

BuzzFeed Writer Fails Again

Chalk up another failure for a rabid media desperately trying to prove the Russia-gate story, this time a piece by a reporter with a history of failure, as Joe Lauria reports.

In their haste to prove they are right after going out on a limb many times in the Russia-gate saga, reporters have made numerous, egregious errors or have produced unsubstantiated reports that have nonetheless not deterred them from future mistakes. There are at least 50 examples. The Washington Post in Dec. 2016 erroneously reported that Russia had hacked into a Vermont power grid.

CNN fired its newly created investigative unit in June 2017 when it wrongly connected Donald Trump to a Russian bank. In Dec. 2017, CNN, CBS and MSNBC all botched the date of an email which led them to falsely report that WikiLeaks had somehow offered Donald Trump Jr. advanced copies of the DNC emails.

Guardian reporter Luke Harding, desperate for proof to back up his bestseller "Collusion," reported in Nov. 2018 that Paul Manafort, briefly Trump's campaign manager, had met three times with WikiLeaks publisher Julian Assange in the Ecuador embassy in London in a story that provided zero evidence and hasn't been confirmed by anyone else.

In Nov. 2017, reporter Jason Leopold reported for BuzzFeed that Moscow had sent \$30,000 to the Russian embassy in Washington "to finance [the] election campaign of 2016," only for it to be revealed that the money was to pay for Russian citizens in the U.S. to vote in the 2016 Duma elections. Now Leopold has done it again. His report last week, with Anthony Cormier, that Trump had told his lawyer to perjure himself before Congress was refuted by Special Counsel Robert Mueller.

After Brian Ross of ABC News wrongly reported in Dec. 2017 that Michael Flynn, President Trump's choice for national security advisor, had met with Russia's ambassador during the campaign

rather than after the election, Ross was forced to resign. Yet Leopold, despite his long history of getting it wrong, continues to be employed. Leopold has had more success with stories based on FOIA requests than with unnamed sources. **Consortium News** Editor-in-Chief Joe Lauria had the following encounter with Leopold in 2006, which he wrote about in The Washington Post.

My Unwitting Role in the Rove 'Scoop'

By **Joe Lauria**

The Washington Post Sunday, June 18, 2006



The May 13 story on the Web site Truthout.org was explosive: Presidential adviser Karl Rove had been indicted by Special Counsel Patrick J. Fitzgerald in connection with his role in leaking CIA officer Valerie Plame's name to the media, it blared. The report set off hysteria on the Internet, and the mainstream media scrambled to nail it down. Only . . . it wasn't true.

As we learned last week, Rove isn't being indicted, and the supposed Truthout scoop by reporter Jason Leopold was wildly off the mark. It was but the latest installment in the tale of a troubled young reporter with a history of drug addiction whose aggressive disregard for the rules ended up embroiling me in a bizarre escapade – and raised serious questions about journalistic ethics.

In his nine-year reporting career, Leopold has managed, despite his drug abuse and a run-in with the law, to work with such big-time news organizations as the Los Angeles

Times, Dow Jones Newswire and Salon. He broke some bona fide stories on the Enron scandal and the CIA leak investigation. But in every job, something always went wrong, and he got the sack. Finally, he landed at Truthout, a left-leaning Web site.

I met Leopold once, three days before his Rove story ran, to discuss his recently published memoir, "News Junkie." It seems to be an honest record of neglect and abuse by his parents, felony conviction, cocaine addiction – and deception in the practice of journalism.

Leopold says he gets the same rush from breaking a news story that he did from snorting cocaine. To get coke, he lied, cheated and stole. To get his scoops, he has done much the same. As long as it isn't illegal, he told me, he'll do whatever it takes to get a story, especially to nail a corrupt politician or businessman. "A scoop is a scoop," he trumpets in his memoir. "Other journalists all whine about ethics, but that's a load of crap."

I disagree, but I felt some sympathy for the affable, seemingly vulnerable 36-year-old. Before we parted, I told him a bit about myself – that I freelance for numerous newspapers, including the Sunday Times of London. His publicist had earlier given him my cellphone number.

Three days later, Leopold's Rove story appeared. I wrote him a congratulatory e-mail, wondering how long it would be before the establishment media caught up.

But by Monday there was no announcement. No one else published the story. The blogosphere went wild. Leopold said on the radio that he would out his unnamed sources if it

turned out that they were wrong or had misled him. I trawled the Internet looking for a clue to the truth. I found a blog called Talk Left, run by Jeralyn Merritt, a Colorado defense lawyer.

Merritt had called Mark Corallo, a former Justice Department spokesman who is now privately employed by Rove. She reported that Corallo said he had "never spoken with someone identifying himself as 'Jason Leopold.'" He did have conversations Saturday and Sunday . . . but the caller identified himself as Joel something or other from the Lunday [sic] Sunday Times. . . . At one point . . . he offered to call Joel back, and was given a cell phone number that began with 917. When he called the number back, it turned out not to be a number for Joel."

A chill went down my back. I freelance for the Sunday Times. My first name is often mistaken for Joel. My cellphone number starts with area code 917.

I called Corallo. He confirmed that my name was the one the caller had used. Moreover, the return number the caller had given him was off from mine by one digit. Corallo had never been able to reach me to find out it wasn't I who had called. He said he knew who Leopold was but had never talked to him.

I called Leopold. He gave me a profanity-filled earful, saying that he'd spoken to Corallo four times and that Corallo had called him to denounce the story after it appeared.

When he was done, I asked: "How would Corallo have gotten my phone number, one digit off?"

“Joe, I would never, ever have done something like that,” Leopold said defiantly.

Except that he has done things like that. His memoir is full of examples. He did break big stories, but he lied to get many of them. He admits lying to the lawyers for Enron executives Jeffrey Skilling and Andrew Fastow, making up stories to get them to spill more beans. “I was hoping to get both sides so paranoid that one was going to implicate the other,” he wrote.

I don't really know why Leopold may have pretended to be me to Corallo. I can only speculate that he either was trying to get a reaction and thought Corallo would be more likely to respond to a conservative-leaning mainstream paper, or he was trying to get Corallo to acknowledge that Rove had been indicted by bluffing that the Sunday Times had confirmed the story. In fact, Corallo told me that “Joel” told him that he had Fitzgerald's spokesman on the record about the indictment. He has also said he believes Leopold made up the whole story.

Leopold still stubbornly stands by the story, claiming that something happened behind the scenes to overturn the indictment. Marc Ash, Truthout's executive director, said last week that his site will “defer to the nation's leading publications” on the Rove story, but he declared his continuing faith in Leopold.

We may never know what really happened. Most mainstream news organizations have dismissed the Leopold story as egregiously wrong. But even if he had gotten it right and scooped the world on a major story, his methods would still

raise a huge question: What value does journalism have if it exposes unethical behavior unethically? Leopold seems to assume, as does much of the public, that all journalists practice deception to land a story. But that's not true. I know dozens of reporters, but Leopold is only the second one I've known (the first did it privately) to admit to doing something illegal or unethical on the job.

