



# Biden-Ukraine Corruption Inquiry Report

Report on Activities by former Vice President Joe Biden, Hunter Biden, and Biden Associates in Ukraine involving Energy Corporation Burisma

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# EXECUTIVE SUMMARY

There is substantial and compelling evidence to support an independent investigation into Hunter Biden and his associates for potential violations of federal law in connection with their work on behalf of foreign entity Burisma Holdings.

## **Burisma Case Should Focus Domestically, Not on Violations of Ukrainian Laws**

Vice President Joe Biden has artfully played the media into focusing on whether Burisma or Hunter Biden broke Ukrainian laws by corruptly obtaining oil and gas rights. This misdirection ignores the far more obvious ways in which Hunter Biden and some of his Burisma associates could have violated U.S. laws by illegally working as foreign agents for Burisma. At the outset, it is important to correct the record and appropriately frame the Burisma case: Potential violations of Ukrainian laws are not a legal prerequisite for any U.S. investigation into wrongdoing.

## **Investigation Threshold Much Lower Than Overt Act of Quid Pro Quo Corruption**

Vice President Joe Biden need not have engaged in an overt act of quid pro quo corruption to establish grounds for an investigation into Hunter Biden's Burisma activities. The standard of quid pro quo corruption is a false standard.

## **Investigation into Burisma Should Not Be Influenced by Bias & Political Influence**

Political associates of President Trump have been the subject of Justice Department investigations for similar activities, for which they were charged under the Foreign Agents Registration Act. Compelling evidence suggest numerous FARA violations in the Biden-Burisma case that mirror the cases brought by special counsel Robert Mueller and the U.S. Department of Justice against numerous Trump associates, including Paul Manafort and Michael Flynn. In the interest of the fair and equal application of the law, the U.S. Justice Department must, at the very least, investigate FARA violations arising from Hunter Biden's work on behalf of Burisma.

## **Failure to Report Work for Foreign Entity, Even in Good-Standing, Violates U.S. law**

This report identifies key areas for a federal investigation into Burisma Holdings, Hunter Biden, and Biden associates that are independent from any claims of overt quid pro quo corruption. Specifically, the most compelling evidence suggests possible violations of the Foreign Agents Registration Act by unregistered foreign agents.

**FARA Related Activities by Blue Star Strategies:** The company's representatives on multiple occasions contacted U.S. government officials to advocate on behalf of

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Burisma, according to internal State Department emails disclosed under a Freedom of Information Act request. Blue Star representatives made contact with officials in Obama's State Department to discuss Burisma's pending corruption case and, in so doing, invoked Hunter Biden's name and affiliation with Burisma.

In February 2016, Karen Tramontano, CEO of Blue Star Strategies and a former Deputy Chief of Staff to President Clinton, contacted State Department officials to request a meeting with Catherine Novelli, President Barack Obama's undersecretary for economic growth, energy and the environment, to discuss the corruption case, and specifically invoked Hunter Biden's name. At the time, Novelli was "the most senior official overseeing international energy issues for State.

Such actions by Blue Star Strategies are clear examples of FARA-regulated activities of representing "the interests of such foreign principal before any agency or official of the Government of the United States."

Additionally, on its U.S.-based website, Blue Star Strategies promotes a blog post, "Sustainable Energy Security Forum in Monaco," highlighting a 2018 global forum, co-founded by Burisma, without disclosing it to be foreign propaganda.

**FARA Related Activities by FTI Consulting:** In 2014, FTI Consulting, a Washington-based consulting firm, represented Burisma Holdings to the U.S. media in a political story. The Associated Press reported that the firm was "recently hired by Burisma." By responding to the U.S. political media, FTI Consulting appears to meet the FARA statutory definition of "acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal."

**FARA Related Activities by Hunter Biden:** FARA covers indirect "public-relations counsel" that "includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal." News reports on Hunter Biden's appointment to the Board are a clear example of indirect representation of the foreign principal in public relations matters.

Hunter Biden participated as an indirect "publicity agent" by engaging "directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures,

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or otherwise” when he supplied a quote for a Burisma press release on his appointment on May 12, 2014.

FARA includes political activities that “are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person.” Blue Star Strategies representatives directly referenced Hunter Biden’s position with Burisma in email communications with State Department officials when stating “two high profile U.S. citizens are affiliated with the company (including Hunter Biden as a board member)”. This communication meets the FARA standard of engaging in political activities “indirectly... through any other person.” The inclusion of Hunter Biden’s name shows a clear intent to “influence any agency or official of the Government of the United States” in an attempt to setup a meeting about Burisma’s then-active corruption case.

Hunter Biden also potentially engaged directly with U.S. government officials. In February 2016, Ukrainian prosecutors seized Burisma owner Zlochevsky’s property as part of its corruption investigation. On the same day that international media reported on the incident, Hunter Biden became a Twitter follower of Tony Blinken, a longtime Biden aide then serving as deputy secretary of State. According to records obtained by journalist John Solomon through a Freedom of Information Act request, Hunter Biden arranged a meeting with Blinken.

**FARA Related Activities by Devon Archer:** FARA covers indirect “public-relations counsel” that “includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal.” News reports on Archer’s appointment to the Burisma Board of Directors are a clear example of indirect representation of the foreign principal in public relations matters.

FARA includes political activities that “are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person.” Representatives of Blue Star Strategies alluded to Archer’s position with Burisma in email communications with State Department officials when stating “two high profile U.S. citizens are affiliated with the company.”

**FARA Related Activities by the Atlantic Council:** The Atlantic Council has posted blog posts on its U.S. website that promote Burisma and its energy policy agenda. In so doing, the Atlantic Council appears to meet the FARA standard of attempting to reach “section of the public within the United States with reference to formulating,

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adopting, or changing the domestic or foreign policies of the United States.” None of the blog posts feature “a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal,” as required under FARA.

On September 26, 2019, in the middle of the impeachment controversy, Melinda Haring, deputy director of the Atlantic Council’s Eurasia Center, authored two blog posts attempting to influence U.S. policy and public opinion on Ukraine and the impeachment hearings without disclosing the blog as Burisma-funded propaganda.

In October 2019, John Herbst, director of the Atlantic Council’s Eurasia Center, appeared on CNN News to attack President Trump and influence U.S. public opinion and yet failed to disclose that the Atlantic Council had accepted payments from foreign entity Burisma.

### **Not All Biden-Burisma Associates Appear to Have Violated U.S. Laws**

Several individuals and entities connected to the Burisma-Biden case took steps to comply with ethics and disclosure laws. In fact, the actions taken by Christopher Heinz, ML Strategies, and David Leiter clearly demonstrate the shortcomings by Hunter Biden and other Burisma associates. The failure of Hunter Biden and other Burisma associates to act in a similar forthright manner provides compelling evidence that they knowingly and deliberately chose to violate the law.

### **Hunter Biden’s Legal Bind: To Escape FARA, He Did Nothing. But, Payments for No Work Product Equates to Bribery**

In media reports defending his actions, Hunter Biden has claimed that he never engaged in political activities on behalf of Burisma. If true, although potentially absolving him of FARA-related violations, Hunter Biden has provided self-incrimination for the far more serious allegation of potential corruption and fraud.

### **Hunter Biden Never Set Foot in Ukraine & Had No Energy Experience**

According to published news reports, Hunter Biden never set foot in Ukraine. He had no relevant experience in energy policy nor did he have any qualifications related to Ukraine. Yet, Hunter Biden’s company received a stream of benefits to the tune of \$3.4 million.

### **Timeline of Events Raises Prima Facie Ethics Questions about Biden Conflict**

Following the April 2014 actions by the British Courts and Serious Fraud Office, Burisma hired well-connected attorneys, lobbyists and political advisers. The timeline of events makes a conflict of interest, or at the very least, the appearance of a conflict of interest, plainly obvious:

- April 14, 2014: Burisma’s assets were frozen at a London court hearing.

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- April 18, 2014: Burisma hired Hunter Biden.
- April 22, 2014: Vice President Joe Biden visited Ukraine and discussed energy investments, energy policy, energy security, and U.S. aid.

### **Stream of Benefits: Hunter Biden's Rosemont Seneca Bohai Paid \$3.4 Million**

Over the span of several years, Hunter Biden received a stream of benefits from Burisma. According to payment records reviewed by Reuters, Burisma paid approximately \$3.4 million to Rosemont Seneca Bohai LLC, a company that was controlled by Devon Archer and Hunter Biden. In some months, these payments totaled as much as \$83,333 for “consulting services” with the proceeds “intended for Biden and one for Archer.”

### **Things of Value: Burisma Received Access, Influence & Improved Public Image**

Burisma Holdings received numerous things of value, including “intangible things of value” from the connection to Vice President Joe Biden via Hunter Biden.

- **Weakened US Anti-Corruption Message:** Edward C. Chow of the Center for Strategic and International Studies, an expert on Ukrainian policy, has stated that Hunter Biden's involvement “undermined the Obama administration's anti-corruption message in Ukraine.”
- **Perception of Additional Spheres of Interest:** According to Igor Egorov, the president of the Kiev-based nonprofit Anticorruption Entrepreneurial Front, “By inviting influential foreigners, Ukrainian business wants to get additional protection, PR and lobby mechanisms to grasp additional spheres of interest. Having Hunter Biden on board, the owner of Burisma wanted to correct the image and to get cover, because authorities are scared by the U.S. embassy in Ukraine. Hunter Biden, using the political capabilities of his family, acted as a rescue buffer between Burisma and Ukrainian law enforcement agencies. His work in the company of a corrupt official smells bad.”
- **Princeling Strategy of Corruption:** In appointing Hunter Biden to the Burisma Board of Directors, the company was engaging in what has been described as a “princeling” style corruption. The strategy is when entities “hire the children of powerful government officials—“princelings”—and hope good things flow your way.”

### **Things of Value: U.S. Energy Policy in Ukraine under Vice President Joe Biden Mirrored Energy Policies Preferred by Burisma**

In addition to the intangible things of value, Burisma benefited from U.S. energy policy that mirrored the energy policies sought by Burisma. On April 22, 2014, Vice President Joe Biden visited Ukraine to discuss energy policy and investments, stating, “With the right investments and the right choices, Ukraine can reduce its energy dependence and increase its energy security.”

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According to the Associated Press in 2014, “Hunter Biden’s new company says it aims to reduce Ukraine’s dependence on Russian gas and oil, a goal that parallels U.S. efforts to aid Ukraine’s energy industry.”

### **Official Act: Democrat Senators Back Aid to Ukraine, Action Praised by Burisma**

On June 27, 2014, U.S. Senator Edward Markey of Massachusetts, U.S. Senator Ron Wyden of Oregon, U.S. Senator Jeanne Shaheen of New Hampshire and U.S. Senator Christopher Murphy of Connecticut sent a letter to the Obama administration urging increased energy aid for Ukraine.

The letter from the Democrat Senators was “trumpeted by Burisma Holdings as a commendable move towards securing the future security of Ukraine” According to a Burisma press release published on the same day as the letter’s release, “Burisma Holdings today applauded the range of U.S. legislative support for development of Ukraine’s broad and untapped resources and an increase in transparency and good governance.”

### **Official Act: Vice President Joe Biden’s Explicit Quid Pro Quo Statement: Fire Prosecutor General for \$1 Billion in Loan Guarantees**

In 2016, Vice President Joe Biden demanded that Ukrainian officials remove Prosecutor General Viktor Shokin, the Ukrainian prosecutor overseeing the investigation into Burisma, in exchange for \$1 billion in loan guarantees.

In January 2018, while speaking to a meeting of the Council of Foreign Relations in Washington, D.C., Vice President Joe Biden stated explicitly that he demanded the firing of Shokin. Biden stated:

*“So they said they had — they were walking out to a press conference. I said, nah, I’m not going to — or, we’re not going to give you the billion dollars. They said, you have no authority. You’re not the president. The president said — I said, call him. I said, I’m telling you, you’re not getting the billion dollars. I said, you’re not getting the billion. I’m going to be leaving here in, I think it was about six hours. I looked at them and said: I’m leaving in six hours. If the prosecutor is not fired, you’re not getting the money. Well, son of a bitch. (Laughter.) He got fired. And they put in place someone who was solid at the time.”*

The standard for bribery is when “the advice and recommendation of the public official would be influential,” not solely in cases where the official directly takes an overt act. Prosecutor General Viktor Shokin has stated publicly that he believes his removal was connected to Burisma.

### **Vice President Joe Biden Failed to Comply with Executive Branch Ethics Standards**

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Vice President Joe Biden's campaign has blatantly lied to the public and grossly misrepresented the Burisma case. In a statement released to the press, Andrew Bates, a spokesman for Joe Biden's presidential campaign, falsely claimed that Vice President Joe Biden "acted at all times in a manner consistent with well-established executive branch ethics standards."

Under the executive branch ethics rules, Vice President Joe Biden failed the ethics standard for recusal when "a reasonable person may believe that an employee's impartiality can be influenced by interests other than the employee's own."

Biden's actions violated executive branch ethics standards relating to personal and business relationships, in that he knew "that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of (his) household" yet he failed to "not participate in the matter unless (he has) informed the agency designee of the appearance problem and received authorization from the agency designee."

- **Associated Press: Potential Conflict of Interest:** As far back as 2014, the Associated Press observed the potential for a conflict of interest posed by Hunter Biden's work in Ukraine. "Instability there could force the younger Biden's new company to coordinate with pro-Russian separatists whom the U.S. considers illegitimate."
- **Hunter Biden's Business Concerned State Department:** The U.S. State Department expressed concerns "about Hunter Biden's work for Burisma and how it affected Vice President Biden's diplomacy in Ukraine."
- **"Appearance Good Enough to Keep You From Doing Thing Like That":** A former Biden business associate said, "The appearance of a conflict of interest is good enough, at this level of politics, to keep you from doing things like that." (Entous, 2019)
- **Objections from State Department Official George Kent:** During congressional impeachment hearings, State Department official George Kent testified he had concerns that Hunter Biden's involvement with Burisma caused "the perception of a conflict of interest."
- **Ethics Concerns Raised by Amos Hochstein:** According to the New Yorker, "Amos Hochstein, the Obama Administration's special envoy for energy policy, raised the matter with Biden, but did not go so far as to recommend that Hunter leave the board."
- **Public Citizen: Burisma Seeking to Leverage Hunter's Relationship with Joe:** Robert Weissman, the president of Public Citizen, has expressed his belief that "Hunter's foreign employers and partners were seeking to leverage Hunter's relationship with Joe, either by seeking improper influence or to project access to him."

