

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL A. SUSSMANN,

Defendant.

Case No. 1:21-cr-00582

**[PROPOSED] ORDER GRANTING DEFENDANT’S MOTION FOR A
BILL OF PARTICULARS**

On October 6, 2021, Defendant Michael A. Sussmann’s Motion for a Bill of Particulars came on for hearing before the Honorable Christopher R. Cooper, presiding. Having considered all of the papers and evidence submitted in support of and in opposition to the Motion, as well as other pleadings and papers filed in this case:

THE COURT HEREBY ORDERS that Defendant’s Motion is **GRANTED**. The Special Counsel shall file a bill of particulars addressing the following matters for Count One, as they are alleged in the Indictment (Dkt. No. 1):

- A. Provide particulars regarding the specific false statement the Special Counsel alleges Mr. Sussmann made to Mr. Baker, namely:
1. The exact words of Mr. Sussmann’s alleged false statement;
 2. The specific context in which the statement was made so that the meaning of the words is clear;
 3. What portion of the statement is allegedly false, *i.e.*, whether the statement was false because Mr. Sussmann allegedly stated he was not “acting on behalf of any client in conveying particular allegations concerning a Presidential Candidate” as alleged in Paragraph 46, or if he falsely stated that he was not doing any “work” on behalf of a client more generally, as alleged in Paragraphs 4, 27(a), 28;
 4. What is meant by “his work,” as referenced in Paragraph 4;

5. What is meant by “acting [or acted] on behalf of any client” as alleged in Paragraphs 27(a) and 30;
 6. What “this” refers to in the Assistant Director’s notes referenced in Paragraph 28.
- B.** Provide particulars regarding the statutory violation charged and, if applicable any alleged omissions, namely:
1. Which crime the Special Counsel believes Mr. Sussmann has committed; and
 2. To the extent the Special Counsel alleges that Mr. Sussmann made a material omission in violation of 18 U.S.C. § 1001(a)(1), as suggested by Paragraph 30 of the Indictment –
 - a. the specific information Mr. Sussmann failed to disclose;
 - b. to whom;
 - c. what legal duty required Mr. Sussmann to disclose such information; and
 - d. why the information was material.
- C.** Provide particulars regarding how the alleged false statement to Mr. Baker was material, specifically:
1. The “other reasons” Mr. Sussmann’s false statement was material, as alleged in Paragraph 32;
 2. What “his work” refers to as referenced in Paragraph 5, what about such work was unknown to the FBI, and how the “political nature of his work” was material to the FBI’s investigation;
 3. How Mr. Sussmann’s alleged false statement was material to the FBI’s ability to “assess and uncover the origins of the relevant data and technical analysis,” as alleged in Paragraph 5, when Mr. Sussmann disclosed the origins of the data and technical analysis;
 4. How Mr. Sussmann’s role as a paid advocate was materially “relevant” to the FBI’s investigation, as alleged in Paragraph 32, given that the information itself raised serious national security concerns and the FBI otherwise enables civilians to provide anonymous tips; and
 5. What potential questions, additional steps, resource allocations, or more complete information the FBI would have gathered absent Mr. Sussmann’s false statement, as alleged in Paragraph 32.

- D.** Provide particulars regarding the alleged false statement Mr. Sussmann made to Agency-2 employees, as alleged in Paragraphs 39 and 42, namely:
1. The exact words of Mr. Sussmann’s alleged false statement;
 2. The specific context in which the statement was made so that the meaning of the words is clear;
 3. What portion of the statement is allegedly false;
 4. The identities of the individuals to whom the statement was made, including:
 - a. both Employee-1 and Employee-2 as referenced in Paragraph 42; and
 - b. any other government officials present who may have heard the false statement.
- E.** Provide particulars regarding the identities of the “representatives and agents of the Clinton Campaign” referenced in Paragraph 6.

IT IS SO ORDERED.

Dated: _____, 2021

Hon. Christopher R. Cooper
United States District Judge

Pursuant to LCrR 47(h), the following is a list of the names and addresses of all attorneys to be notified of entry of the Proposed Order.

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