After reading his memoir – and watching other journalists, such as Jayson Blair at the New York Times and Jack Kelley at USA Today, crash and burn for making up stories or breaking other rules of newsgathering – I think there's something else at play here. Leopold is in too many ways a man of his times. These days it is about the reporter, not the story; the actor, not the play; the athlete, not the game. Leopold is a product of a narcissistic culture that has not stopped at journalism's door, a culture facilitated and expanded by the Internet.

In the end, whatever Jason Leopold's future, he got what he appears to be crying out for: attention.

Joe Lauria is editor-in-chief of Consortium News and a former correspondent for *The Wall Street Journal*, *Boston Globe*, *Sunday Times* of London and numerous other newspapers. He can be reached at joelauria@consortiumnews.com and followed on Twitter [@unjoe](https://twitter.com/unjoe) .

Watch Replay of 13th Vigil for Assange

Watch Friday's broadcast here on **Consortium News** that discussed the latest news on WikiLeaks founder Julian

Assange.

The WikiLeaks publisher continues to resist pressure to leave the Ecuador Embassy and be sent to the U.S. for prosecution, even as he has been nominated for the Nobel Peace Prize and Donald Trump's lawyer says he should not be charged with any crime.

Julian Assange's is an historic test-case for press freedom.

Guests that appeared to discuss the latest news about Julian Assange and issues related to WikiLeaks included Bill Binney, former NSA technical director; Brian Becker, radio host of "Loud and Clear;" Ray McGovern, former CIA analyst; activist Kevin Zeese; author and activist David Swanson.

Past participants have included academics, journalists, politicians and activists, including Daniel Ellsberg, Chris Hedges, John Kiriakou, George Galloway, Craig Murray, Francis Boyle, former U.S. Senator Mike Gravel, Andrew Fowler, Caitlin Johnstone, Tim Black, Jimmy Dore, Lee Camp, Margaret Kimberley, Vivian Kubrick and more.

CN Editor-in-Chief Joe Lauria conducted the interviews and moderated the discussion. The [Unity4J](#) online vigil was broadcast live at unity4j.com, on YouTube, on Periscope.

Now a weekly event, the vigil has moved to a new time slot to accommodate participants and viewers around the world. It will air every Friday from 4pm to 7pm in the U.S. Eastern time zone; from 9 pm to midnight in the UK; from 10 pm to 1 am in continental Europe; from 11 pm to 2 am in the Middle East and Africa; from midnight to 3 am in Moscow, Istanbul and Baghdad; from

8 am to 11 a.m. on Saturday in Australia and from 10 am to 1 pm on Saturday in New Zealand.

Because we lost the stream during the program, the recording is in two parts. You can watch Part Two here live. Part One is below:

Triumph of Conventional Wisdom: AP Expunges Iran/Contra Pardons from Barr's Record

Sam Husseini writes that the news agency ignored the nominee's link to a major U.S. scandal broken by its own investigative reporter at the time, the late Robert Parry, founder of **Consortium News**.

By SamHusseini

FAIR



A president facing a major scandal, just as the highest-profile trial is about to begin, pardons the indicted or convicted officials around him to effectively stop the investigation that's closing in on his own illegal conduct.

Trump soon? We'll see. But this actually describes what President George H.W. Bush did in 1992.

The Iran/Contra scandal revealed, among other things, that

the Reagan/Bush White House had secretly sold missiles to Iran in exchange for hostages held in Lebanon, using the proceeds to fund right-wing forces fighting the leftist Nicaraguan government in violation of U.S. law.

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BUSH PARDONS 6 IN IRAN AFFAIR, AVERTING A WEINBERGER TRIAL; PROSECUTOR ASSAILS 'COVER-UP'

Caspar W. Weinberger, former Secretary of Defense. Charged with perjury and making false statements stemming from a secret missile shipment to Iran in 1985. Trial was scheduled for next month.

Duane R. Caridge, former senior C.I.A. official. Charged with seven counts of perjury and making false statements stemming from secret missile shipment to Iran. Trial was scheduled for March.

Clair E. George, former head of C.I.A. covert operations. Found guilty this month on two felony counts of lying to Congress. Was awaiting sentence.

Elliott Abrams, former Assistant Secretary of State. Pleaded guilty in 1991 to withholding information from Congress. Sentenced to two years' probation and 100 hours of community service.

Alan G. Flan Jr., former head of C.I.A. Central American Task Force. Pleaded guilty in 1991 to withholding information from Congress. Sentenced to one year probation and 100 hours of community service.

Robert C. McFarlane, former national security adviser. Pleaded guilty in 1986 to withholding information from Congress. Sentenced to two years' probation and 200 hours of community service and fined \$20,000.



Former Defense Secretary Caspar W. Weinberger after he was granted a pardon by President Bush in the arms-for-hostages case.

BUSH DIARY AT ISSUE

6-Year Inquiry Into Deal of Arms for Hostages All but Swept Away

By DAVID JOHNSTON
Special to The New York Times

WASHINGTON, Dec. 24 — Six years after the arms-for-hostages scandal began to cast a shadow that would darken two Administrations, President Bush today granted full pardons to six former officials in Ronald Reagan's Administration, including former Defense Secretary Caspar W. Weinberger.

Mr. Weinberger was scheduled to stand trial on Jan. 5 on charges that he lied to Congress about his knowledge of the arms sales to Iran and efforts by other countries to help underwrite the Nicaraguan rebels, a case that was expected to focus on Mr. Weinberger's private notes that contain references to Mr. Bush's endorsement of the secret shipments to Iran.

In one remaining facet of the inquiry, the independent prosecutor, Lawrence E. Walsh, plans to review a 1986 campaign diary kept by Mr. Bush. Mr. Walsh has characterized the President's failure to turn over the diary until now as misconduct.

Decapitated Walsh Efforts
But in a single stroke, Mr. Bush

, just as the indicted former Defense Secretary Caspar Weinberger was about to face trial, Bush pardoned him and five others, including former Assistant Secretary of State Elliott Abrams and and former National Security Advisor Robert McFarlane. *The New York Times* (12/25/92) reported this as "Bush Pardons 6 in Iran Affair, Averting a Weinberger Trial; Prosecutor Assails 'Cover-Up.'"

The attorney general for Bush who approved the pardons,

William Barr, is now being nominated for the same position by Trump. Is this background relevant? Though current news columns are rife with speculation that Trump might likewise protect himself by pardoning his indicted or convicted associates, the dominant U.S. news wire service doesn't seem to think so.