### **Project on Government Oversight: “Hard To Believe That Family Dinner Conversations Will Be Restricted to the Weather”**

Both Hunter Biden and former Vice President Joe Biden have claimed that they never discussed Burisma. Perhaps the best standard for evaluating whether a reasonable person would object to the Biden’s behavior is by applying the same ethical standards used to unjustly attack President Trump. In the words of Danielle Brian, executive director for the Project on Government Oversight, the “claims he’ll only learn about his businesses from the newspapers, but it’s hard to believe that family dinner conversations will be restricted to the weather.”

### **Biden-Burisma Raises Questions of Fraud: Wire Fraud, Foreign Labor Contracting Fraud & Honest Services Fraud**

The Biden-Burisma case raises questions about possible fraudulent activities in the area of wire fraud, foreign labor contracting fraud and honest services fraud. In May 2014, Burisma Holdings “transmitted by means of wire, radio, or television communication” a press release claiming that Hunter Biden would serve as the company’s chief of legal affairs. Yet, in 2019, Hunter Biden claimed, “At no time was I in charge of the company’s legal affairs.”

### **Overstatement of Hunter Biden’s Role Improved Burisma’s Public Image**

If Hunter Biden never served as chief of Burisma Holdings’ legal unit, he and Burisma knowingly engaged in fraudulent activity by intentionally overstating his role in the company. Such an overstatement of Hunter Biden’s role in the organization impacted the public’s confidence in the company. Additionally, as a foreign entity, Burisma may have engaged in an employment agreement by “means of materially false or fraudulent pretenses, representations or promises regarding that employment.”

### **US Taxpayers Potential Victim of Fraud: US AID Contract with Burisma**

From 2013-2019, the United States Agency for International Development, commonly known as USAID, funded a foreign aid project in Ukraine. In November 2014, USAID Municipal Energy Reform Project entered into an agreement with Burisma Holdings. There are no publicly-available copies of the agreement. However, the USAID MERP website includes multiple references to Burisma sponsoring various public education programs, including a journalism competition.

Hunter Biden’s public pronouncement that he would serve as chief of Burisma’s legal affairs unit to focus on transparency and good governance engendered public confidence in the company, including confidence by USAID officials acting as agents of the federal government. By publicly claiming that Hunter Biden served as chief of its legal affairs unit, Burisma had falsely and fraudulently represented its business to USAID MERP. Had US AID MERP been fully aware of Hunter Biden’s

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actual role at the company, it may have not been entered into any memorandum of understanding with Burisma. U.S. taxpayers are clearly a harmed party to Biden and Burisma's fraudulent misrepresentation.

### **Burisma Touted Its US AID Agreement to Bolster Its Public Image**

Burisma touted its US AID agreement in a manner that greatly exaggerated its significance in influencing energy policy. Burisma received a "thing of value" from U.S. taxpayers by improving the company's poor public image.

### **Hunter Biden's Board Appointment Acted as Fraudulent "Whitewashing"**

Hunter Biden, by virtue of his appointment, provided a thing of value to Burisma. According to Daria Kaleniuk, executive director of the Anti-Corruption Action Center, an non-governmental organization based in Ukraine, Hunter Biden's appointment acted as a form of "whitewashing," which provided Western legitimacy to a corporation that had a negative reputation in Ukraine and had obtained its assets through questionable means.

### **Hunter Biden's Compensation: Potential for Foreign Contracting Fraud**

According to Reuters, Hunter Biden never visited Ukraine for Burisma business during his entire time with the company. Individuals familiar with Burisma business affairs say that Hunter "was a ceremonial figure." As part of his public relations efforts to contain the damage from the Burisma scandal, Hunter Biden was asked, "If your last name wasn't Biden, do you think you would've been asked to be on the board of Burisma?" Biden replied: "Probably not..."

### **Hunter Biden's Potential Honest Services Fraud**

In the May 2014 press release announcing his appointment, Hunter Biden claimed that he would assist the company with transparency and corporate governance. Watchdog Research principles Brian Lawe and John Cheffers point out that by accepting compensation as both a consultant and director, Hunter Biden violated basic corporate governance rules. Hunter Biden's violation of such a basic standard of corporate governance raises questions whether he falsely represented his expertise to Burisma, or never consulted in the area of corporate governance.

### **Biden's Fraudulent Claims on "Fair" Compensation – 12x Standard Pay**

In 2015, Burisma represented that Hunter Biden's compensation for service on the Burisma Board of Directors was "not out of the ordinary" for similar corporate board positions. According to a compensation analysis by Watchdog Research, which describes itself as "CarFax reports for businesses," Hunter Biden's compensation "was more than 12 times comparable board pay at similarly sized companies."

# RECOMMENDATIONS

The most compelling evidence in the Biden-Burisma corruption case supports the potential of numerous serious violations of the Foreign Agents Registration Act by Hunter Biden, Blue Star Strategies, FTI Consulting, Devon Archer, and the Atlantic Council. Any FARA investigations would identify other possible criminal actions by Burisma-Biden associates, such as direct quid pro corruption.

**RECOMMENDATION #1: Investigate Blue Star Strategies for Illegally Acting as an Unregistered Foreign Agent for Burisma**

No publicly available record shows a FARA registration for Blue Star Strategies, nor does the company appear to qualify for a relevant exemption from disclosure. The company does not appear to have disclosed its work on behalf of Burisma under the Lobbying Disclosure Act.

**RECOMMENDATION #2: Investigate FTI Consulting for Illegally Acting as an Unregistered Foreign Agent for Burisma**

No publicly available record shows a FARA registration for FTI Consulting, nor does the company appear to qualify for a relevant exemption from disclosure. The company does not appear to have disclosed its work on behalf of Burisma under the Lobbying Disclosure Act.

**RECOMMENDATION #3: Investigate Hunter Biden for Illegally Acting as an Unregistered Foreign Agent for Burisma**

No publicly available record shows a FARA registration for Hunter Biden, nor does he appear to qualify for a relevant exemption from disclosure. He does not appear to have disclosed its work on behalf of Burisma under the Lobbying Disclosure Act.

**RECOMMENDATION #4: Investigate Devon Archer for Illegally Acting as an Unregistered Foreign Agent for Burisma**

No publicly available record shows a FARA registration for Devon Archer, nor does he appear to qualify for a relevant exemption from disclosure. He does not appear to have disclosed its work on behalf of Burisma under the Lobbying Disclosure Act.

**RECOMMENDATION #5: Investigate the Atlantic Council for Illegally Acting as an Unregistered Foreign Agent for Burisma**

No publicly available record shows a FARA registration for the Atlantic Council, nor does the entity appear to qualify for a relevant exemption from disclosure. The entity does not appear to have disclosed its work on behalf of Burisma under the Lobbying Disclosure Act.

## KEY FIGURES

<b>Joe Biden</b>	Former Vice-President of the United States, who served as Obama administration's point person on Ukraine
<b>Hunter Biden</b>	Son of Former Vice-President of the United States Member of Board of Directors, Burisma Holdings Employed by Mykola Zlochevsky
<b>Burisma Holdings</b>	Energy company, based in Ukraine & registered in Cyprus, considered one of Ukraine's largest natural gas producers
<b>Mykola Zlochevsky</b>	Owner of Burisma Holdings and former Ukrainian Ecology Minister, who was under investigation for allegedly directing government contracts to his businesses.
<b>Viktor Shokin</b>	Ukrainian Prosecutor-General, who was fired at the behest of Vice-President Joe Biden while his office was reviewing corruption allegations against Burisma Holdings and Mykola Zlochevsky
<b>Brociti Investments</b>	Parent company of Burisma Holdings, owned by Mykola Zlochevsky
<b>Devon Archer</b>	Co-Partner with Hunter Biden in Rosemont Seneca entities Member of Board of Directors, Burisma Holdings
<b>J. Cofer Black</b>	Former Mitt Romney campaign adviser & CIA official Member of Board of Directors, Burisma Holdings
<b>Aleksander Kwasniewski</b>	Former President of Poland Member of Board of Directors, Burisma Holdings
<b>Blue Star Strategies</b>	Washington-based public affairs firm managed by former Clinton administration officials hired by Burisma
<b>ML Strategies</b>	Washington-based lobbying firm, which registered as foreign agent for Burisma under Lobbying Disclosure Act of 1995

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<b>FTI Consulting</b>	Business advisory and consulting firm retained by Burisma to provide communications consulting
<b>Lawrence Pacheco</b>	Former Burisma spokesman during his time with FTI Consulting
<b>Mitt Romney</b>	GOP U.S. Senator from Utah, whose former aide Cofer Black served on the Burisma Board of Directors.
<b>Edward Markey</b>	Democrat U.S. Senator from Massachusetts, who urged Obama administration to increase aid to Ukraine.
<b>Ron Wyden</b>	Democrat U.S. Senator from Oregon, who urged Obama administration to increase aid to Ukraine.
<b>Jeanne Shaheen</b>	Democrat U.S. Senator from New Hampshire, who urged Obama administration to increase aid to Ukraine.
<b>Chris Murphy</b>	Democrat U.S. Senator from New Hampshire, who urged Obama administration to increase aid to Ukraine.
<b>George Kent</b>	State Department official who worked on anti-corruption efforts in Ukraine and expressed ethics concerns about Bidens
<b>Amos Hochstein</b>	U.S. Special Envoy for International Energy Affairs under President Obama, who expressed ethics concerns about Bidens in Ukraine
<b>Christopher Heinz</b>	Former Hunter Biden business partner in Rosemont Seneca entities and stepson of former Secretary of State John Kerry
<b>David Leiter</b>	Former President of ML Strategies and former Chief of Staff to U.S. Senator John Kerry, who disclosed work for Burisma.
<b>Geoffrey Pyatt</b>	Former U.S. Ambassador to Ukraine
<b>Rosemont Seneca</b>	Collection of business ventures owned by Hunter Biden, Devon Archer and Christopher Heinz
<b>Rosemont Seneca Bohai LLC</b>	Corporation controlled by Devon Archer & Hunter Biden, which received \$3.4 million from Burisma

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<b>Boies Schiller Flexner</b>	New York law firm hired by Burisma & Hunter Biden's employer
<b>John D. Buretta</b>	Former Assistant U.S. Attorney for the Eastern District of New York, hired by Blue Star Strategies on behalf of client Burisma
<b>Catherine Novelli</b>	Undersecretary of State, the most senior official overseeing international energy issues for the State Department, who discussed Burisma corruption case with Burisma consultants
<b>Karen Tramontano</b>	Chief Executive Officer at Blue Star Strategies & former Deputy Chief of Staff to President Clinton, who requested State Department meeting to discuss Burisma corruption case
<b>Sally Painter</b>	COO of Blue Star Strategies LLC, hired by Burisma to engage in public affairs advocacy
<b>John Kerry</b>	Former Secretary of State & former U.S. Senator from Massachusetts
<b>Tony Blinken</b>	Former longtime aide to Vice-President Joe Biden, who, as deputy secretary of state, met with Hunter Biden
<b>David Goldwyn</b>	Former U.S. Special Envoy for Energy Affairs, who attended the 2018 Energy Security for the Future: Revolutionary Thinking, which was co-founded by Burisma Holdings
<b>Mary Landrieu</b>	Former Democrat U.S. Senator of Louisiana who attended the 2018 Energy Security for the Future: Revolutionary Thinking, which was co-founded by Burisma Holdings
<b>John Herbst</b>	Director of the Atlantic Council's Eurasia Center & former U.S. Ambassador to Ukraine, who attended the 2018 Energy Security for the Future, co-founded by Burisma Holdings.
<b>Atlantic Council</b>	Non-profit entity that seeks to influence U.S. policy and accepted at least \$100,000 from Burisma Holdings.
<b>Melinda Haring</b>	Deputy director of the Atlantic Council's Eurasia Center and author of blog post influencing U.S. policy on Ukraine.

## BACKGROUND

### Burisma Holdings

Burisma Holdings Limited, a Ukrainian-based energy company, holds 35 licenses for hydrocarbon production in Ukraine's main oil and gas basins. In 2018, the company produced 1.3 billion cubic meters of gas. (Reuters, 2019) The company claims to currently produce 25 to 30 percent of gas on the Ukrainian market (Gera, 2019).

Registered offshore in Cyprus, the company is wholly-owned by Brociti Investments Limited, another Cyprus-based company that is, in turn, owned by Mykola Zlochevsky (Seddon, 2014). A former Minister of Ecology and Natural Resources, Zlochevsky was politically allied with Viktor Yanukovich, the pro-Putin President of Ukraine who was driven from power during the Ukrainian Revolution of 2014 (Haltiwanger, 2019).

According to corporate registration records filed in Cyprus, Burisma originally registered on October 26, 2006, with its last annual corporate return filed on December 31, 2015 (Department of Registrar of Companies and Official Receiver, Burisma Holdings Limited).

### *Operated at the Center of Ukraine-Russia Conflict*

Energy is central to past conflicts and ongoing tensions between Ukraine and Russia, and as a result, so is Burisma. In 2014, when asked about the potential conflict of interest posed by Vice President Joe Biden "working to wean Ukraine off Russian gas," a Kremlin spokesman replied, "As everyone knows, there's no gas in Ukraine. The gas in Ukraine is Russian" (Seddon, 2014)

Burisma's owner Zlochevsky served in the government of Yanukovich, who is described by the *New York Times* as "a puppet of the Russian president, Vladimir V. Putin" and was tried for treason in absentia and convicted in January 2019 (Kramer, 2019).

The company also maintains financial interests in disputed regions in Crimea and east Ukraine. Although Burisma has scrubbed its website of past announcements, news reports have chronicled past activities of two Burisma subsidiaries (Braun, 2014). KrymTopEnergoServis reportedly operated natural gas fields in Crimea, while Esco-Pivnich maintained operations in Kharkiv, a city in eastern Ukraine with strong Russian ties (Braun, 2014) & (Moscow Times, 2015).

