing nor the secret briefing had anything to do with Mr. Flynn. Counsel did not seek to confirm the accuracy of its claims with Mr. McCabe or us about Mr. McCabe's notes before filing the *Third Supplement*.

It is ironic that the Department of Justice has provided Mr. McCabe's notes to counsel for Mr. Flynn at the very same time it is denying Mr. McCabe access to his personal notes that have been requested to help prepare for his scheduled testimony before the Senate Judiciary Committee on October 6, 2020. Our requests for his personal notebooks and daily calendars have been denied in full because they are purportedly voluminous and burdensome. Indeed, we have filed a request for investigation with the Office of the Inspector General for the Department of Justice Department to pursue the issue of why those materials have been wrongfully withheld and on whose orders.

Please let us know if you require any further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael R. Bromwich".

Michael R. Bromwich

A handwritten signature in black ink, appearing to read "Rachel B. Peck".

Rachel B. Peck

From: Jesse Binnall <jbinnall@harveybinnall.com>
Sent: Monday, October 5, 2020 3:15 PM
To: Bromwich, Michael <mbromwich@steptoe.com>; Peck, Rachel <rpeck@steptoe.com>
Cc: Sidney Powell <sidney@federalappeals.com>
Subject: Your Correspondence to the Court in United States v. Flynn

Dear Counsel:

Please see attached.

Best regards,

Jesse Binnall

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Jesse R. Binnall
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VIA Email

October 5, 2020

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RE: Your Communication to the Court in *United States v. Flynn*

Dear Mr. Bromwich and Ms. Peck:

On October 2, 2020 you emailed a letter to Judge Emmet Sullivan regarding factual assertions and other arguments made by your client, Andrew McCabe. As you know, facts are presented to a court by the parties through the adversarial system, not by strangers to the litigation by email. Indeed, just months ago the Supreme Court, in an opinion authored by late-Justice Ginsburg, held that trial courts and appellate courts alike are bound by the principle of party presentation. *United States v. Sineneng-Smith*, 140 S. Ct. 1575, 1579 (2020). Parties present evidence and courts decide based on that evidence. Your invitation to Judge Sullivan that he eschew this duty, as further explained in Canon 3(4) of the Code of Conduct for United States Judges, was improper and a violation of your duties as attorneys. *See, e.g.*, D.C. Rules of Professional Conduct 3.5(a), Comment 1; New York Rules of Professional Conduct 3.5(a)(1).

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If justice prevails, Mr. McCabe will one day soon be a party to a federal criminal case arising from his knowing and willful violations of General Flynn's civil rights, among his many other crimes. At that point, he can make any factual or legal arguments he wishes to the court presiding over his case. Until then, please cease all further communications with courts to which Mr. McCabe is not a party.

Sincerely,

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

Jesse R. Binnall
Sidney Powell

----- Forwarded message -----

From: **Bromwich, Michael** <mbromwich@steptoe.com>

Date: Mon, Oct 5, 2020 at 7:27 PM

Subject: RE: Your Correspondence to the Court in United States v. Flynn

To: Jesse Binnall <jbinnall@harveybinnall.com>, Peck, Rachel <rpeck@steptoe.com>

CC: Sidney Powell <sidney@federalappeals.com>

Dear Mr. Binnall:

Thanks very much for your letter dated today, and for the instruction on our obligations as attorneys. We will study the citations in your letter with the care they deserve.

Our understanding is that in a filing similar to ours, counsel for Peter Strzok, pointed out falsifications of Mr. Strzok's notes included with your *Third Supplement in Support of Agreed Dismissal*. Our letter pointed out that your filing misrepresented Mr. McCabe's notes and included an incorrect date placed in these notes by someone other than Mr. McCabe. In light of Judge Sullivan's response to Mr. Strzok's filing (at pp. 91-92 of the September 29, 2020 hearing), we thought the cause of justice would be advanced by exposing the misrepresentations in your filing as they relate to Mr. McCabe. In addition, we thought it important to point out facts that would tend to prove a violation of Rules of Professional Conduct 3.3: Candor to Tribunal because of your failure to confirm the accuracy of your representations as to Mr. McCabe.

If you make further misrepresentations as to Mr. McCabe in the pending proceedings, rest assured we will point them out to the Court.

Best.

MRB

Michael R Bromwich

Senior Counsel

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