In "Barr as Attorney General: Old Job, Very Different Washington" (1/14/19), *Associated Press* reporter Eric Tucker made no mention whatsoever of the Iran/Contra pardons. Rather than seriously examine the trajectory of presidential power and accountability, Tucker framed the story, as the headline indicates, as a stark contrast between the gentlemanly Bush and the "twice-divorced" Trump:

Serving Trump, who faces intensifying investigations from the department Barr would lead, is unlikely to compare with his tenure under President George H.W. Bush.

The false implication is that Bush did not himself face intensifying investigations from Lawrence Walsh, who operated out of the Justice Department's Office of Special Counsel. The misleading comparison is compounded by Tucker describing Trump as "breaking with the practice of shielding law enforcement from political influence" and ousting Attorney General Jeff Sessions for "not protecting him in the Russia investigation" – as if Barr didn't have direct experience in the first Bush administration with imposing political influence on law enforcement to protect a president from investigation.

Instead, Tucker cites Barr's supporters calling him "driven by his commitment to the department" and "very much a law-

and-order guy.” (The praise for the new head of the department Tucker regularly covers marks his article as a “beat-sweetener,” a long and unfortunate tradition of journalists’ making their jobs easier by sucking up to sources.)

This deceptive piece was apparently picked up by literally thousands of media outlets. A search of “unlikely to compare with his tenure under President George H.W. Bush” produces over 2,400 results.

As **Consortium News** founder Robert Parry, who broke much of the Iran-Contra story for *AP*, would later write in a review of Walsh’s book “Firewall: Inside the Iran/Contra Cover-Up:”

“The Republican independent counsel [Lawrence Walsh] infuriated the GOP when he submitted a second indictment of Weinberger on the Friday before the 1992 elections. The indictment contained documents revealing that President Bush had been lying for years with his claim that he was “out of the loop” on the Iran/Contra decisions. The ensuing furor dominated the last several days of the campaign and sealed Bush’s defeat at the hands of Bill Clinton.”

Walsh had discovered, too, that Bush had withheld his own notes about the Iran/Contra Affair, a discovery that elevated the president to a possible criminal subject of the investigation. But Bush had one more weapon in his arsenal. On Christmas Eve 1992, Bush destroyed the Iran/Contra probe once and for all by pardoning Weinberger and five other

convicted or indicted defendants.

Parry, who died a year ago, left *AP* after many of his stories on Iran/Contra were squashed (**Consortium News**, [1/28/18](#)).

After I [criticized](#) *AP* on Twitter for the omission, a later [piece](#) by Tucker, co-written with Michael Balsamo, noted perfunctorily in the 16th graph: “As attorney general in 1992, he endorsed Bush’s pardons of Reagan administration officials in the Iran/Contra scandal.” (A [search](#) on “as attorney general in 1992, he endorsed Bush’s pardons of Reagan administration officials in the Iran/Contra scandal” produced a mere 202 results.)

While much of the media obsesses over every bit of “Russia-gate,” some breathlessly anticipating the next revelation will surely bring down the Trump presidency, it’s remarkable how little interest there is in the trajectory of presidential power.

Rather, much of the establishment media has gone to great lengths to rehabilitate officials from both Bush administrations, including the elder Bush himself when he died last month. (One exception to the generally [hagiographic](#) coverage of his death was Arun Gupta’s “Let’s Talk About George H.W. Bush’s Role in the Iran/Contra Scandal” – in *The Intercept*, [12/7/18](#).) Indeed, Trump naming Barr just after George H.W. Bush’s funeral could be seen as a jiu-jitsu move: How could anyone object to his nominating the AG of the just-sainted Poppy Bush? It’s as though Trump were saying, “If you all like him so much, I’ll have what he had.” [See the Institute for Public

Accuracy [news release](#), “Barr as AG? Bush and Trump Dovetail.”]

AP’s actions also fit into the institution-protecting mode of what Parry derided as the “conventional wisdom” – which in its current formulation depicts Trump’s authoritarian tendencies as [aberrations from the norms](#) of U.S. politics, rather than a continuation of the worst tendencies of his predecessors.

Sam Hussein is an independent journalist, senior analyst at the Institute for Public Accuracy, and founder of [VotePact.org](#), which encourages disenchanting Democrats and Republicans to pair up. Follow him on Twitter [@samhusseini](#).

Watch the 12th Vigil for Julian Assange Here

Consortium News broadcast the 12th Unity4J online vigil for WikiLeaks publisher Julian Assange on Friday, hosted by **Consortium News** Editor Joe Lauria.

Julian Assange is a wanted man because he published classified information that revealed the crimes and corruption of government officials around the world, not just in the United States.

But it is the U.S., the supposed beacon of freedom and democracy (and press freedom) around the world that has indicted him and wants him extradited to the United States for the crime of publishing.

That’s why Julian Assange has been a refugee in the Ecuadorian embassy in London for the past six years. He knows that the second

he steps back onto British territory he will be arrested and sent to the U.S. where he is unlikely to receive a fair trial and would likely spend the rest of his life in prison.

Discussing the following headlines from the past week were former U.S. Senator Mike Gravel from Monterrey, California; journalist Cassandra Fairbanks in Washington; Greg Barns, a member of Assange's legal team speaking from Cape Town, South Africa and former Australian Broadcasting Corporation correspondent Andrew Fowler from Sydney:

1. Nobel Peace Laureate Mairead Maguire on Monday nominated JA for the 2019 Nobel Peace Prize.
2. Former Australian ambassador Tony Kevin has reiterated his support for Julian Assange. He tweeted on Dec. 31: "I have always called for #Assange's release and his safely escorted return home to Australia in RAAF aircraft. This innocent man is being treated so badly by Ecuador, UK and US govts." We hope to have Amb. Kevin join us later in the program.
3. Cassandra Fairbanks, a frequent guest on these vigils, visited Julian Assange last Monday and reports that his Living Conditions are More Akin to a Dissident in Stasi-Era Germany Than an Award-Winning Publisher With Asylum
4. On Wednesday, WikiLeaks issued official denial of Trump election contacts, saying that the organization never provided election information to Donald Trump campaign adviser Roger Stone or to Jerome Corsi, a conservative author and conspiracy advocate.
5. Yanis Varoufakis' DiEM25 on Jan 4 launched a petition calling on governments of Ecuador and the UK to prevent the extradition of Julian Assange to the US. It has more than 8,000 signatures.
6. Greg Barnes a member of the JA's Australian legal team spoke to the Unity4J vigil yesterday in a pre-recorded interview that was aired at the start of the program.

You can watch the recorded broadcast here. There is a musical break from 00:38 minute mark to 1:12, when the discussion resumes with an interview of Australian journalist Andrew Fowler about the state of the media and its impact on Assange.

Watch the 11th Online Vigil for Julian Assange

Consortium News broadcast the 11th Unity4J vigil for WikiLeaks publisher Julian Assange on Friday night. You can watch it here.