### *Questionable Circumstances Surrounding Acquisition of Burisma's Natural Gas Assets*

One of Ukraine's biggest natural gas companies, Burisma obtained its natural gas assets, oil exploration rights and production licenses under questionable circumstances, which gave rise to multiple investigation by Ukrainian and European officials for a range of serious charges, including corruption, money laundering and tax evasion.

As a government minister, Zlochevsky had extensive information on Ukraine's publicly-owned natural resources. He previously served as Environmental Protection Minister (Interfax Ukraine, 2012) and was appointed in 2003 by pro-Putin Yanukovich to chair the State Committee of Ukraine for State Material Reserve, during which time, "companies under his control won licenses to explore for oil" (Bullough, 2017). When pro-Putin Yanukovich lost power, Burisma was sued and fought to retain control of those disputed oil exploration rights.



*Mykola Zlochevsky*

In 2010, pro-Putin Yanukovich again tapped Zlochevsky for an influential energy position, this time as Ecology and Natural Resources Minister. As *The Guardian* notes, "That position gave him oversight of all energy companies operating in Ukraine, including the country's largest independent gas company, Burisma. The potential for a conflict of interest should have been clear, because Zlochevsky himself controlled Burisma. But there was no public outcry about this, because almost no one in Ukraine knew about it" (Bullough, 2017).

During his tenure from 2010-2012, "Burisma gained nine production licenses and its annual production rose sevenfold" (Bullough, 2017). From 2012-2014, Burisma's owner Zlochevsky served as a deputy secretary of National Security and Defense Council, an influential government agency that oversees all military and law-enforcement structures in Ukraine (Reuters, 2019).

According to the *Wall Street Journal*, Burisma's subsidiaries "received all their exploration permits for fresh fields during his two stints in the top posts, excluding extensions on existing fields. Those exploration licenses were awarded without public auctions" (Sonne & Mills, 2015).

### *April 2014: UK Money Laundering Investigation & Burisma Hiring Spree*

In April 2014, the United Kingdom's Serious Fraud Office announced that it had obtained a court order to freeze \$23 million that was suspected to be ill-gotten gain resulting from "misappropriating Ukrainian state assets" (United Kingdom Serious Fraud Office, 2014). Later reporting by *The Guardian* confirmed that the \$23 million was held in corporate accounts at BNP Paribas under the control of Burisma and Zlochevsky (Bullough, 2017).

#### Burisma's Directors, Employees, Lobbyists & Contractors

The actions by the British Courts and Serious Fraud Office in April 2014 inspired Burisma to hire well-connected attorneys, lobbyists and political advisers, including the former President of Poland, Aleksander Kwasniewski (Gera, 2019).

#### *Hunter Biden*

Robert Hunter Biden, the son of former Vice President Joseph R. Biden Jr., was appointed to the board of directors for Burisma Holdings on April 18, 2014, just four days after the British special court order to freeze \$23 million of Burisma assets (Seddon, 2014).

At the time of his appointment, Hunter Biden had no experience in Ukraine nor any experience in energy policy (Chayes, 2019). He was also, based on a lengthy *New Yorker* profile, engaging in highly erratic behavior, including illicit drug use (Entous, 2019). Ironically, while concealing his unstable behavior from his family, friends, and business associates, Hunter Biden was tapped to advise Burisma on transparency and responsibility.

"As a new member of the Board," Hunter Biden stated in a May 2014 press release announcing his Burisma appointment, "I believe that my assistance in consulting the Company on matters of transparency, corporate governance and responsibility, international expansion and other priorities will contribute to the economy and benefit the people of Ukraine" (Burisma Holdings, 2014).

Biden's total remuneration from Burisma remains unknown. According to the *New York Times*, Hunter Biden received as much as \$50,000 per month, (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019) while Reuters notes that Hunter Biden's company accounts received as much as \$83,333 per month over an 18-month period (Ivanova, Tsvetkova, Zhegulev, & Baker, 2019).

## Biden-Ukraine Corruption Investigation

Hunter Biden resigned from the Burisma Board of Directors at some point between August 10, 2019 and October 3, 2019 (Open Corporates, 2019).

### *Devon Archer*

Hunter Biden's position on the Burisma Board of Directors was precipitated by his business partner, Devon Archer. A former Abercrombie & Fitch model, Archer was appointed to the Burisma Board of Directors in April 2014. Previously, he co-founded an investment company, Rosemont Capital, with Christopher Heinz, the stepson of former Secretary of State John Kerry. In 2009, the trio, Archer, Heinz and Hunter Biden, formed another investment company, Rosemont Seneca Partners (Entous, 2019).

As early as April 15, 2014, Archer had accepted more than \$112,000 in payments from Burisma, according to unconfirmed Morgan Stanley banking records for Archer's investment company Rosemont Seneca Bohai, LLC. In 2018, Archer was convicted of defrauding a Native American tribe, a conviction that was eventually overturned on appeal (Pierson, 2018).

### *Chris Heinz*

Christopher Heinz, the stepson of former Secretary of State John Kerry, expressed strong concerns about Archer and Hunter Biden becoming involved with Burisma. So much so that it "fractured the firm" with Heinz spokesman Chris Bastardi stating:

*"Mr. Heinz strongly warned Mr. Archer that working with Burisma was unacceptable. Mr. Archer stated that he and Hunter Biden intended to pursue the opportunity as individuals, not as part of the firm. The lack of judgment in this matter was a major catalyst for Mr. Heinz ending his business relationships with Mr. Archer and Mr. Biden"* (Sonne, Kranish, & Viser, 2019).

### *Cofer Black*

Joseph Cofer Black serves as a member of the Burisma Board of Directors. In 2008, Black served as a senior adviser for counterterrorism and national security on the failed Republican presidential campaign of Mitt Romney. In 2012, Black served as a special adviser for national security and foreign policy during Romney's second failed presidential campaign (Jacobson, 2020). Now a member of the United States, Romney was the only Republican to support the impeachment of Donald Trump and has flip-flopped on whether he supports investigations into Burisma (Barrett, Raju, & Herb, 2020).

### *Boies Schiller Flexner*

In 2014, Burisma contracted with New York-based law firm Boies Schiller Flexner for legal services. Hunter Biden worked at the firm until the end of 2017. Financial records obtained from the Ukrainian prosecutor general's office show Burisma paid the firm \$283,000 (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019).

### *ML Strategies, LLC*

On May 14, 2014, Burisma hired ML Strategies, LLC., a Washington D.C.-based lobbying firm, and its president David Leiter to lobby on its behalf, according to public disclosure reports (Lobbying Report: ML Strategies, LLC, 2014). Leiter is a former Senate chief of staff to John Kerry, who was then-serving as Secretary of State (Scherer, 2014). From 2014 to 2016, ML Strategies, LLC filed seven disclosure reports under the Lobbying Disclosure Act of 1995, disclosing \$90,000 in payments (Lobbying Report: ML Strategies, LLC, 2014). In May 2017, Lieter left ML Strategies and did not retain Burisma as a client (The Hill Staff, 2017).

### *FTI Consulting*

In 2014, FTI Consulting, a Washington-based consulting firm, was hired by Burisma for U.S. media consulting. Lawrence Pacheco, then an employee of the firm, responded to media inquiries about Hunter Biden's role on the Burisma Board of Directors, stating: "His role, like all board members, is to provide strategic guidance to Burisma" (Scherer, 2014).

### *Blue Star Strategies*

Blue Star Strategies, a Washington D.C.-based consulting firm that is largely staffed by Clinton administration veterans, was hired, according to the *New York Times*, "to help fend off the investigations" into Burisma (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019). Blue Star representatives made contact with officials in Obama's State Department to discuss Burisma's pending corruption case and, in so doing, invoked Hunter Biden's name and affiliation with Burisma (Solomon, 2019).

In December 2019, U.S. Senators Ron Johnson, R-Wisconsin, and Chuck Grassley, R-Iowa, sent a letter to Karen Tramontano, the chief executive officer of Blue Star Strategies, to request information regarding Blue Star's work for Burisma Holdings. (News Release, 2019). The outcome of that request has not been publicly disclosed.

### *John D. Buretta*

Blue Star Strategies brought on to assist with its Burisma advocacy efforts attorney John D. Buretta (Grove & Cullison, 2019). Buretta, who served as a senior official in the Obama Justice Department, traveled to Ukraine and allegedly conducted meetings with Ukrainian Justice Department officials to help negotiate a Burisma settlement (Entous, The Ukrainian Prosecutor Behind Trump's Impeachment, 2019)

### *Atlantic Council*

The Atlantic Council, a Washington D.C.-based non-profit organization that works to influence U.S. policy, has accepted at least \$100,000 from Burisma Holdings. The Atlantic Council's contributor acknowledgment page for the 2018 fiscal year identifies Burisma as having contributed between \$100,000 and \$200,000 (Atlantic Council, 2020). The organization's Eurasia Center, which is under the direction of former U.S. Ambassador to Ukraine John Herbst and deputy director Melinda Haring, has repeatedly taken steps to influence U.S. policy without directly disclosing its funding from Burisma.

On September 26, 2019, in the middle of the Trump impeachment controversy, Melinda Haring, deputy director of the Atlantic Council's Eurasia Center, authored a blog post attempting to influence U.S. policy and public opinion on Ukraine and the impeachment hearings without disclosing the blog as Burisma-funded propaganda.

# Foreign Agents Registration Act

## Background: Law, History & Requirements

*“FARA can be a powerful tool for detecting those foreign instruments. We should use it. No matter whom it ensnares.”*

— Zephyr Teachout, an associate professor of law at Fordham University.  
(Teachout, 2019)

### *Background*

The Foreign Registration Act of 1938 was enacted in order to prevent foreign entities, including but not limited to, foreign governments from covertly influencing U.S. government policy and public opinion. Originally passed to combat pro-Nazi subversive activities, the law continues to be a component of the United States Department of Justice’s national security enforcement program (Laufman, 2018).

Rather than an outright ban on foreign influence, the law’s purpose is to provide the American people and its public servants with a true understanding of the source of the information from foreign entities, businesses and governments. The U.S. Department of Justice FARA disclosure unit explains: “The purpose of FARA is to insure that the U.S. Government and the people of the United States are informed of the source of information (propaganda) and the identity of persons attempting to influence U.S. public opinion, policy, and laws” (U.S. Department of Justice, 2017)

### *Law: Foreign Registration Act of 1938*

Under the Foreign Registration Act of 1938, all U.S. citizens working on behalf of a foreign entity to engage in influencing public opinion or political figures are required to file a disclosure with the U.S. Attorney General.

22 U.S. Code § 612 states:

*“No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by subsections (a) and (b) of this section or unless he is exempt from registration under the provisions of this subchapter. Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Attorney*

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*General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General.”*

### *FARA Includes Foreign Corporations*

Recent public attention surrounding FARA, including recent enforcement actions by the U.S. Department of Justice, has centered around undisclosed lobbying activities on behalf of foreign governments. However, the law requires disclosure of agents working on behalf of foreign corporation, such as Burisma.

A foreign principal is defined to include, according to 22 U.S. Code § 611 (b) subsection (3):

*a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.*

### *FARA’s Broad Definition of Reportable Activities*

FARA-related activities are generally classified into four qualifying categories of activities:

1. Political Activities
2. Public Relations and Political Consulting
3. Soliciting or Disbursing Things of Value
4. Represents the interests of such foreign principal before any agency or official of the Government of the United States

### *FARA Definition of Political Activities*

The law covers a broad range of “political activities” and is not exclusively limited to political campaigns. Under 22 U.S. Code § 611 subsection (o), political activities are defined as:

*The term “political activities” means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party;*

### *Exemptions*

The Foreign Agents Registration Act establishes eight categorical exemptions for the following activities that would otherwise require FARA disclosures:

1. A duly accredited diplomatic or consular officer
2. Any official of a foreign government
3. Staff members of diplomatic or consular officers
4. Private and nonpolitical activities; solicitation of funds
5. Religious, scholastic, or scientific pursuits
6. Defense of foreign government vital to United States defense, reported to the Secretary of State and retained by the Attorney General
7. Persons qualified to practice law engaged in legal representation
8. Foreign agent registered under the Lobbying Disclosure Act of 1995 (Foreign Agents Registration Act of 1938, 2019)

### *Exemption for Foreign Agents Registered under the Lobbying Disclosure Act of 1995*

The Lobbying Disclosure Act exemption, which allows U.S. citizens and entities to avoid registration under the Foreign Agents Registration Act by registering under the Lobbying Disclosure Act, is not an option “if a foreign government or foreign political party is the “principal beneficiary” of the activities in the United States” (Laufman, 2018).

22 U.S. Code § 613 subsection (h) states:

*“Agents of foreign principals: Any agent of a person described in section 611(b)(2) of this title or an entity described in section 611(b)(3) of this title if the agent has engaged in lobbying activities and has registered under the Lobbying Disclosure Act of 1995 [2 U.S.C. 1601 et seq.] in connection with the agent’s representation of such person or entity” (Foreign Agents Registration Act of 1938, 2019).*

### Relevant Cases

#### *Michael T. Flynn & Bijan Kian*

In December 2017, Michael T. Flynn, the former national security adviser to President Donald Trump pleaded guilty to lying to the FBI in connection with its investigation into Flynn’s work on behalf of a foreign entity (Shear & Goldman, 2017). Flynn and his business associate, Bijan Kian, allegedly made false statements and omissions related to their work on behalf of a Dutch entity with connections to the Turkish government. In September 2019, a federal judge threw

## Biden-Ukraine Corruption Investigation

out Bijan's guilty verdict (Polantz, 2019). Flynn is now seeking to overturn his guilty plea, and his case is being reviewed by an outside prosecutor (Goldman, 2020).

**Relevance for Burisma-Biden Investigation:** The Flynn case demonstrates two relevant issues as it relates to the Burisma case. First, the Justice Department has prosecuted individuals for FARA-related violations – despite the entity being a non-governmental foreign entity. In the Flynn case, the foreign entity was a private Dutch corporation with connections to the Turkish government's interests but not directly a foreign government (Dennett, 2017).

