

From: "██████████)" <██████████>
To: Gary Bloxsome <██████████>
Cc: Daniel Cundy <██████████>, Jennifer Richardson <██████████>, "██████████)" <██████████>, "██████████)" <██████████>

Subject: RE: Sensitive Correspondence

Date: Tue, 28 Jul 2020 22:29:15 +0000

Attachments: Standard_Proffer_Agreement_(blank).pdf

Gary,

We write to follow up on our conversation yesterday, to confirm certain aspects of our discussion and to provide certain information you requested. First, thank you for conveying your questions, and I hope our initial responses were of some use. To provide additional information that may be helpful, attached please find a blank proffer agreement, which is our standard form agreement for proffer interviews, as you requested. Please note that in addition to the provisions I briefly described on our call, there are also provisions that may not be relevant to your client. We nevertheless send the complete agreement for your review.

Additionally, and also as requested, certain information relating to Title 18, United States Code, Section 1001, is provided below.

In relevant part, that statute states the following: "Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—**(1)** falsifies, conceals, or covers up by any trick, scheme, or device a material fact; **(2)** makes any materially false, fictitious, or fraudulent statement or representation; or **(3)** makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry [is guilty of an offense]. The full language of the statute is also available [here](#).

Regarding the elements required to prove such an offense, pursuant to Sand, *Modern Federal Jury Instructions*, Instruction 36-3 (Elements of the Offense), a conviction for this offense require that the following elements each must be proven beyond a reasonable doubt:

First, that on or about the date specified in the indictment, the defendant falsified (or concealed or covered up) a material fact;

Second, that the fact falsified (or concealed or covered up) was material;

Third, that defendant did so by trick, scheme or device;

Fourth, that defendant acted knowingly and willfully; and

Fifth, that the falsification, concealment or coverup was with respect to a matter within the jurisdiction of the government of the United States (if applicable: or that federal funds were involved).

You may note in particular the inclusion of the "knowingly and willfully" requirement, as we discussed.

We also understand that you will send us, to the extent you believe it is relevant or helpful for our consideration, any particular provisions or protections contemplated under the MLAT process, and which of those, if any, you believe are relevant, or should be applicable, to a voluntary interview.

We look forward to speaking with you again this coming Monday, August 3, at 4:00 p.m. (LDN time), and we further confirm, as discussed, that our Office is prepared to extend the Negotiation Period, referenced in our email of July 14, 2020, for two weeks from our call yesterday, to August 10, 2020, under the terms previously mutually agreed upon.

Regards,

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██████████
Assistant U.S. Attorney
Southern District of New York
██████████

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