Ecuador tries to find a legal way out of its commitment to Assange's asylum in its London embassy, while Trump lawyer Rudy Giuliani says Assange should not be charged.

Watch the three-hour broadcast here:

Fired School Employee Sues Over Israel Loyalty Oath

A Texas school employee has sued her school district because it fired her after she refused to sign a loyalty oath to Israel, as Marjorie Cohn reports.

By Marjorie Cohn

Truthout



In a return to the bad old days of McCarthyism, Bahia Amawi, a U.S. citizen of Palestinian descent, lost her Texas elementary school job after refusing to pledge in writing that she would not participate in the Boycott, Divestment and Sanctions (BDS) movement. Earlier this month, Amawi sued the school district that fired her.

The BDS movement against Israel has become a hot button issue in the closing month of 2018. A bipartisan group of senators tried to attach the Israel Anti-Boycott Act to the unanimous spending bill that Trump almost signed to avoid the current government shutdown. Meanwhile, Donorbox, a US software company, blocked the BDS fundraising account at the behest of a pro-Israel group.

“The language of the affirmation Amawi was told she must sign reads like Orwellian – or McCarthyite – self-parody, the classic political loyalty oath that every American should instinctively shudder upon reading,” Glenn Greenwald wrote at *The Intercept*.

On Dec. 12, the Council on American-Islamic Relations filed a lawsuit on Amawi’s behalf in the US District Court for the Western District of Texas against Pflugerville Independent School District, alleging that Texas’ law requiring the oath violates the First Amendment. Amawi’s complaint says the law constitutes an impermissible attempt “to impose an ideological litmus test or compel speech related to government contractors’ political beliefs, associations, and expressions.”

Amawi had contracted with the school district for nine years

to work with students with autism and developmental disabilities in Austin. This fall, for the first time, Amawi was required to sign an oath that she would not boycott Israel. When she refused to sign it, she was fired.

“The point of boycotting any product that supports Israel is to put pressure on the Israeli government to change its treatment, the inhumane treatment, of the Palestinian people,” Amawi explained. “Having grown up as a Palestinian, I know firsthand the oppression and the struggle that Palestinians face on a daily basis.”

BDS

The BDS movement was launched by representatives of Palestinian civil society in 2005, calling upon “international civil society organizations and people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the apartheid era ... [including] embargoes and sanctions against Israel.”

This call specified that “these non-violent punitive measures” should last until Israel fully complies with international law by (1) ending its occupation and colonization of all Arab lands and dismantling the barrier wall; (2) recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and (3) respecting, protecting and promoting the rights of Palestinian refugees to return to their land as stipulated in United Nations General Assembly Resolution 194.

Even though it is a nonviolent movement, Israel sees BDS as a threat to its hegemony over the Palestinians. Israel

illegally occupies Palestinian territories, maintaining effective control over Gaza's land, airspace, seaport, electricity, water, telecommunications and population registry. Israel deprives Gazans of food, medicine, fuel and basic services, and continues to build illegal Jewish-only settlements in the occupied West Bank.

"There will not be progress toward a just peace without pressure on Israel to respect Palestinian rights," said Rebecca Vilkomerson, executive director of Jewish Voice for Peace. "Bringing about that pressure, through a global grassroots mobilization, is exactly what BDS is about."

After Amawi's firing, *The New York Times* editorial board wrote,

"It's not just Israel's adversaries who find the [BDS] movement appealing. Many devoted supporters of Israel, including many American Jews, oppose the occupation of the West Bank and refuse to buy products of the settlements in occupied territories. Their right to protest in this way must be vigorously defended."

Omar Barghouti, co-founder of BDS, said in an email to *The New York Times*, "Having lost many battles for hearts and minds at the grass-roots level, Israel has adopted since 2014 a new strategy to criminalize support for BDS from the top" in order to "shield Israel from accountability."

Barghouti called Shurat HaDin, the group behind the Donorbox action blocking the BDS account, a "repressive organization with clear connections to the far-right Israeli government" that is "engaging in McCarthyite ... tactics ... in a desperate

attempt to undermine our ability to challenge Israel's regime of apartheid and oppression."

Twenty-six U.S. states have anti-BDS laws and 13 others are pending. The Israel Anti-Boycott Act, which would have to be reintroduced when the new Congress convenes in January, was supported by Senate Republican Majority Leader Mitch McConnell and Democratic Minority Leader Chuck Schumer. Senators Bernie Sanders (I-Vermont) and Dianne Feinstein (D-California) opposed the bill.

Boycotts' 1st Amendment Protection

The law that triggered Amawi's firing prohibits the State of Texas from entering into government contracts with companies, including sole proprietorships, that boycott Israel. It defines "boycott Israel" to include "refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory."

Boycotts are a constitutionally protected form of speech, assembly and association. They have long been used to oppose injustice and urge political change. The Supreme Court has held that "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." The high court ruled that advocating and supporting boycotts "to bring about political, social, and economic change" – like boycotts of Israel – are indisputably protected by the First Amendment.

The National Lawyers Guild, Palestine Legal and the Center

for Constitutional Rights wrote in a [legal memorandum](#) challenging anti-BDS legislation in New York that such laws “harken back to the McCarthy era when the state sought to deny the right to earn a livelihood to those who express controversial political views.” The memo says, “The courts long ago found such McCarthy-era legislation to be at war with the First Amendment,” as they “unconstitutionally target core political speech activities and infringe on the freedom to express political beliefs.”

Even staff members at the [right-wing Anti-Defamation League \(ADL\)](#) [opposed](#) anti-BDS laws and admitted they are unconstitutional. Although the leadership officially favors outlawing BDS, ADL staff wrote in an internal 2016 memo that anti-BDS laws divert “community resources to an ineffective, unworkable, and unconstitutional endeavor.”

Greenwald cited the grave danger anti-BDS laws pose to freedom of speech, [tweeting](#), “The proliferation of these laws – where US citizens are barred from work or contracts unless they vow not to boycott Israel – is the single greatest free speech threat in the US.”

Demonstrating the incongruity of allowing Amawi to boycott any entity but Israel, Greenwald [noted](#), “In order to continue to work, Amawi would be perfectly free to engage in any political activism against her own country, participate in an economic boycott of any state or city within the US, or work against the policies of any other government in the world – except Israel.”

The US government remains Israel’s lap dog on the world stage. On December 5 the United Nations General Assembly

overwhelmingly passed a resolution calling for an end to Israel's occupation of Palestinian territories. The United States opposed the resolution.

Meanwhile, the BDS movement continues to achieve victories. After more than 24,000 people complained to HSBC, the banking giant pulled out its investments in Israeli arms company Elbit Systems. Elbit sells military equipment, including drones, aircraft, artillery and weapon control systems to the Israeli army, US Air Force and British Royal Air Force. It also provides surveillance equipment to the US Customs and Border Protection agency.