Secondly, Flynn at least took the step of attempting to disclose the foreign entity by filing under the Lobbying Disclosure Act – a step not taken by numerous individuals affiliated with Burisma.

### *Paul Manafort*

Paul Manafort, President Donald Trump's former campaign chairman, was tried in multiple federal cases for fraud, tax evasion, conspiracy and FARA violations, all of which related back to his work on behalf of the Government of Ukraine, the Ukrainian Party of Regions, and Viktor Yanukovich, the pro-Putin President of Ukraine (Parks & Lucas, 2019).

In 2018, Manafort pleaded guilty to FARA-related counts:

- (i) conspiracy to commit multiple offenses, including violating FARA by failing to register and by providing false statements in a document filed with FARA, and laundering money; and
- (ii) conspiracy to obstruct justice by tampering with witnesses (U.S. Department of Justice, 2019).

**Relevance for Burisma-Biden Investigation:** It is worth reinforcing that Burisma owner Mykola Zlochevsky served in Yanukovich's administration, and Burisma obtained its oil exploration rights under Yanukovich. Additionally, the Manafort FARA case shows how the U.S. Justice Department identified other felony violations during the course of its investigation.

### *Richard Gates*

Richard Gates, Manafort's business partner and fellow Trump campaign adviser, was also prosecuted for FARA-related violations stemming from his work as an unregistered agent of a foreign principal for the Government of Ukraine, the Ukrainian Party of Regions, and former Ukrainian President Victor Yanukovich (Politico Staff, 2017).

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**Relevance for Burisma-Biden Investigation:** As with Manafort, it is worth reinforcing that Burisma owner Mykola Zlochevsky served in Yanukovich's administration, and Burisma obtained its oil exploration rights under Yanukovich.

### *Sam Patten*

W. Samuel Patten, a prominent Washington lobbyist, pleaded guilty to failing to register as a foreign agent as part of a plea agreement in which he served as a cooperating witness working with special counsel Robert Mueller in Mueller's case against Paul Manafort (Gerstein & Sameulsohn, 2019). Patten and his businesses were paid more than \$1 million to serve as a political consultants to the Ukrainian Opposition Bloc, an anti-Russia political party (Vogel, LaFraniere, & Goldman, Lobbyist Sam Patten Pleads Guilty to Steering Foreign Funds to Trump Inaugural, 2018)

**Relevance for Burisma-Biden Investigation:** The Patten case shows the power that FARA prosecutions can have in supporting cases for other charges. Patten cooperated with the Justice Department to bolster the case against Manafort, which eventually resulted in a plea agreement by Manafort.

### *Skadden, Arps, Slate, Meagher & Flom LLP*

In January 2019, the law firm Skadden, Arps, Slate, Meagher & Flom LLP agreed to pay the United States Treasury \$4.6 million that it received as part of a Ukrainian foreign influence campaign. As part of the settlement the firm agreed to retroactively register as an Agent of a Foreign Principal under the Foreign Agents Registration Act. (U.S. Department of Justice, 2019)

**Relevance for Burisma-Biden Investigation:** The Skadden case underscores that law firms do not receive a blanket exemption under the legal representation exemption of FARA.

### *Obama White House Counsel Gregory Craig*

In September 2019, Greg Craig, who served as President Barack Obama's White House Counsel, was acquitted of charges that he misled the Justice Department during its FARA investigation into Craig's activities on behalf of Ukrainian foreign agents. Craig was recruited to work for foreign agents by Manafort and was working for the law firm Skadden, Arps, Slate, Meagher & Flom LLP at the time of his alleged FARA activities (Sullivan, 2019).

**Relevance for Burisma-Biden Investigation:** The Craig case highlights the role that Washington D.C.-based thinktanks and non-profits play in foreign agent influence-

peddling. One of Craig's former colleagues at the Endowment for International Peace who was working on international corruption notes, "Craig was prosecuted on the narrow count of lying to federal investigators. He was acquitted. To see the grin on his face that day, it was as though he had been absolved not just of criminal misconduct but also of moral wrongdoing" (Chayes, 2019).

### Violations: Burisma-Biden Case

#### *No Records of FARA Disclosures for Burisma*

As a foreign corporation, agents acting on behalf of Burisma Holdings that engage in political activity would appear to qualify for registration under the Foreign Agents Registration Act. Similarly, agents acting on behalf of or paid through Burisma's parent company Brociti Investments would also appear to qualify for FARA registration.

A search of the U.S. Department of Justice's Foreign Agents Registration Act [database](#) for the search term, "Burisma", produces 11 results, none of which pertain to the Ukrainian energy company. It is worth noting that the U.S. Department of Justice's online FARA database is not comprehensive. The Department website states that the "search tool provides online access to the vast majority of public documents on file with the FARA Unit. Due to potential privacy issues, a limited number of FARA documents may only be accessed at the FARA public office."

There is reason to suspect that the following individuals and/or entities engaged in political activities, as defined by the Foreign Agents Registration Act:

- ML Strategies
- FTI Consulting
- Blue Star Strategies
- Atlantic Council
- Devon Archer
- Hunter Biden

Of these above-named individuals and entities, ML Strategies is the only one to file under the Lobbying Disclosure Act, one possible exemption from FARA disclosure requirements.

#### *Only 1 Lobbying Disclosure Record: ML Strategies, LLC*

A search of the Lobbying Disclosure Act [Database](#) for the search term, "Burisma" produces 7 results, all filed by ML Strategies, LLC between July 2014 to April 2016.

THE UNITED STATES SENATE

## Query the Lobbying Disclosure Act Database

[Search Lobbying Database](#)
[Search Contributions Database](#)
[Search Giftrule Database](#)
[Disclosure Home](#)

Client Name: Burisma

Show: 100 Filter:

Registrant Name	Client Name	Filing Type	Amount Reported	Date Posted	Filing Year
ML Strategies, LLC	Burisma Holdings	FOURTH QUARTER REPORT		01/20/2015	2014
ML Strategies, LLC	Burisma Holdings	FIRST QUARTER TERMINATION (NO ACTIVITY)		04/19/2016	2016
ML Strategies, LLC	Burisma Holdings	FIRST QUARTER REPORT		04/20/2015	2015
ML Strategies, LLC	Burisma Holdings	REGISTRATION		07/01/2014	2014
ML Strategies, LLC	Burisma Holdings	SECOND QUARTER (NO ACTIVITY)		07/20/2015	2015
ML Strategies, LLC	Burisma Holdings	SECOND QUARTER REPORT	\$40,000.00	07/21/2014	2014
ML Strategies, LLC	Burisma Holdings	THIRD QUARTER REPORT	\$50,000.00	10/17/2014	2014
Registrant Name	Client Name	Filing Type	Amount Reported	Date Posted	Filing Year

Showing 1 to 7 of 7 entries

[First](#)
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[Last](#)

[Disclosure Home](#)

### Potential Violations: FTI Consulting

In 2014, FTI Consulting, a Washington-based consulting firm, represented Burisma Holdings to the U.S. media in a political story. The Associated Press reported that the firm was “recently hired by Burisma” (Braun, 2014).

Lawrence Pacheco, then an employee of the firm, responded to media inquiries about Hunter Biden’s role on the Burisma Board of Directors, stating: “His role, like all board members, is to provide strategic guidance to Burisma” (Scherer, 2014).

By responding to the U.S. political media, Pacheco and FTI Consulting appear to meet the FARA statutory definition of “acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal” (Foreign Agents Registration Act of 1938, 2019).

If the published report is accurate, FTI Consulting and Pacheco have met the FARA standard of “any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal” (Foreign Agents Registration Act of 1938, 2019).

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All indications are that the U.S. Justice Department has not investigated FTI Consulting or Lawrence Pacheco in connection with its work on behalf of Burisma. In October 2019, Pacheco told the press that he had not been questioned about his involvement with Burisma (Wingerter, 2019).

### *No Record of FTI Consulting Disclosures*

There is no record of “FTI Consulting” filing any FARA disclosure forms, based on a search of the U.S. Department of Justice’s Foreign Agents Registration Act [database](#).

Similarly, there is no record of any lobbying disclosure documents filed by “FTI Consulting” under the Lobbying Disclosure Act [Database](#).



The screenshot shows a web browser window with the URL [soprweb.senate.gov/index.cfm?event=processSearchCriteria](https://soprweb.senate.gov/index.cfm?event=processSearchCriteria). The page header includes the text "THE UNITED STATES SENATE" and "Query the Lobbying Disclosure Act Database". Below the header, there are navigation links: "Search Lobbying Database", "Search Contributions Database", "Search Gift/Rule Database", and "Disclosure Home". The main content area is titled "Your Search Results" and contains the following text: "To view the filing details, please click on a row in the search results. The filing details will open in a new browser window. You may also [refine your search](#) or [perform a new search](#). For a description of the search results grid functionality, [click here](#)." Below this text, there is a box that says "You searched for:" and "Registrant Name: FTI Consulting". At the bottom of the search results, it says "No Records Found" and "Please [refine your search](#) or [perform a new search](#)." There is also a link for "Disclosure Home" at the bottom of the page.

### *Potential Violations: Blue Star Strategies*

Blue Star Strategies, a Washington D.C.-based consulting firm that is largely staffed by Clinton administration veterans, appears to have engaged in FARA-related activities pertaining to its work for foreign entity Burisma Holdings.

First, the firm has been described in published U.S. media reports, including the *New York Times*, as being hired, to help “fend off the investigations” into Burisma (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019).

The action to “fend off the investigations” would constitute “political activities” under FARA, which are defined as activities that “in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or

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foreign policies of the United States” (Foreign Agents Registration Act of 1938, 2019)

Secondly, Blue Star representatives made contact with officials in Obama’s State Department to discuss Burisma’s pending corruption case and, in so doing, invoked Hunter Biden’s name and affiliation with Burisma (Solomon, 2019).

In February 2016, Karen Tramontano, CEO of Blue Star Strategies and a former Deputy Chief of Staff to President Clinton, contacted State Department officials to request a meeting with Catherine Novelli, President Barack Obama’s undersecretary for economic growth, energy and the environment, to discuss the corruption case, and specifically invoked Hunter Biden’s name, according to documents obtained by Solomon under a Freedom of Information Act lawsuit (Freedom of Information Act Disclosure).

At the time, Novelli was “the most senior official overseeing international energy issues for State. The undersecretary position, of which there are several, is the third-highest-ranking job at State, behind the secretary and deputy secretary” (Solomon, 2019). A February 26, 2016 email between State Department officials, titled “Burisma” states:

*“Per our conversation, Karen Tramontano of Blue Star Strategies requested a meeting to discuss with U/S Novelli USG remarks alleging Burisma (Ukrainian energy company) of corruption.”*

*“Tramontano would like to talk with U/S Novelli about getting a better understanding of how the U.S. came to the determination that the company is corrupt.”*

*“According to Tramontano there is no evidence of corruption, has been no hearing or process, and evidence to the contrary has not been considered”* (Freedom of Information Act Disclosure).

Journalist John Solomon, who obtained State Department records via a Freedom of Information Act lawsuit, points out that the State Department-Blue Star communications occurred one “month before Vice President Joe Biden forced Ukraine to fire the prosecutor investigating his son’s company for corruption” (Solomon, 2019).

A meeting was arranged between Tramontano and Novelli on March 1, 2016; however, it is not immediately clear whether any meetings took place (Solomon, Hunter Biden’s Ukraine gas firm pressed Obama administration to end corruption allegations, memos show, 2019).

**From:** [REDACTED]  
**Sent:** Wednesday, February 24, 2016 5:03 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Burisma

~~(C)~~ Per our conversation, Karen Tramontano of Blue Star Strategies requested a meeting to discuss with U/S Novelli USG remarks alleging Burisma (Ukrainian energy company) of corruption. She noted that two high profile U.S. citizens are affiliated with the company (including Hunter Biden as a board member). Tramontano would like to talk with U/S Novelli about getting a better understanding of how the U.S. came to the determination that the company is corrupt. According to Tramontano, there is no evidence of corruption, has been no hearing or process, and evidence to the contrary has not been considered. Would appreciate any background you may be able to provide on this issue and suggested TPs for U/S Novelli's meeting.

Thanks!

Best regards,

The meetings need not have taken place for Blue Star Strategies to meet the FARA requirements. The internal State Department shows that Blue Star Strategies represented “the interests of such foreign principal before any agency or official of the Government of the United States” (Foreign Agents Registration Act of 1938, 2019).

Independent journalist John Solomon, who received Burisma banking records from Ukrainian officials, has reported that Blue Star received a \$60,000 payment from Burisma in November 2015 (Solomon, Hunter Biden’s Ukraine gas firm pressed Obama administration to end corruption allegations, memos show, 2019).

Blue Star need not have received money from Burisma for it to have engaged in FARA activities. Tramontano appears to have met the FARA standard of qualifying activities by holding herself out to be a representative of Burisma. Again, FARA defines “agent of a foreign principal” as being “any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal” (Foreign Agents Registration Act of 1938, 2019).

Finally, on its U.S.-based website, Blue Star Strategies promotes a blog post, “Sustainable Energy Security Forum in Monaco,” highlighting a 2018 global forum, co-founded by Burisma. The blog post does not include any foreign propaganda disclosures as required by FARA. It directly seeks to influence U.S. politics, U.S. energy policy and U.S. officials. Specifically, the blog post states:

*“This transatlantic panel engaged in a robust discussion ranging from the challenges facing the U.S. and EU transatlantic energy dialogue, the growing*

*energy resources of the United States, the drive by Russia to control Europe's energy market, and the varying responses to these challenges for European heads of state.” (Jolevski & Baronberg, 2018)*

In so doing, Blue Star Strategies is fulfilling the FARA standard of attempting to reach “section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” The blog posts feature “a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal,” as required under FARA (Foreign Agents Registration Act of 1938, 2019).

A Justice Department investigation should interview former U.S. Senator Mary Landrieu, former Ambassador to Ukraine John Herbst, and former U.S. Special Envoy for Energy Affairs David Goldwyn, about their attendance at the forum, sponsoring attendees and any contacts by foreign agents acting on behalf of Burisma.

### *No Record of Blue Star Strategies Disclosures Related to Burisma*

There is no record of “Blue Star Strategies” filing any FARA disclosure forms pertaining to Burisma, based on a search of the U.S. Department of Justice’s Foreign Agents Registration Act [database](#).

A search of the Lobbying Disclosure Act [Database](#) for the search term “Blue Star” produces 35 lobbying disclosure documents pertaining to ABLV Advisory Services, SIA; ABLV Corporate Services TLD; Association of Latvian Private Banks; Fontem Ventures; Glover Park Group; and National Interest of Ukraine. None of the 35 records appear related to Burisma.

### *Potential Violations: Atlantic Council*

The Atlantic Council, a Washington D.C.-based non-profit organization that works to influence U.S. policy, has accepted at least \$100,000 from Burisma Holdings. The Atlantic Council’s contributor acknowledgment page for the 2018 fiscal year identifies Burisma as having contributed between \$100,000 and \$200,000 (Atlantic Council, 2020).

Under FARA, the definition of agent of a foreign principal includes “an individual, partnership, association, corporation, organization, or any other combination of individuals” (Foreign Agents Registration Act of 1938, 2019).

In 2017, the Atlantic Council reportedly entered into a partnership between its Eurasia Center and Burisma (Olearchyk & Seddon, 2019). A report published by

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Burisma describes a clear intent to influence U.S. policy by forging “a new chapter of cooperation with the United States and Europe” that symbolically “coincided with the new U.S. Administration” (Burisma Group, 2017).

The report directly references the corruption investigation into Burisma: “It became possible to sign a cooperative agreement between Burisma and the Atlantic Council after all charges against Burisma Group companies and its owner Nikolay Zlochevskyi were withdrawn” (Burisma Group, 2017).

The organization’s Eurasia Center, which is under the direction of former U.S. Ambassador to Ukraine John Herbst and deputy director Melinda Haring, has repeatedly taken steps to influence U.S. policy without directly disclosing its funding from Burisma. According to the Atlantic Council’s most recently available IRS Form 990 tax return, Herbst received \$191,957 in reportable compensation in 2017 (Atlantic Council, 2017)

In June 2018, Herbst was a featured speaker at a U.S.-Ukraine Business Council event, “Ukraine Briefing – Analysis & Commentary; Latest Updates from Washington, Brussels, Kyiv,” which was attended by Burisma. The foreign entity’s press release on the event, titled “Burisma Group Attends a USUBC meeting with Ambassador John Herbst,” clearly shows an intent by Burisma to influence U.S. politicians.

Vadym Pozharskyi, an adviser to the Burisma Board of Directors, is quoted in a Burisma Group press release stating:

*“Burisma Group is closely working with top US oil and gas service companies, constantly upgrading the Ukrainian drilling fleet and adopting latest US technologies. Informal meetings between business community and politicians helps Ukrainian companies gain a better understating and calculate the risks of working successfully in an international market”* (Burisma Group, 2018).

The Atlantic Council, which accepted money from Burisma, appears to have acted as a facilitator between Burisma and U.S. officials. News reports describe the Atlantic Council funding as a way to “buy favor” with individuals involved in U.S. policy (Kim, 2019). According to NPR News, “In September 2018, Vadym Pozharskiy, an adviser to Burisma’s board, attended Atlantic Council events in New York and met with Volker and former State Department officials, according to the company’s website” (Kim, 2019).

The Atlantic Council has posted blog posts on its website that is published in the United States. In so doing, the Atlantic Council is fulfilling the FARA standard of

## Biden-Ukraine Corruption Investigation

attempting to reach “section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States”. None of the blog posts feature “a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal,” as required under FARA (Foreign Agents Registration Act of 1938, 2019).

On November 1, 2017, the Atlantic Council hosted an event in Washington, D.C., Investing in Ukraine.” The event included a conversation with Mr. Vadym Pozharskyi, Adviser to the Burisma Board of Directors. The blog post does not include a disclaimer identifying Burisma’s funding of Atlantic Council. (Atlantic Council, 2017)

On September 26, 2019, in the middle of the Trump impeachment controversy, Melinda Haring, deputy director of the Atlantic Council’s Eurasia Center, authored two blog posts attempting to influence U.S. policy and public opinion on Ukraine and the impeachment hearings without disclosing the blog as Burisma-funded propaganda. Both blog posts mention Burisma by name:

*Some claim that Shokin was fired because he was investigating Burisma, a gas company on whose board Hunter Biden sat. Activists in Ukraine and former Ukrainian officials dispute that claim.* (Haring, 2019)

A second blog post authored by Haring includes an interview of Brian Bonner, chief editor of the Kyiv Post, which directly downplays the Biden-Burisma scandal:

*Putin has already exploited the situation, weakening the United States and Europe. Trump’s phone call shows that he has turned the truth upside down again in Ukraine by listening to Rudy Giuliani and the shady operators that he surrounds himself with. Yuriy Lutsenko and Viktor Shokin as good prosecutors? Absurd. Marie L. Yovanovitch as bad ambassador? Equally absurd. Joseph Biden sabotaging Burisma investigation? Also absurd.* (Haring, Expert Q&A: How’s the US-Ukraine relationship after New York?, 2019)

In October 2019, Herbst appeared on CNN News to attack President Trump and influence U.S. public opinion and yet failed to disclose that the Atlantic Council had accepted payments from foreign entity Burisma (Herbst, 2019). During the interview with CNN, Herbst misrepresented Biden’s role in demanding the firing of Ukrainian prosecutor Viktor Shokin (Davis, 2019)

The Michael Flynn prosecution established clear precedent that the routing of payments through additional entities does not erase the FARA reporting obligations. In this case, a former Ukrainian government official (Mykola Zlochevsky) through a

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foreign entity (Burisma) paid a U.S. non-profit (Atlantic Council) that, in turn, compensated Herbst, who promoted Burisma's U.S. political agenda.

### *No Record of Atlantic Council Disclosures*

There is no record of "Atlantic Council" filing any FARA disclosure forms, based on a search of the U.S. Department of Justice's Foreign Agents Registration Act [database](#).

Similarly, there is no record of any lobbying disclosure documents filed by "FTI Consulting" under the Lobbying Disclosure Act [Database](#).

### *Potential Violations: Devon Archer*

Devon Archer, who was appointed as a member of the Burisma Board of Directors in April 2014, arguably provided indirect public relations support to foreign entity Burisma by bolstering its public image in the United States. According to the New York Times, the addition of Archer to the Board of Directors "allowed Burisma to create the perception that it was backed by powerful Americans at a time when Ukraine was especially dependent on aid and strategic backing from the United States and its allies, according to people who worked in Ukraine at the time (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019).

FARA covers indirect "public-relations counsel" that "includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal". News reports on Archer's appointment to the Board are a clear example of indirect representation of the foreign principal in public relations matters.

FARA includes political activities that "are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person". Blue Star Strategies representatives alluded to Archer's position with Burisma in email communications with State Department officials when stating "two high profile U.S. citizens are affiliated with the company.

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**From:** [redacted]  
**Sent:** Wednesday, February 24, 2016 5:03 PM  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Burisma

(C) Per our conversation, Karen Tramontano of Blue Star Strategies requested a meeting to discuss with U/S Novelli USG remarks alleging Burisma (Ukrainian energy company) of corruption. She noted that two high profile U.S. citizens are affiliated with the company (including Hunter Biden as a board member). Tramontano would like to talk with U/S Novelli about getting a better understanding of how the U.S. came to the determination that the company is corrupt. According to Tramontano, there is no evidence of corruption, has been no hearing or process, and evidence to the contrary has not been considered. Would appreciate any background you may be able to provide on this issue and suggested TPs for U/S Novelli's meeting.

Thanks!

Best regards,

Archer also potentially engaged directly with U.S. government officials. According to records obtained by journalist John Solomon through a Freedom of Information Act request, Archer arranged a meeting with then Secretary of State John Kerry. "Devon Archer coming to see S today at 3pm – need someone to meet/greet him at C Street," reads one email obtained by Solomon (Solomon, 2019).

C06821090 IED U.S. Department of State Case No. F-2019-05778 Doc No. C06821090 Date: 10/31/2019

**From:** [redacted] B6  
**Sent:** Wed, 2 Mar 2016 13:33:49 -0500 **RELEASE IN PART B6**  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** Re: Devon Archer coming to see S today at 3:00pm -- need someone to meet/greet him at C Street

B6

Got it, thanks

On Mar 2, 2016, at 1:21 PM, [redacted] wrote:

S just buzzed out here to let me know

[redacted]  
*Office Manager to the Secretary of State  
U.S. Department of State  
2201 C Street, NW, Room 7226  
Washington, DC 20520  
E-Mail:* [redacted]

B6

### *Potential Violations: Hunter Biden*

Hunter Biden, who was appointed as a member of the Burisma Board of Directors in April 2014, arguably provided indirect public relations support to foreign entity Burisma by bolstering its public image in the United States. Burisma's public image had suffered and was considered a possible impediment to business. "Burisma's reputation in Ukraine is low, and was dubious before (the impeachment inquiry) due to the scandals surrounding the owner," said Igor Egorov, the president of the Kiev-based nonprofit Anticorruption Entrepreneurial Front (McKay, 2019).

The addition of Hunter Biden to the Board of Directors "allowed Burisma to create the perception that it was backed by powerful Americans at a time when Ukraine was especially dependent on aid and strategic backing from the United States and its allies, according to people who worked in Ukraine at the time (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019).

FARA covers indirect "public-relations counsel" that "includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal". News reports on Hunter Biden's appointment to the Board are a clear example of indirect representation of the foreign principal in public relations matters.

Yoshiko M. Herrera, a professor of political science at the University of Wisconsin at Madison, told The Washington Post: "I think there is a conflict of interest even if it doesn't break any laws. It's a big deal. It's the vice president, who is the point person of the Obama administration's policy on Ukraine, and his son is suddenly hired to be a director on the board of Ukraine's largest private gas producer" (Kranish & Stern, As vice president, Biden said Ukraine should increase gas production. Then his son got a job with a Ukrainian gas company, 2019).

Additionally, Hunter Biden participated as an indirect "publicity agent" by engaging "directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise" when he supplied a quote for a Burisma press release on his appointment.

Hunter Biden stated in a company press release on May 12, 2014:

*"Burisma's track record of innovations and industry leadership in the field of natural gas means that it can be a strong driver of a strong economy in*

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*Ukraine. As a new member of the Board, I believe that my assistance in consulting the Company on matters of transparency, corporate governance and responsibility, international expansion and other priorities will contribute to the economy and benefit the people of Ukraine” (Burisma, 2014)*

FARA includes political activities that “are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person”. Blue Star Strategies representatives directly referenced Hunter Biden’s position with Burisma in email communications with State Department officials when stating “two high profile U.S. citizens are affiliated with the company (including Hunter Biden as a board member)”. This communication meets the FARA standard of engaging in political activities “indirectly... through any other person”. The inclusion of Hunter Biden’s name shows a clear intent to “influence any agency or official of the Government of the United States” in an attempt to setup a meeting about Burisma’s then-active corruption case.

**From:** [REDACTED]  
**Sent:** Wednesday, February 24, 2016 5:03 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Burisma

~~(C)~~ Per our conversation, Karen Tramontano of Blue Star Strategies requested a meeting to discuss with U/S Novelli USG remarks alleging Burisma (Ukrainian energy company) of corruption. She noted that two high profile U.S. citizens are affiliated with the company (including Hunter Biden as a board member). Tramontano would like to talk with U/S Novelli about getting a better understanding of how the U.S. came to the determination that the company is corrupt. According to Tramontano, there is no evidence of corruption, has been no hearing or process, and evidence to the contrary has not been considered. Would appreciate any background you may be able to provide on this issue and suggested TPs for U/S Novelli’s meeting.

Thanks!

Best regards,

Blue Star representatives reportedly mentioned Biden’s name during a meeting with State Department officials, which “was scheduled as part of an effort to rehabilitate Burisma’s reputation in Washington following a corruption investigation” (Mcardle, 2019).

Hunter Biden also potentially engaged directly with U.S. government officials. According to records obtained by journalist John Solomon through a Freedom of Information Act request, Hunter Biden arranged a meeting with Tony Blinken, a longtime Joe Biden aide then serving as deputy secretary of state. The following

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excerpt of Solomon's reporting describes a clear engagement between Hunter Biden and Blinken on an undisclosed subject:

*On May 22, 2015, Hunter Biden emailed his father's longtime trusted aide, Blinken, with the following message: "Have a few minutes next week to grab a cup of coffee? I know you are impossibly busy, but would like to get your advice on a couple of things, Best, Hunter."*

*Blinken responded the same day with an "absolutely" and added, "Look forward to seeing you."*

*The records indicate the two men were scheduled to meet the afternoon of May 27, 2015.*

*The State Department records also indicate Hunter Biden met Blinken in person for lunch on July 22, 2015, when State officials gave the name of a person to meet to help him enter the building. "He has the VIP pin and can escort you upstairs for your lunch with Tony," the email said. (Solomon, 2019).*

In February 2016, Ukrainian prosecutors seized Burisma owner Zlochevsky's property as part of its corruption investigation (Interfax Ukraine, 2016). On the same day that international media reported on the incident, Hunter Biden became a Twitter follower of Tony Blinken, a longtime Biden aide then serving as deputy secretary of State (Schreckinger, 2019).

# PUBLIC CORRUPTION

## Background: Law, History & Requirements

*"It must be clear to all that any domestic and foreign policy decisions you make are not being influenced by your business arrangements and family relationships..."*

— Letter from Norm Eisen, President Obama's chief ethics lawyer, Richard Painter, President George W. Bush's chief ethics lawyer, and other ethics experts (Kumar, 2016)

### *Hobbs Act: Under Color of Official Right*

Under federal law, the Hobbs Act bars individuals from engaging in, or attempting to engage in, acts of extortion while engaging in interstate or foreign commerce. The law is frequently used in public corruption cases. According to the United States Justice Department, this statute applies to government officials that attempt to gain unjust enrichment "under color of official right."