On the legal front, the ACLU has mounted successful court challenges to anti-BDS laws in Kansas and Arizona and has filed litigation in Arkansas and Texas.

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Marjorie Cohn is professor emerita at Thomas Jefferson School of Law, former president of the National Lawyers Guild, deputy secretary general of the International Association of Democratic Lawyers and an advisory board member of Veterans for Peace. Her latest book, Drones and Targeted Killing: Legal, Moral, and Geopolitical Issues, was recently published in an updated second edition.

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Giuliani Says Assange Should Not Be Prosecuted

Donald Trump's lawyer said on Monday that WikiLeaks publisher Julian Assange should not be prosecuted and he compared WikiLeaks publications to the Pentagon Papers.

By Joe Lauria

Special to Consortium News

Rudy Giuliani, a lawyer for President Donald Trump, said Monday that WikiLeaks publisher Julian Assange had not done "anything wrong" and should not go to jail for disseminating stolen information just as major media does.

"Let's take the Pentagon Papers," Giuliani told Fox News. "The Pentagon Papers were stolen property, weren't they? It was in *The New York Times* and *The Washington Post*. Nobody went to jail at *The New York Times* and *The Washington Post*."

Giuliani said there were "revelations during the Bush administration" such as Abu Ghraib. "All of that is stolen property taken from the government, it's against the law. But once it gets to a media publication, they can publish it," Giuliani said, "for the purpose of informing people."

"You can't put Assange in a different position," he said. "He was a guy who communicated."

Giuliani said, "We may not like what [Assange] communicates, but he was a media facility. He was putting that information out," he said. "Every newspaper and station grabbed it, and published it."

The U.S. government has admitted that it has indicted

Assange for publishing classified information, but it is battling in court to keep the details of the indictment secret. As a lawyer and close advisor to Trump, Giuliani could have influence on the president's and the Justice Department's thinking on Assange.

Giuliani also said there was no coordination between the Trump campaign and WikiLeaks. "I was with Donald Trump day in and day out during the last four months of the campaign," he said. "He was as surprised as I was about the WikiLeaks disclosures. Sometimes surprised to the extent of 'Oh my god, did they really say that?' We were wondering if it was true. They [the Clinton campaign] never denied it."

Giuliani said: "The thing that really got Hillary is not so much that it was revealed, but they were true. They actually had people as bad as that and she really was cheating on the debates. She really was getting from Donna Brazile the questions before hand. She really did completely screw Bernie Sanders."

"Every bit of that was true," he went on. "Just like the Pentagon Papers put a different view on Vietnam, this put a different view on Hillary Clinton."

Giuliani said, "It was not right to hack. People who did it should go to jail, but no press person or person disseminating that for the purpose of informing did anything wrong."

Assange has been holed up as a refugee in the Ecuador embassy in London for the past six years fearing that if he were to leave British authorities would arrest him and extradite him to the U.S. for prosecution.

You can watch the entire Fox News interview with Giuliani here:

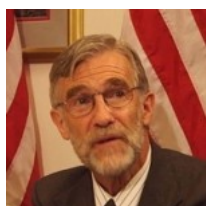
Joe Lauria is editor-in-chief of Consortium News and a former correspondent for *The Wall Street Journal*, *Boston Globe*, *Sunday Times* of London and numerous other newspapers. He can be reached at joelauria@consortiumnews.com and followed on Twitter [@unjoe](https://twitter.com/unjoe) .

Michael Isikoff Cuts His Losses at ‘Russian Roulette’

Michael Isikoff, one of the biggest proponents of the Russia-gate story now says that Robert Mueller’s investigation is “not where a lot of people would like it to be,” says Ray McGovern.

By Ray McGovern

Special to Consortium News



Last Saturday, veteran Washington journalist Michael Isikoff began a John Ehrlichman/Watergate-style “modified limited hangout” regarding the embarrassing overreach in his Russia-gate “collusion” reporting. He picked an unctuous, longtime fan, radio host John Ziegler, to help him put some lipstick on the proverbial pig. Even so, the [interview](#) did not go so well.

Those who can muster some residual empathy for formerly serious reporters who have gotten Russia-gate so wrong, may feel genuine sadness at this point. Those fed up with pretense, unprofessionalism, and dodging, however, will find it hard to

listen to the audible squirming without a touch, or more, of *Schadenfreude* – the word Germans use to denote taking joy at the misfortune of others.

In a word, it proved hard to square the circle inside which Isikoff and other Russia-gate aficionados have been living for more than two years after last week's disclosures. Ziegler's repeated expressions of admiration for Isikoff's work, plus his softball questions, utterly failed to disguise Isikoff's disappointment that Robert Mueller's Russia-gate investigation is "not where a lot of people would like it to be."

"A lot of people" includes Isikoff.

Commenting on the trove of legal and other documents now available, Isikoff pretty much conceded that he and his co-writer, journalist David Corn were, in effect, impersonating serious investigative journalists when they published in April 2017 their gripping Russia-gate *chef d'oeuvre*: "Russian Roulette: The Inside Story of Putin's War on America and the Election of Donald Trump."

Steele Dossier

Aware of the credulity given by Isikoff and Corn to the "[Steele dossier](#)," Ziegler began with what he apparently thought was a softball observation/question. "Would you agree that a lot of what is in the Steele Dossier has been at least somewhat vindicated?"

"No," said Isikoff flatly.

The conversation turned to so-called "logical" explanations for leaps of faith rather than analysis. Such as unsubstantiated accusations, like the so-called "pee-tape" that Isikoff now says is "likely false."

A "modified limited hangout" is when someone's cover story is blown and some truth needs to be divulged to deflect further inquiry. Isikoff's begins at the 26:50 mark and goes on, churning one's

stomach for 30 minutes.

A better subtitle for Isikoff and Corn's book might be "Based on What We Wanted to Believe Was a True Story."

Isikoff told Ziegler that unless "Saint" Robert Mueller, as Democrats see him, can summon a Deus ex Machina to provide some actual evidence linking Trump or his campaign to collusion with Russia, former Isikoff acquaintances, like me, might legitimately ask, "What the hell happened to you, Mike?"

Isikoff and Corn have done some serious work together in the past. Their 2006 book, "Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War" – was an accurate chronicle of the Cheney/Bush March of Folly into Iraq. That was also against a Republican administration. But they had interviewed people from both sides of the issues.

Though neither were fans of George W. Bush, they backed up their work with facts. "Russian Roulette" is a different story. It reads now like desperation to confirm what the authors hoped Mueller would find. He has failed them.

Is This Journalism?

Who can adequately explain the abject loss of journalistic standards when it comes to Russia-gate?

For Isikoff and Corn, as for other erstwhile serious journalists, there should be more crow than ham or turkey to eat in the weeks ahead.