Although the law was originally enacted to prevent racketeering by union organizers during labor negotiations, "Proof of "racketeering" as an element of Hobbs Act offenses is not required" (U.S. Department of Justice, 2020). Other relevant elements of Hobbs Act case law:

- **Public Official Not Required to Induce Payment:** The "extortion of property under color of official right does not require that a public official take steps to induce the extortionate payment" (U.S. Department of Justice, 2020). In *Evans v. United States*, the Supreme Court ruled that "the coercive element is provided by the public office itself" (*Evans v. United States*, 1992).
- **Law Includes Enrichment of Others, Not Just Public Official:** Under case law, a Hobbs Act violation can include circumstances in which the benefit of the extortion has been transferred to a third party (U.S. Department of Justice, 2020).
- **Law Covers Acts of Past, Present and Future Public Officials:** According to the U.S. Justice Department, "Some courts have held that the Hobbs Act can be applied to past or future public officials, as well as to ones who presently occupy a public office at the time the corrupt payment occurs" (U.S. Department of Justice, 2020).

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- **Private Persons – Not Public Officials – Can Be Convicted Under Statute:** According to the U.S. Justice Department, “Some courts have held that private persons who are not themselves public officials can be convicted under this provision if they caused public officials to perform official acts in return for payments to the non-public official” (U.S. Department of Justice, 2020).

### *Things of Value, Official Acts & Influence*

Under federal anti-bribery laws, all parties engaging in a potential bribery transaction are independently liable for criminal prosecution. Therefore, an official need not accept or fulfill the corrupt exchange in order for a bribery case to be successfully prosecuted.

18 U.S. Code § 201 states that it is illegal to “directly or indirectly” give, offer, or promise “anything of value” with the intent “to influence any official act” (18 U.S. Code § 201). Relevant areas of focus include:

- **Thing of Value:** According to U.S. Department of Justice guidelines, “The term “thing of value” is used throughout Title 18, and includes intangible as well as tangible things. See *United States v. Girard*, 601 F.2d 69, 71 (2d Cir.), cert. denied, 444 U.S. 871 (1979). It has been broadly construed to focus on the worth attached to the bribe by the defendant, rather than its commercial value. *United States v. Williams*, 704 F.2d 603, 622-23 (2d Cir.), cert. denied, 464 U.S. 1007 (1983).” (Criminal Resource Manual, 2020)
- **Official Act:** According to U.S. Department of Justice guidelines, “Official act” for the purposes of Section 201(b) and (c) is defined to mean: “Any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.” (Criminal Resource Manual, 2020)
- **Advice or Recommendation Would Be Influential:** According to U.S. Department of Justice guidelines, “It is not essential to a bribery charge against a public official that he or she have the authority to make a final decision on an official matter. When the advice and recommendation of the public official would be influential, a violation of Section 201(b) may be established. *United States v. Heffler*, 402 F.2d 924 (3d Cir. 1968), cert. denied, 394 U.S. 946 (1969); *Wilson v. United States*, 230 F.2d 521 (4th Cir.), cert. denied, 351 U.S. 931 (1956); *Krogmann v. United States*, 225 F.2d 220 (6th Cir. 1955).” (Criminal Resource Manual, 2020)

### *Illegal Gratuity, Stream of Benefits & Debt of Gratitude*

In addition to bribery, federal law makes it an offense to provide a public official with an illegal gratuity. In *United States v. Ring*, the United States Court of Appeals, District of Columbia Circuit Court, established, “An illegal gratuity, on the other hand, may constitute merely a reward for some future act that the public official will take (and may already have determined to take), or for a past act that he has already taken” (*United States v. Ring*, 2013).

Other relevant areas of consideration in the Biden-Burisma case:

- **Stream of Benefits:** According to “The Appearance and the Reality of Quid Pro Quo Corruption: An Empirical Investigation,” ethics experts note, “This “stream of benefits” theory has been used to lower the bar for prosecutions. For example, the Third Circuit has affirmed a jury instruction that, “where there is a stream of benefits given by a person to favor a public official, ... it need not be shown that any specific benefit was given in exchange for a specific official act” (Robertson, Winkelman, Bergstrand, & Modzelewski, 2016).
- **Debt of Gratitude:** Lower courts have established the role that “a debt of gratitude” can play in influencing official acts by government officials “recognizing the commonsense worry that payments would distort official decisions” (Robertson, Winkelman, Bergstrand, & Modzelewski, 2016).

### *Federal Ethics Rules Required Recusal When Impartiality in Performing Official Duties is in Doubt*

The federal government’s Office of Government Ethics stresses the importance of Executive Branch officials recusing themselves from government actions that may result in a conflict of interest or an appearance of a conflict of interest. In fact, “criminal charges can be brought against federal employees who do not recuse themselves from government business that could affect their own interests” (Niles, 2017).

#### *Disqualification Standard: Reasonable Person’s Concerns*

Under the executive branch ethics rules, the standard for recusal is when “a reasonable person may believe that an employee's impartiality can be influenced by interests other than the employee's own or those that are imputed to the employee by the conflict of interest laws” (U.S. Office of Government Ethics, 2017).

The U.S. Office of Government Ethics establishes a clear definition for a covered relationship involving a government employee, including but not limited to:

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- a person with whom the employee has or seeks a business, contractual, or other financial relationship;
- a person who is a member of the employee's household or is a relative with whom the employee has a close personal relationship;
- any person for whom the employee has within the last year served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee

To comply with federal ethics rules, an employee involved in a government matter involving a covered relationship that “would cause a reasonable person to question the employee's impartiality, the employee should not work on the matter pending possible authorization from the appropriate agency official” (U.S. Office of Government Ethics, 2017) (5 CFR §2635.502).

Vice President Biden, throughout his interactions with governmental and private figures in Ukraine, appeared to continue to “participate in a particular matter involving specific parties which he knows is likely to affect the financial interests of a member of his household” (5 CFR 2635.501(a)). This breach of ethical standards for executive employees also points strongly to the appearance of Vice President Biden’s use of public office for private gain. 5 CFR §2635.702 prohibits an executive branch employee from use of his public office for private gain, “or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.” Hunter Biden appears to have profited from Vice President Biden’s interventions in Ukraine, ensuring a private benefit resulting from the use of public office.

### Violations: Burisma-Biden Case

#### *Stream of Benefits: \$3.4 Million from Burisma to Hunter Biden*

In evaluating the ethics and conflict of interest issues surrounding Vice President Joe Biden, Hunter Biden and foreign entity Burisma, the first question is whether the Biden family received “things of value” from Burisma. The answer is: Yes. Over the span of several years, Hunter Biden received a stream of benefits from Burisma.

According to payment records reviewed by independent and reputable news outlet Reuters, Burisma paid approximately \$3.4 million to Rosemont Seneca Bohai LLC, a company that was controlled by Archer and Biden. In some months, these payments totaled as much as \$83,333 for “consulting services” with the proceeds “intended for Biden and one for Archer” (Ivanova, Tsvetkova, Zhegulev, & Baker, 2019).

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At the time of his appointment, Hunter Biden had no experience in Ukraine nor any experience in energy policy (Chayes, 2019).

### *Things of Value: Burisma Received Access, Influence & the Public Perception of Connections to the Highest Levels of Global Power*

Burisma Holdings received numerous things of value, including “intangible things of value” from the connection to Vice President Joe Biden.

1. **Weakened US Anti-Corruption Message:** Edward C. Chow of the Center for Strategic and International Studies, an expert on Ukrainian policy, has stated that Hunter Biden’s involvement “undermined the Obama administration’s anti-corruption message in Ukraine” (Risen, 2019).
2. **Perception of Additional Spheres of Interest:** According to Igor Egorov, the president of the Kiev-based nonprofit Anticorruption Entrepreneurial Front, “By inviting influential foreigners, Ukrainian business wants to get additional protection, PR and lobby mechanisms to grasp additional spheres of interest. Having Hunter Biden on board, the owner of Burisma wanted to correct the image and to get cover, because authorities are scared by the U.S. embassy in Ukraine. Hunter Biden, using the political capabilities of his family, acted as a rescue buffer between Burisma and Ukrainian law enforcement agencies. His work in the company of a corrupt official smells bad” (McKay, 2019).
3. **Princeling Strategy of Corruption:** In appointing Hunter Biden to the Burisma Board of Directors, the company was engaging in what has been described as a “princeling” style corruption. The strategy is when entities “hire the children of powerful government officials—“princelings”—and hope good things flow your way.” In 2016, JP Morgan paid a \$264 million fine to settle charges under the Foreign Corrupt Practices Act for engaging “in a systematic bribery scheme by hiring children of government officials who were typically unqualified for the positions” (Powell, 2020).

### *Things of Value: U.S. Energy Policy in Ukraine Mirrored Policies Sought by Burisma*

In addition to the intangible things of value, Burisma benefited from U.S. energy policy mirroring the desired policies sought by Burisma. On April 22, 2014, Vice President Joe Biden visited Ukraine to discuss energy policy and investments, stating:

*“The Prime Minister and I also spoke about energy. An American team is currently in the region working with Ukraine and its neighbors to increase Ukraine’s short-term energy supply. And I’ve been on the telephone with*

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*many of your neighbors, as you know, talking about the way to increase that supply. And more teams are coming to support long-term improvements so that no nation -- let me be precise, so that Russia can no longer use energy as a political weapon against Ukraine and Europe."*

*"With the right investments and the right choices, Ukraine can reduce its energy dependence and increase its energy security. We will stand with you to help in every way we can for you to accomplish that goal." (Biden, 2014)*

This agenda to enhance Ukraine's energy independence and reduce its ties to Russia align with Burisma's political agenda. Burisma company president, Nikolay Zlochevskyi, has stated publicly that the company is taking "steps to increase production and strengthen the energy independence of Ukraine" (Kuznetsov, 2017)

According to the Associated Press in 2014, "Hunter Biden's new company says it aims to reduce Ukraine's dependence on Russian gas and oil, a goal that parallels U.S. efforts to aid Ukraine's energy industry" (Braun, 2014).

### *Official Act: Letter from 4 Democrat Senators Supporting Additional Aid for Ukraine*

On June 27, 2014, U.S. Senator Edward Markey of Massachusetts, U.S. Senator Ron Wyden of Oregon, U.S. Senator Jeanne Shaheen of New Hampshire and U.S. Senator Christopher Murphy of Connecticut sent a letter to the Obama administration urging increased energy aid for Ukraine.

*"Nothing could transform Ukraine's strategic position in the region more fundamentally than major advancements in energy independence. Toward that end, we urge you to make energy efficiency measures, and the development of Ukraine's domestic energy resources, centerpieces of your early engagements with the new leadership."*

*"We should leverage the full resources and expertise of the U.S. government to assist Ukraine in improving its energy efficiency, increasing its domestic production, and reforming its energy markets" (Markey, Wyden, Shaheen, & Murphy, 2014).*

The letter from the Democrat Senators was "trumpeted by Burisma Holdings as a commendable move towards securing the future security of Ukraine" According to a Burisma press release published on the same day as the letter's release, "Burisma Holdings today applauded the range of U.S. legislative support for development of Ukraine's broad and untapped resources and an increase in transparency and good

governance” (Scherer, Ukrainian Employer of Joe Biden’s Son Hires a D.C. Lobbyist, 2014)

### *Timeline of Events Raises Obvious Ethics Questions about Biden Conflict of Interest*

The actions by the British Courts and Serious Fraud Office in April 2014 inspired Burisma to hire well-connected attorneys, lobbyists and political advisers. The timeline of events makes a conflict of interest, or at the very least, the appearance of a conflict of interest, plainly obvious:

- **April 14, 2014:** Burisma’s assets were frozen at a special court hearing in London. (Bullough, 2017)
- **April 18, 2014:** Burisma hired Hunter Biden, son of Vice President Joe Biden. (Seddon, 2014)
- **April 22, 2014:** Vice President Joe Biden visits Kiev, Ukraine and discusses energy investments, energy policy, energy security, and U.S. aid.

### *Official Act: Vice President Joe Biden’s Explicit Quid Pro Quo Statement: Fire Prosecutor General for \$1 Billion in Loan Guarantees*

In 2016, Vice President Joe Biden demanded that Ukrainian officials remove Prosecutor General Viktor Shokin, the Ukrainian prosecutor overseeing the investigation into Burisma, in exchange for \$1 billion in loan guarantees (Krasnolutska, Choursina, & Baker, 2019).

In January 2018, while speaking to a meeting of the Council of Foreign Relations in Washington, D.C., Vice President Joe Biden stated explicitly that he demanded the firing of Shokin. Biden stated:

*“And I went over, I guess, the 12th, 13th time to Kiev. And I was supposed to announce that there was another billion-dollar loan guarantee. And I had gotten a commitment from Poroshenko and from Yatsenyuk that they would take action against the state prosecutor. And they didn’t.”*

*“So they said they had — they were walking out to a press conference. I said, nah, I’m not going to — or, we’re not going to give you the billion dollars. They said, you have no authority. You’re not the president. The president said — I said, call him. I said, I’m telling you, you’re not getting the billion dollars. I said, you’re not getting the billion. I’m going to be leaving here in, I think it was about six hours. I looked at them and said: I’m leaving in six hours. If the prosecutor is not fired, you’re not getting the money. Well, son of*

*a bitch. (Laughter.) He got fired. And they put in place someone who was solid at the time.” (Relations, 2018)*

### *Even if Not Directly Responsible for Prosecutor’s Firing, Vice President Joe Biden’s Demand “Influenced” Official Act*

Mainstream media outlets have attempted to defend Biden’s actions by claiming that Shokin submitted his own resignation. Yuriy Lutsenko, who served as Ukraine’s prosecutor general until August 2019, stated, “At the end of the day, Shokin submitted his own resignation.” The standard for bribery is when “the advice and recommendation of the public official would be influential,” not solely in cases where the official directly takes an overt act.

### *Shokin Believes Fired Because of Investigation*

Prosecutor General Viktor Shokin has stated publicly that he believes his removal was connected to Burisma.

*“Are you asking me about the motives of Joseph Biden? I will answer that the activities of Burisma, the involvement of his son, Hunter Biden, and the [prosecutor general’s office] investigators on his tail, are the only, I emphasize, the only motives for organizing my resignation.”*

*“All I can say is that the appointment of Hunter Biden as a member of the Board of Directors of the energy company is rather questionable from the point of view of effectiveness. After all, this person had no work experience either in Ukraine or in the energy sector.” (Kranish & Stern, As vice president, Biden said Ukraine should increase gas production. Then his son got a job with a Ukrainian gas company, 2019)*

### *Biden Lie: Vice President Joe Biden “acted at all times in a manner consistent with well-established executive branch ethics standards”*

Vice President Joe Biden’s campaign has blatantly lied to the public and grossly misrepresented the Burisma case. In a statement released to the press, Andrew Bates, a spokesman for Joe Biden’s presidential campaign, falsely claimed that Vice President Joe Biden “acted at all times in a manner consistent with well-established executive branch ethics standards. He carried out the Obama-Biden administration’s policies without regard to any interests other than the public’s and neither discussed this with his son nor was involved in any way with his son’s private business pursuits.” (Kranish & Stern, As vice president, Biden said Ukraine should

increase gas production. Then his son got a job with a Ukrainian gas company, 2019).

### *Vice President Joe Biden Failed to Comply with Executive Branch Ethics Standards*

Vice President Joe Biden served as the Obama administration's lead on Ukraine. "No one in the U.S. government has wielded more influence over Ukraine than Vice President Joe Biden," Foreign Policy noted (De Luce & Standish, 2016). This Biden claim is blatantly false.

Under the executive branch ethics rules, Vice President Joe Biden failed the ethics standard for recusal when "a reasonable person may believe that an employee's impartiality can be influenced by interests other than the employee's own".

His failure extended to the consideration of appearances by an executive branch employee. Given the facts presented, "the circumstances would cause a reasonable person with knowledge of the relevant facts to question [his] impartiality in the matter," which is the applicable standard when an executive branch employee should not participate in a matter without agency designee authorization. (5 CFR §2635.502(a)). The concerns expressed by executive branch members, legal scholars, and members of the media (referenced throughout this report) underscore Vice President Biden's apparent failure to meet the reasonable person standard when considering official executive branch ethics regulations.

- **Associated Press: Potential Conflict of Interest:** As far back as 2014, the Associated Press observed the potential for a conflict of interest, or the appearance of conflict of interest posed by Hunter Biden's work against U.S. interests. "Instability there could force the younger Biden's new company to coordinate with pro-Russian separatists whom the U.S. considers illegitimate. (Braun, 2014)
- **Hunter Biden's Business Concerned State Department:** State Department repeatedly expressed concerns "about Hunter Biden's work for Burisma and how it affected Vice President Biden's diplomacy in Ukraine" (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019).
- **"Appearance Good Enough to Keep You From Doing Thing Like That":** A former Biden business associate said, "The appearance of a conflict of interest is good enough, at this level of politics, to keep you from doing things like that." (Entous, 2019)
- **Objections from State Department Official George Kent:** During the congressional impeachment hearings, State Department official George Kent testified that he had concerns about the potential of Hunter Biden's

involvement with Burisma causing “the perception of a conflict of interest” (Bufkin, 2019). Kent said, “The message that I recall hearing back was that the vice president’s son, Beau, was dying of cancer, and that there was no further bandwidth to deal with family-related issues at that time” (Mackey, 2019).

- **Ethics Concerns Raised by Amos Hochstein:** According to the New Yorker, “Amos Hochstein, the Obama Administration’s special envoy for energy policy, raised the matter with Biden, but did not go so far as to recommend that Hunter leave the board” (Entous, 2019).
- **Public Citizen: Burisma Seeking to Leverage Hunter’s Relationship with Joe:** Robert Weissman, the president of Public Citizen, has expressed his belief that “Hunter’s foreign employers and partners were seeking to leverage Hunter’s relationship with Joe, either by seeking improper influence or to project access to him” (Entous, 2019).

*Project on Government Oversight: “Hard to believe that family dinner conversations will be restricted to the weather”*

Both Hunter Biden and former Vice President Joe Biden have claimed that they never discussed Burisma. Perhaps the best standard for evaluating whether a reasonable person would object to the Biden’s behavior is by applying the same ethical standards used to unjustly attack President Trump. Danielle Brian, executive director for the Project on Government Oversight, said it best, the “claims he’ll only learn about his businesses from the newspapers, but it’s hard to believe that family dinner conversations will be restricted to the weather” (Revesz, 2017).

*Vice President Joe Biden Must Answer Same Questions on Emoluments Clause*

The Emoluments Clause, which Democrats used as an attack on President Trump for his legitimate international business dealings, is also highly relevant to the Biden-Burisma case. Prior to President Trump’s inauguration, 29 government watchdogs and ethics experts, including Norm Eisen, President Obama’s chief ethics lawyer; Richard Painter, President George W. Bush’s chief ethics lawyer; Harvard Law Professor Laurence H. Tribe; former Rep. Mickey Edwards (R-OK); and Peter Schweizer, president of the Government Accountability Institute, criticized the potential appearance of a conflict of interest from Trump’s hotels and other real estate. The bipartisan coalition wrote:

*“In taking foreign policy positions, furthermore, foreign countries will not be able to tell if your positions are being taken on behalf of the United States or your business interests.”*

*“It will create the widespread appearance and belief that the way for countries to curry favor and gain advantageous treatment from the United States is to do business with your children...”*

*“It must be clear to all that any domestic and foreign policy decisions you make are not being influenced by your business arrangements and family relationships or by your investment holdings, and that the policy decisions of foreign governments with respect to the United States are not unduly influenced by a desire to curry favor with you and your family in your business enterprises” (Kumar, 2016).*

President Trump successfully addressed the public scrutiny and resolved lawsuits related to any potential appearance of a conflict. In a similar fashion, Vice President Joe Biden should be forced to address identical questions posed by these ethics experts regarding Hunter’s past involvement with Burisma.

### *Biden Must Address Ethics Issue: Government Imprimatur on Chinese Business Dealings*

The Center for American Progress has raised ethics concerns about the presidential family’s involvement in business dealings, when “the U.S. government’s imprimatur is put on the private business dealings of the president’s family” (Root & Kennedy, 2017).

Hunter Biden has used the “U.S. government’s imprimatur” to support his private business dealings with Chinese businesses. In December 2013, Hunter Biden flew on Air Force Two with then-Vice President Joe Biden to Beijing (Kranish & Fifeld, 2019). Although his flight was paid for by U.S. taxpayers, Hunter Biden used the free taxpayer-funded flight on Air Force Two as a way to place the U.S. government imprimatur on his business deals.

While in Beijing, Hunter Biden arranged for Jonathan Li, who ran a Chinese private-equity fund, Bohai Capital, to meet with Vice President Biden. In an interview with the New Yorker, Hunter Biden admitted that he arranged a meeting with Vice President Biden and

*“Hunter told his father that he wanted to join them. According to a Beijing-based BHR representative, Hunter, shortly after arriving in Beijing, on*

*December 4th, helped arrange for Li to shake hands with his father in the lobby of the American delegation's hotel. Afterward, Hunter and Li had what both parties described as a social meeting... Hunter's meeting with Li and his relationship with BHR attracted little attention at the time, but some of Biden's advisers were worried that Hunter, by meeting with a business associate during his father's visit, would expose the Vice-President to criticism"*  
(Entous, Will Hunter Biden Jeopardize His Father's Campaign? , 2019).

Biden's company, Rosemont Seneca Partners, reportedly reached "an exclusive deal with Chinese officials, which they signed approximately 10 days after Hunter visited China with his father. The most powerful financial institution in China, the government's Bank of China, was setting up a joint venture with Rosemont Seneca" (Schweizer, 2018).

# FRAUD

## Background: Law & Relevant Cases

### *Fraud by Wire, Radio or Television*

Federal law makes it a crime for an individual to obtain money or property under false pretenses. 18 U.S. Code Section §1343 states:

*“Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.”*

### *Fraud: Intangible Right of Honest Services*

Included in the federal criminal fraud statutes: the clearly codified right to honest services. 18 U.S. Code Section § 1346 states:

*“For the purposes of this chapter, the term “scheme or artifice to defraud” includes a scheme or artifice to deprive another of the intangible right of honest services.”*

### *Fraud in Foreign Labor Contracting*

Federal law also delineates separate criminal acts for fraud in foreign labor contracting. 18 U.S. Code Section § 1351 states:

*(a)Work Inside the United States.—Whoever knowingly and with intent to defraud recruits, solicits, or hires a person outside the United States or causes another person to recruit, solicit, or hire a person outside the United States, or attempts to do so, for purposes of employment in the United States by means of materially false or fraudulent pretenses, representations or promises regarding that employment shall be fined under this title or imprisoned for not more than 5 years, or both.*

### *2019 College Admissions Scandal*

In March 2019, U.S. Attorney for the District of Massachusetts Andrew Lelling unsealed a criminal complaint against 50 individuals for allegedly engaging in mail and honest services fraud in college admissions. Through the course of their investigation, dubbed, “Operation Varsity Blues,” prosecutors discovered evidence that wealthy parents, including several high-profile celebrities, had worked with a private admissions counselor to pass bribes through his 501c3 non-profit organization to college coaches and admissions officers in an effort to help their children gain acceptance to prestigious colleges and universities. (Henning, 2019)

### Violations: Burisma-Biden Case

#### *Burisma Claimed Hunter Biden Served as Chief of Legal Unit. Hunter Biden Claims “At No Time Was I In Charge of Legal Affairs”*

In May 2014, Burisma Holdings “transmitted by means of wire, radio, or television communication” a press release claiming that Hunter Biden would serve as the company’s chief of legal affairs. The press release was unambiguous stating: “R. Hunter Biden will be in charge of the Holdings’ legal unit and will provide support for the Company among international organizations” (Burisma Holdings, 2014).

In May 2019, in an attempt to deflect criticism that his Burisma payments were intended to influence U.S. policy, Hunter Biden explicitly refuted the claim that he was in charge of the company’s legal affairs unit. According to the New York Times: “Mr. Biden said the news release mischaracterized his role with Burisma. ‘At no time was I in charge of the company’s legal affairs,’ he said” (Vogel & Mendel, 2019).

If Hunter Biden never served as chief of Burisma Holdings’ legal unit, he and Burisma knowingly engaged in fraudulent activity by intentionally overstating his role in the company. Such an overstatement of Hunter Biden’s role in the organization impacted the public’s confidence in the company.

Additionally, as a foreign entity, Burisma may have engaged in an employment agreement by “means of materially false or fraudulent pretenses, representations or promises regarding that employment.”

#### *US Taxpayers Contracted with Burisma Through USAID MERP*

From September 27, 2013 through March 31, 2019, the United States Agency for International Development, commonly known as USAID, funded a foreign aid project in Ukraine (USAID MERP, 2019).

## Biden-Ukraine Corruption Investigation

According to its website, USAID Municipal Energy Reform Project in Ukraine was established “to enhance Ukraine’s energy security through improvement of energy policies; development of energy efficiency; and increase of investments in energy sector.” As of 2018, US AID MERP operated with a budget of \$16.5 million (USAID, 2019).

In November 2014, USAID Municipal Energy Reform Project entered into an agreement with Burisma Holdings. There are no publicly-available copies of the agreement. However, the USAID MERP website includes multiple references to Burisma sponsoring various public education programs, including a journalism competition. On June 24, 2015, US AID MERP organized an award ceremony for the journalism competition (USAID MERP, 2019).



In addition to the journalist competition, Burisma sponsored journalist trainings “that combined presentations and interactive discussions, MERP team covered topics related to Energy Balance of Ukraine, Energy Efficiency (EE) in Buildings, Alternative Energy (AE) Resources, Development and Realization of SEAPs, Outreach work to change mentality of Ukrainians towards EE, Why Tariffs Go Up, among others” (USAID MERP, 2019).

Hunter Biden’s public pronouncement that he would serve as chief of Burisma’s legal affairs unit to focus on transparency and good governance engendered public confidence in the company, including confidence by USAID officials acting as agents of the federal government.

By publicly claiming that Hunter Biden served as chief of its legal affairs unit, Burisma had falsely and fraudulently represented its business to USAID MERP. Had US AID MERP been fully aware of Hunter Biden’s actual role at the company, it may

have not been entered into any memorandum of understanding with Burisma. U.S. taxpayers are clearly a harmed party to Biden and Burisma's fraudulent misrepresentation.

Burisma touted its US AID agreement in a manner that greatly exaggerated its significance in influencing energy policy. (Burisma Holdings Website, 2014) The press release headlined, "Burisma Holdings teams up with USAID Municipal Energy Reform Project (MERP)," represented the agreement as "promoting best international practices in energy efficiency". The first two paragraphs of the release state:

Burisma Holdings, the largest independent gas producer in Ukraine, has signed a Memorandum of Understanding with the USAID Municipal Energy Reform Project (MERP) in Ukraine.

Throughout the project our team will be promoting best international practices in energy efficiency as well as attracting top experts into thematic workshops, round table discussions and conferences with regional authorities. I believe that the USAID Municipal Energy Reform Project (MERP) in Ukraine will be another significant element in building the national strategy of energy independence, noted the Advisor to the Board of Directors of Burisma Holdings Vadym Pozharskyi.

Burisma received a "thing of value" from U.S. taxpayers by improving the company's poor public image. If Burisma's memorandum of understanding was limited to sponsoring a journalist competition and training program, Burisma materially misrepresented its relationship with US AID in an effort to bolster its image at the cost of U.S. taxpayers. If Burisma entered into a more substantive memorandum of understanding, it would only raise further questions about how U.S. taxpayers were deceived.

### *Thing of Value: Hunter Biden's Board Appointment Acted as Fraudulent "Whitewashing"*

Hunter Biden, by virtue of his appointment, provided a thing of value to Burisma. According to Daria Kaleniuk, executive director of the Anti-Corruption Action Center, an non-governmental organization based in Ukraine, Hunter Biden's appointment acted as a form of "whitewashing," which provided Western legitimacy to a corporation that had a negative reputation in Ukraine and had obtained its assets through questionable means. Kaleniuk has stated:

## Biden-Ukraine Corruption Investigation

- “Adding these people with these fancy names to the board made Burisma, [which] got licenses to extract gas in Ukraine through very suspicious means, look like a Western, legitimate company” (Sonne, Kranish, & Viser, 2019).
- “I believe the only reason Burisma and Zlochevsky were inviting people with such names was to whitewash their reputation and to present themselves as a company doing legitimate business in Ukraine” (Kim, 2019).