Others come to mind: Jane Mayer of *The New Yorker*; James Risen, formerly of *The New York Times*; and lesser lights like McClatchy's Greg Gordon; Marcy Wheeler, Amy Goodman's go-to Russia-gate pundit at emptywheel.net; and extreme-partisan Democrat Marc Ash, who runs Reader Supported News.

Many had pinned their hopes on Trump's 24-day national security

adviser, Gen. Michael Flynn, to supply grist for the “collusion” mill. That increased when word came he’d met 19 times with Mueller’s investigators as a cooperative witness.

Yet, something didn’t gel. Prosecutors said they’d go light on Flynn.

In (and Out) Like Flynn

Philip Ewing, the apparent odd-man-out at National Public Radio, observed Saturday: “Does that sound like the attitude they [the prosecutors] would take with someone who had been serving as a Russian factotum and who had been serving as a foreign agent from inside the White House as national security adviser, steps away from the Oval Office?”

Flynn was supposed to be sentenced for lying to the FBI on Tuesday. By afternoon, however, Federal District Court Judge Emmet G. Sullivan postponed the sentencing until at least March. The judge said he was “disgusted” by Flynn’s “very serious” crimes but later apologized from the bench for asking whether his actions might have been treasonous.

He gave Flynn the option of delaying sentencing until he had completed his cooperation with federal prosecutors, and Flynn agreed. But Sullivan remained adamant that Flynn could still end up in jail. If His Honor takes the time to read Professor Jonathan Turley, of the George Washington University Law School, about Comey-endorsed FBI tactics – and not confine his reading solely to the Washington Post – it seems a safe bet he will give Flynn a stay-out-of jail card.

In an early morning tweet Tuesday, Trump wished Flynn good luck and commented: “Will be interesting to see what he has to say, despite tremendous pressure being put on him, about Russian Collusion.” How can one interpret this? Either Mueller and his score of investigators were unable to get Flynn to spill the beans on collusion or – could it be possible? – there are no beans to spill.

Hold That Line

As for Isikoff and Corn, their profession – such as it is these days – can be expected to circle the wagons and give them the immunity granted 15 years ago to the faux-journalists who pushed the Weapons of Mass Destruction (WMD) deception so hard – even after no WMD were found in Iraq.

Indeed, in recent days *The New York Times* and *Washington Post* have launched what looks like a stepped-up pre-emptive attack, lest readers start to doubt their rendering of Russia-gate. The headlines and the drivel that follow have been caricatures of journalism.

Be not misled about Russia-gate, *The Washington Post* editorial board wrote Tuesday morning. “It is no longer disputable.”

The analogy with mainstream media regurgitating fraudulent “facts” on Weapons of Mass Destruction before the invasion of Iraq is complete. How many recall then-Secretary of State Colin Powell telling the world on February 5, 2003 that his evidence and conclusions were “irrefutable and undeniable.”

Hardly New

John Swinton, a prominent journalist in New York in 1880, at a banquet, reportedly responded to a toast to the “independent press,” by saying: “There is no such thing as an independent press. You know it and I know it. ... What folly is this toasting an independent press?”

“We are the tools and vassals of rich men behind the scenes. We are the jumping jacks; they pull the strings and we dance. Our talents, our possibilities and our lives are all the property of other men. We are intellectual prostitutes.”

Plus ca change ...

Ray McGovern works with Tell the Word, a publishing arm of the

ecumenical Church of the Saviour in inner-city Washington. Part of his job as a CIA analyst for 27 years was to analyze Soviet propaganda. He now experiences considerable nostalgia examining the propaganda put out by U.S. mainstream media. When you get the hang of it, it's pretty easy, IF you know where to look.

*Please give to our end-of-year fund drive, by
clicking [Donate](#).*

Judge Delays Decision Whether to Unseal Assange Criminal Complaint

A hearing was held in Alexandria, Virginia, on Tuesday on a motion to make public the sealed U.S. charges against Julian Assange. Joe Lauria, editor of Consortium News, was in the courtroom and filed this report.

By Joe Lauria

in Alexandria, Virginia

Special to Consortium News

A decision whether to unseal U.S. government charges against Julian Assange was delayed for a week by Judge Leonie Brinkema in the United States District Court for the Eastern District of Virginia on Tuesday.

In her comments to the court, Judge Brinkema appeared to be siding with the government's argument that there is no legal precedent for a judge to order the release of a criminal complaint or indictment in a case before an arrest is made.

However, Katie Townsend, a lawyer for the Reporters Committee for Freedom of the Press, which filed an

application to “unseal criminal prosecution of Julian Assange,” told the court that the government’s inadvertent revelation of charges against the WikiLeaks publisher should prompt the court to release the complaint.

The government says it mistakenly included a passage referring to Assange in a totally unrelated case. The passage was reported this month in the press and was read in full by Judge Brinkema in court. It says the government considered alternatives to sealing, but that any procedure “short of sealing will not adequately protect the needs of law enforcement at this time because, due to the sophistication of the defendant and the publicity surrounding the case, no other procedure is likely to keep confidential the fact that Assange has been charged.”

The paragraph goes on to say that the “complaint, supporting affidavit, and arrest warrant, as well as this motion and proposed order would need to remain sealed until Assange is arrested in connection with the charges in the criminal complaint and can therefore no longer evade or avoid arrest and extradition in this matter.”

As additional evidence that the government was pursuing WikiLeaks, Townsend also cited the Jan. 2017 intelligence “assessment” that Russia had interfered in the 2016 election in which WikiLeaks is blamed for playing a role; congressional testimony from former FBI Director James Comey that the bureau had an “intense focus” on WikiLeaks; then CIA Director Mike Pompeo’s claim that WikiLeaks was a “hostile, non-state intelligence service;” and the naming of WikiLeaks as “Organization 1” in the government’s indictment of Russian intelligence agents for allegedly interfering in

the election.

Government Calls Charges 'Speculation'

But Assistant U.S. Attorney Gordon Kromberg argued that the government has never said it was investigating Assange, only WikiLeaks and those leaking to it. He said further that it was "speculation" that there are already charges against Assange based on anonymous press sources, even though the mistakenly published paragraph clearly speaks of the "fact that Assange has been charged."

Kromberg told the court that the government could neither confirm nor deny that the passage relates to Julian Assange, nor could confirm or deny that he has been charged because to do so would admit Assange's status, which the state contends must remain secret.

Judge Brinkema, who called the case "interesting, to say the least," agreed that it was an "assumption" and "hypothetical" that the WikiLeaks founder has already been charged. But she asked Kromberg in court what "compelling" rationale there was to keep Assange's status secret after the government's inadvertent release.

Kromberg said he could not discuss in public the specifics in this case regarding sealing.

Judge Brinkema then listed the general reasons why indictments and complaints remain sealed before an arrest is made: to prevent a suspect from fleeing, from destroying or tampering with evidence, from pressuring potential witnesses, from being prepared to harm arresting officers and also to protect against alerting other defendants that

might be named in a complaint or indictment.