According to the New York Times, Hunter Biden’s “support allowed Burisma to create the perception that it was backed by powerful Americans at a time when Ukraine was especially dependent on aid and strategic backing from the United States and its allies, according to people who worked in Ukraine at the time” (Vogel & Mendel, Biden Faces Conflict of Interest Questions, 2019)

### *Hunter Biden’s Compensation: Foreign Contracting Fraud*

- **Hunter Biden Never Visited Ukraine:** According to Reuters, Hunter Biden never visited Ukraine for Burisma business during his entire time with the company (Ivanova, Tsvetkova, Zhegulev, & Baker, 2019).
- **Hunter Described as “Ceremonial Figure”:** Individuals familiar with Burisma business affairs say that Hunter “was a ceremonial figure” (Ivanova, Tsvetkova, Zhegulev, & Baker, 2019).
- **Admits Received Position Due to Last Name:** As part of his public relations efforts to contain the damage from the Burisma scandal, Hunter Biden was asked, “If your last name wasn’t Biden, do you think you would’ve been asked to be on the board of Burisma?” Biden replied: “Probably not...” (Thompson, Shubailat, Bruggeman, & Ordonez, 2019).

### *Hunter Biden’s Potential Honest Services Fraud*

In the May 2014 press release announcing his appointment, Hunter Biden claimed that he would assist the company with transparency and corporate governance. Hunter Biden stated: “As a new member of the Board, I believe that my assistance in consulting the Company on matters of transparency, corporate governance and responsibility, international expansion and other priorities will contribute to the economy and benefit the people of Ukraine” (Burisma, 2014).

Watchdog Research principles Brian Lawe and John Cheffers point out that by accepting compensation as both a consultant and director, Hunter Biden violated basic corporate governance rules. “Obviously, U.S. law does not apply to a private foreign entity because that company is not subject to federal securities law... by accepting ‘consulting’ payments AND board compensation, Hunter Biden was

potentially breaking a cardinal rule created to promote good governance and stop corruption” (Hemingway, 2019).

Hunter Biden’s violation of such a basic standard of corporate governance raises questions whether he falsely represented his expertise to Burisma, or never performed any work for the company in the area of corporate governance.

### *Biden’s Fraudulent Claims on “Fair” Compensation – 12x Standard Pay*

In 2015, Burisma represented that Hunter Biden’s compensation for service on the Burisma Board of Directors was “not out of the ordinary” for similar corporate board positions (Risen, Joe Biden, His Son and the Case Against a Ukrainian Oligarch, 2015).

According to a compensation analysis by Watchdog Research, which describes itself as “CarFax reports for businesses,” Hunter Biden’s compensation “was more than 12 times comparable board pay at similarly sized companies” (Hemingway, 2019).

### *Conflict of Interest: World Food Programme*

In 2014, Hunter Biden served as Chairman of the non-profit organization, World Food Program USA. According to its website, World Food Program began working in a region of Ukraine (Donetsk), in which Burisma maintained important energy assets. According to the World Food Program USA’s website, “WFP has been present in Ukraine since 2014... Since November 2014, WFP has provided food assistance to more than 641,000 people categorized as the most vulnerable populations in the Donetsk and Luhansk regions” (World Food Program USA, 2020).

According to a 2017 blog post authored by Taras Nazarenko, “Burisma has 35 production licenses for hydrocarbon production in all of the main oil and gas basins in Ukraine. They include the Dnieper-Donetsk basin, which sits in eastern Ukraine and has for decades provided a vast amount of fossil fuels including coal, oil and now gas” (Nazarenko, 2017).

# APPENDIX

Video: Joe Biden at 2018 Council on Foreign Relations meeting



[https://youtu.be/Q0\\_AqpdwqK4](https://youtu.be/Q0_AqpdwqK4)

Cyprus Corporate Filings: Burisma Holdings Limited

Name	BURISMA HOLDINGS LIMITED
Reg. Number	HE 186236
Type	Limited Company
SubType	Private
Name Status	Current Name
Registration Date	26/10/2006
Organisation Status	Reminder letter sent
Status Date	10/01/2020
Last Annual Return Date	31/12/2015

Service Description	Form	Description	Date	Page
Filing of other forms/documents	X00F	Court Order	43720	51
Rectification of alteration of officials and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	43720	50
Amendment of the Articles	XI03	New Articles	27/08/2019	49

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Amendment of the Articles	XR00	Resolution	27/08/2019	48
Alteration of officers and of their particulars	XL00	Letter	43775	47
Alteration of officers and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	43775	46
Alteration of officers and of their particulars	XL00	Letter	43141	45
Alteration of officers and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	43141	44
Alteration of officers and of their particulars	XL00	Letter	22/01/2018	43
Alteration of officers and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	22/01/2018	42
Filing of Annual Return of private company with share capital	XACC	Accounts	24/07/2017	41
Filing of Annual Return of private company with share capital	HE32	HE32-Annual Report	24/07/2017	40
Alteration of officers and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	42860	39
Alteration of officers and of their particulars	XL00	Letter	17/02/2017	38
Alteration of officers and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	17/02/2017	37
Alteration of officers and of their particulars	XL00	Letter	43070	36
Alteration of officers and of their particulars	HE4	HE4-Notification of change of Officers and of their particulars	43070	35
Filing of Annual Return of private company with share capital	XACC	Accounts	28/09/2015	34
Filing of Annual Return of private company with share capital	HE32	HE32-Annual Report	28/09/2015	33
Amendment of the Articles	XI03	New Articles	18/02/2015	32

# Biden-Ukraine Corruption Investigation

## Banking Records: Burisma Holdings Limited

DATE	SENDER	RECIPIENT	DEBIT_SUM	CREDIT_SUM	CURR	
23/10/2014	BURISMA HOLDINGS LIMITED	290 JONES INVESTMENTS	43,000.00		USD	!
16/12/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
15/01/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
15/10/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
18/11/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
07/04/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	10,000.00		EUR	!
15/04/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	50,000.00		EUR	!
15/07/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	2,500.00		EUR	!
18/08/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	2,500.00		EUR	!
16/09/2014	BURISMA HOLDINGS LIMITED	ALAN APTER	2,500.00		EUR	!
17/02/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
15/04/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
16/03/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
17/09/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
16/11/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
18/05/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
16/10/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,885.00		EUR	!
16/06/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
16/07/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
19/08/2015	BURISMA HOLDINGS LIMITED	ALAN APTER	12,500.00		EUR	!
16/12/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
15/01/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
15/04/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
17/02/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
16/03/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
22/04/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
15/05/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
17/06/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
15/07/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
18/08/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
16/09/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
18/11/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
15/10/2014	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
16/06/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
18/05/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
16/07/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
17/09/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
16/10/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
16/11/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
19/08/2015	BURISMA HOLDINGS LIMITED	ALEKSANDER KWASNIEWSKI	50,000.00		EUR	!
21/05/2014	BURISMA HOLDINGS LIMITED	AVELLUM PARTNERS LLC	85,510.00		USD	!
19/06/2015	BURISMA HOLDINGS LIMITED	BESTEC GMBH	14,767.90		EUR	!
31/08/2015	BURISMA HOLDINGS LIMITED	BESTEC GMBH	16,022.40		EUR	!
18/11/2015	BURISMA HOLDINGS LIMITED	BLUE STAR STRATEGIES, LLC	60,000.00		USD	!
07/05/2014	BURISMA HOLDINGS LIMITED	BOIES, SCHILLER AND FLEXNER LLP	250,000.00		USD	!
16/09/2014	BURISMA HOLDINGS LIMITED	BOIES, SCHILLER AND FLEXNER LLP	33,039.77		USD	!
20/04/2015	BURISMA HOLDINGS LIMITED	BROCITI INVESTMENTS LIMITED		212000.00	USD	!
14/05/2014	BURISMA HOLDINGS LIMITED	BROCITI INVESTMENTS LIMITED	12,300,000.00		USD	!
13/05/2014	BURISMA HOLDINGS LIMITED	BROCITI INVESTMENTS LIMITED		12300000.00	USD	!
12/02/2015	BURISMA HOLDINGS LIMITED	BUNDESVERBAND GEOTHERMIE E.V.	2,500.00		EUR	!
03/11/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED		673.00	EUR	!
04/06/2014	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	100,100.00	100100.00	EUR	!
20/11/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	30,000.00	30000.00	EUR	!
02/06/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	25,000.00	25000.00	EUR	!
02/07/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	16,000.00	16000.00	EUR	!
05/08/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	30,000.00	30000.00	EUR	!
12/02/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	40.00	40.00	EUR	!
16/09/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	88,261.25		EUR	!
20/04/2015	BURISMA HOLDINGS LIMITED	BURISMA HOLDINGS LIMITED	12,300,000.00		EUR	!

# Biden-Ukraine Corruption Investigation

## ACTIVITY

### CASH FLOW ACTIVITY BY DATE

Transaction Settlement							
Date	Date	Activity Type	Description	Comments	Quantity	Price	Credits/(Debits)
2/10	10/6	Check	DIMITRY DOROGAN	Check # 1004			\$ (850.00)
10/1	10/6	Check	GG REALTY INC	Check # 1003			(6,000.00)
10/1	10/1	Funds Transferred	WIRED FUNDS SENT	BENE: WAKPANN TOWN CENTER 211 ACCT: XXXXXXXX7365			(15,000,000.00)
10/7	10/7	Funds Received	WIRED FUNDS RECEIVED	AS PRIVATBANK BURISMA HOLDINGS LIMITED			28,913.89
10/7	10/7	Funds Received	WIRED FUNDS RECEIVED	AS PRIVATBANK BURISMA HOLDINGS LIMITED			2,543.38
10/7	10/7	Funds Transferred	WIRED FUNDS SENT	BENE: ROBERT BIDEN ACCT: XXXXX5452			(20,000.00)
10/9	10/9	Automated Payment	BANK OF THE WEST IC PAYMENT	AUTOMATIC BILL PAYMENT			(1,326.48)
10/10	10/10	Funds Transferred	WIRED FUNDS SENT	BENE: ROBERT BIDEN ACCT: XXXXX5452			(20,000.00)
10/15	10/15	Funds Received	WIRED FUNDS RECEIVED	AS PRIVATBANK BURISMA HOLDINGS LIMITED			83,333.33
10/15	10/15	Funds Received	WIRED FUNDS RECEIVED	AS PRIVATBANK BURISMA HOLDINGS LIMITED			83,333.33
10/15	10/15	Online Transfer	FUNDS TRANSFERRED	CONFIRMATION # 26521708 TO 876-019755			(18,000.00)
10/17	10/17	Online Transfer	FUNDS TRANSFERRED	CONFIRMATION # 26750982 TO 876-019755			(5,000.00)

**Morgan Stanley**  
PRIVATE WEALTH MANAGEMENT

**CLIENT STATEMENT** | For the Period March 1-31, 2014

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**STATEMENT FOR:**  
ROSEMONT SENECA BOHAI, LLC  
C/O DEVON ARCHER

**TOTAL VALUE OF YOUR ACCOUNT** (as of 3/31/14)  
*Includes Accrued Interest* **\$2,436,115.00**

*Morgan Stanley Private Wealth Management, a division of Morgan Stanley Smith Barney LLC, Member SIPC.*

**Your Private Wealth Advisor Team**  
SCHATZ/MOYE/MARKEY/FINNEG  
212-296-6000

**Your Branch**  
522 FIFTH AVENUE  
NEW YORK, NY 10036  
Telephone: 212-296-6000; Alt. Phone: 800-419-2861; Fax: 212-296-6320

#BWNUGWM

ROSEMONT SENECA BOHAI, LLC  
C/O DEVON ARCHER  
152 W 57TH ST  
47TH FL  
NEW YORK NY 10019

**GOVERNMENT EXHIBIT 301**  
16 Cr. 371 (9A)

**Client Service Center** (24 Hours a Day; 7 Days a Week) : 800-668-8168  
+1 201-830-4796 (Int'l Collect)

**Access Your Account Online:** [www.morganstanley.com/PWM](http://www.morganstanley.com/PWM)

876 - 018483 - 380 - 1 - 0

FOIA Confidential Treatment Requested MS-USAO-0017705

**Morgan Stanley**  
PRIVATE WEALTH MANAGEMENT

**CLIENT STATEMENT** | For the Period March 1-31, 2014 Page 2 of 8

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**Account Summary** Active Assets Account  
876-018483-380 ROSEMONT SENECA BOHAI, LLC  
C/O DEVON ARCHER

**CHANGE IN VALUE OF YOUR ACCOUNTS** (includes accrued interest)

	This Period (3/1/14-3/31/14)	This Year (1/1/14-3/31/14)
<b>TOTAL BEGINNING VALUE</b>	---	---
Credits	2,446,561.00	2,446,561.00
Debits	(10,450.00)	(10,450.00)
Security Transfers	---	---
<b>Net Credits/Debits/Transfers</b>	<b>\$2,436,111.00</b>	<b>\$2,436,111.00</b>
Change in Value	4.00	4.00
<b>TOTAL ENDING VALUE</b>	<b>\$2,436,115.00</b>	<b>\$2,436,115.00</b>

**ALLOCATION OF HOLDINGS**

	Market Value	Percentage %
Cash, BDP, MMFs*	\$2,436,115.00	100.0
<b>TOTAL VALUE</b>	<b>\$2,436,115.00</b>	<b>100.0%</b>

Cash, BDP, MMFs

This allocation represents holdings on a trade date basis, and projected settled Cash/BDP and MMF balances. These classifications are not intended to serve as a suitability analysis. \* FDIC rules apply and bank Deposits are eligible for FDIC insurance but are not covered by SIPC. Cash and securities (including MMFs) are eligible for SIPC coverage. See Expanded Disclosures.

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