Assange, however, is purposely not fleeing from the Ecuador Embassy in London as he fears he will be arrested by British authorities and extradited to the United States. It is highly unlikely he is armed and could harm arresting officers, who could enter the sovereign territory of Ecuador only with that government's permission. Assange could possibly have alleged evidence on a laptop and others could be named in the complaint.

The judge then asked Townsend to name any case in which a judge had ordered the government to release criminal charges before an arrest was made. Kromberg had argued that there were none. Townsend requested a few days to respond.

Judge Brinkema gave both parties a week to make further submissions to the court.

Joe Lauria is editor-in-chief of Consortium News and a former correspondent for *The Wall Street Journal*, *Boston Globe*, *Sunday Times* of London and numerous other newspapers. He can be reached at joelauria@consortiumnews.com and followed on Twitter [@unjoe](https://twitter.com/unjoe) .

National Exclusive: Former Sen. Barbara Boxer's Son and California Powerbroker Found Bilking Indian Tribe

Darius Anderson and his business partner, Douglas Boxer, preyed upon Native American clients who were too intimidated by their political connections to seek recourse, writes investigative reporter Peter Byrne.

Judges Find Breach of Contract and Trust

By Peter Byrne



Darius Anderson is one of California's most powerful men. He promotes himself as a champion of liberal social causes, a philanthropist, a public servant, a man of integrity who cares about his community—especially racial minorities.

That image has not survived judicial scrutiny. A panel of arbitration judges has found that a company controlled by Anderson and his partner, Douglas Boxer, the son of former Senator Barbara Boxer, defrauded its Native American clients in a Bay Area casino deal. The partners convinced the Federated Indians of the Graton Rancheria to buy undevelopable swamp land in which they themselves held a large interest. They then made a secret deal with a Las Vegas gambling corporation in which they benefited at the Graton tribe's expense.

The two-month long judicial proceeding took place behind closed doors at the San Francisco office of JAMS, a high-profile group of legal mediators formerly known as Judicial Arbitration and Mediation Services. A final binding arbitration award issued in April by the judging panel was confirmed by Superior Court Judge Richard Ulmer on June 1. That outcome has drawn almost no publicity. The only media to report on the findings of fraud against Anderson and Boxer is the North Bay Bohemian, a local alternative weekly newspaper.

For decades Anderson has advised and raised campaign funds for prominent state Democrats, including Nancy Pelosi, leader of the Democrats in the U.S. House of Representatives, and Jerry Brown, governor of the west coast state.

Another of his high-profile clients is Barbara Boxer, the longtime U.S. senator from California who retired in 2017. Her son Douglas partnered with Anderson in what judges found to be acts of fraud and deception against the [Federated Indians of Graton Rancheria](#) that began after Sen. Boxer pushed through legislation restoring the tribe's sovereignty and granting it the right to run a casino.

The case raises comparisons with the [2005 Jack Abramoff Indian lobbying scandal](#), in which powerful consultants charged exorbitant fees to Indian clients seeking to develop casinos on their reservations. As such it adds another installment to the history of white men breaching trust with Native Americans for economic gain that began with European settlement of this continent. This case has a happier ending than is usual.

Local Empire

Anderson, 53, oversees a restaurant and media empire in Napa and Sonoma Counties, 40 miles north of San Francisco. He owns a culinary school called Ramekins and he is the managing member and chairman of Sonoma Media Investments, which owns the Santa Rosa *Press Democrat* and its affiliate publications, which includes most of the newsprint media in the two-county region. In September, the *Press Democrat* reported a 900-word story about the arbitration findings that portrayed the tribe and Anderson as having settled a contractual "dispute"—the "fraud" word was not mentioned and the details of the deceptions were not exposed.

Anderson is much more than a restaurateur and newspaper publisher. His California-based lobbying firm, Platinum Advisors, advertises that it generates "billions of dollars in work for our clients" by navigating their deals through mazes of local, state, and federal government bureaucracies. Another of his companies, Kenwood Investments, is developing upscale housing and yacht havens on [Treasure Island](#), a fabulously valuable island in the San Francisco bay built in 1939 as a World's Fair site.

The business name that is key to this story is Kenwood Investments No. 2. Three retired state judges in the arbitration process declared in April that Anderson and his partners in “Kenwood No. 2” defrauded the Federated Indians of Graton Rancheria of millions of dollars between 2002–03 and committed many acts of deception. They ordered Anderson’s investment firm to pay three quarters of a million dollars to the tribe to cover its lawyer’s fees and arbitration costs.

According to the judges, Anderson breached his consulting contract with the tribe, which now owns the Graton Resort & Casino in Rohnert Park. The judges found that Anderson and his associates “fraudulently induced” and “breached” an agreement to assist the tribe in developing a Las Vegas-style casino business.

The ruling, by retired Superior Court judges William Cahill, Read Ambler and Richard A. Kramer, concludes a long legal battle that was instigated not by the wronged party, but by Anderson, as he sought to further enrich his business at the tribe’s expense.

In a settlement arrangement, Kenwood No. 2 agreed not to appeal the judges’ findings. Anderson’s firm will pay less than the dollar amount of the award, says Joel Zeldin, the tribe’s arbitration counsel. There are no charges of criminal fraud pending against Kenwood No. 2, but the three judges, one of whom was chosen by Anderson’s firm, did their best to restore justice: “Even if the Tribe was willing to overlook Kenwood No. 2’s unethical behavior, the courts and these arbitrators will not.”

Summary of Violations

The 53-page arbitration report details how Darius Anderson and the senator’s son, Douglas Boxer, harmed the Federated Indians of Graton Rancheria over the course of several years. In summing up their findings, the judges’ panel found that Anderson and Boxer had violated their duty to be loyal to the tribe in the following ways:

- Anderson and Boxer represented that Kenwood No. 2 had experience

and abilities that it in fact lacked.

- Kenwood No. 2 breached its contract when it bought an option on wetlands without telling the tribe, and then promoted the land to the tribe for the casino site despite its unsuitability for development.
- Anderson and Boxer sent out bid solicitations for a casino manager that benefited Kenwood No. 2 at the expense of the tribe and without telling the tribe of the existence of the “requests for proposals” or RFPs.
- They rejected a proposal that was the most favorable to the tribe without telling the tribe or informing it of that bidder’s reservations about irregularities in the contractual terms proposed by Kenwood No. 2.
- They entered into undisclosed consulting agreements “to the detriment” of the tribe, some of which involved conflicts of interest.
- “Despite causing major problems and providing virtually no effective assistance to the Tribe,” Anderson claimed that it was the tribe that had breached the consulting agreement with Kenwood No. 2. Anderson’s pursuit of his “unmerited” claim against the tribe caused it to spend significant amounts of money and to “suffer business risks and distractions.”

The judges ordered Kenwood No. 2 to pay the tribe’s attorney fees and costs of \$725,657.48, and to receive nothing for itself.

Anderson did not respond to multiple requests for comment.

Boxer’s Role

Boxer was involved as a lobbyist for Platinum Advisors and as Anderson’s partner in Kenwood Investments No. 2. His mother, the now-retired U.S. senator, in 2000, wrote federal legislation that restored the national sovereignty of the Federated Indians of

Graton Rancheria and authorized the tribe to establish a casino business.

In early 2002, Anderson and Boxer approached the tribe's chairman, Greg Sarris, a novelist and professor of creative writing and Native American studies at Sonoma State University. They proposed that the newly empowered tribal nation hire Platinum Advisors to help it acquire reservation land and start a business to make it self-sufficient. Anderson and Boxer told Sarris that Platinum Advisors had "significant real estate development experience and connections with local, state and federal politicians," according to the arbitration award. They proffered a platform of consulting services for a monthly retainer of \$1,000, with payment deferred and contingent upon success.

Sarris trusted Boxer because the lobbyist's mother had sponsored the legislation that re-established the tribe's sovereignty. After Anderson presented a promise-filled PowerPoint to the tribal council, it voted to hire Platinum Advisors, ultimately paying it \$1.2 million.

Fifteen years later, arbitrators declared that Anderson and Boxer had breached their contract to deliver adequate professional services in the tribe's interest, damaging the casino project's prospects. According to the arbitration document, the Graton Rancheria was afraid to expose these actions when it discovered what Anderson was doing in 2003, fearing political retaliation by the consultants.

The story only came to light because in November 2013, Anderson demanded that the Graton Rancheria pay Kenwood No. 2 a percentage of the projected revenue from its recently opened casino. Anderson insisted that the tribe pay his firm \$43 million; he threatened to compel arbitration if it refused.

The tribe refused. It sued Kenwood No. 2 in state superior court, claiming that its sovereign immunity prohibited Anderson from

compelling arbitration of his claim.

In November 2015, the court ruled that the tribe had waived its sovereign immunity defense in its contract with Anderson. In 2017, that judgment was affirmed by the appellate court, and the JAMS arbitration commenced.

Anderson claimed 2.5 percent of the Graton Resort & Casino's net revenue for the first seven years of its operation, despite the fact that after 2005, the tribe had ceased doing business with his company. Insisting that the Graton Rancheria had "unjustly enriched" itself at the expense of his firm, Anderson demanded that it pay his attorney fees, too.

But it was the tribe, not Anderson, that had been wronged, the retired judges ruled. After months of sworn testimony, the panel ordered Kenwood No. 2 to pay the tribe's attorney fees because it was Kenwood No. 2 that had breached the consulting contract, and Anderson's claims to the contrary "lacked merit."

The two trials generated thousands of pages of testimony, depositions and exhibits. The court record of the arbitration award was partly redacted and relabeled at Anderson's request, according to Zeldin, the tribe's arbitration counsel.

Anderson's and Boxer's names are replaced by "Person A" and "Person B," respectively. "Platinum Advisors" is replaced with "Company 1." "Kenwood No. 2" replaced "Kenwood." The names of politicians and descriptions of their actions are blacked out. But who they are and what they did is clear from the narrative context and from contemporaneous news reports.

How It Began

In March 2002, the Graton Rancheria signed a contract with Platinum Advisors as its "exclusive agent" to provide it with "strategic advice and consultation" and to develop "political visibility." The contract granted Platinum a right of first refusal to "partner with

the tribe in any business opportunity it pursued.” The idea was to attract investors.

From the get-go, Boxer worked to convince the tribe how “‘much of a home run a casino would be’ rather than organic food processing, grape growing, strip mall, or senior assisted living facility,” according to the arbitration award. It did not take much convincing. Casinos are famous magnets for cash. Even as Anderson and Boxer worked with the tribe on a public relations campaign to further a casino project, they were making secret deals to benefit themselves, the arbitrators found.

According to a declaration filed by Anderson in 2015, he, Boxer, Jay Wallace of Platinum Advisors and Stuart Sunshine, a San Francisco city official, created Kenwood Investments No. 2 LLC in January 2003.

The arbitration judges ruled that Anderson’s new company shadowed Platinum Advisors’ tribal consulting activities, while serving a hidden agenda to make money for its principals—at the tribe’s expense.

Without informing Sarris or the tribe, Anderson and Boxer struck a deal to buy 1,736 acres of tidal wetlands near Highway 37, a major road connecting San Francisco to the nearby city of Oakland.

Kenwood No. 2 paid \$100,000 for an option to purchase the swampy property, eventually billing the tribe \$750,000 for it.

As Kenwood No. 2 was secretly securing the option, Platinum Advisors was advising the tribe to select the Highway 37 site for its casino, even though it was a politically impossible place to pour acres of concrete.

“The site was part of 50,000 acres of tidal wetlands that conservationists had been trying to protect and restore since the 1970s,” noted the arbitration judges, who were incredulous that Anderson had suggested it. The attempt to locate the casino on the

wetlands site proved to be a public relations and monetary disaster for the tribe.

As Anderson and Boxer were negotiating to buy the swampy land in late 2002, they were also negotiating casino-management deals with several Las Vegas-based casino operators, including Station Casinos, Harrah's, Maloof and MGM, without telling the tribe.

In February 2003, Anderson sent a request for proposals to potential casino operators. The proposal represented Kenwood No. 2 as the "exclusive development partner" and "financial advisor" for the tribe. The RFP stated that Kenwood No. 2 would evaluate the bid proposals and select the casino manager for the tribe.

Kenwood No. 2 had no contractual relationship with the Graton Rancheria when it issued the RFP. The tribe's contract was with Platinum Advisors.

According to the arbitration award, "the evidence established that the Tribe was unaware that Kenwood No. 2 had sent an RFP to operators and had not approved the contents of the RFP drafted by Kenwood No. 2."

Strange Bidding Terms

The trial revealed that Anderson's RFP instructed potential casino operators to bid their services on the basis of several unusual assumptions:

- The operator would commit to buying Kenwood No. 2's option to purchase the Highway 37 land and then buy the land from the seller on behalf of Kenwood No. 2, which would be the "titleholder." The RFP assumed that the casino would be built on the Highway 37 site controlled by Kenwood No. 2 and that there were no other possibilities.
- The operators could charge the tribe 20 percent of the casino's net revenues and were to "assume a management fee to Kenwood No. 2

of 10 percent of net gaming revenues.”

- The operators would pay Kenwood No. 2 “development fees” of \$2.5 million up front to purchase the option on the Highway 37 site, and another \$2.5 million when the tribe took over the site—\$5 million total.
- “Lastly, operators were required to pay Kenwood No. 2 ‘pre-development fees’ of \$8.4 million (\$200,000 per month) for advisory and consulting services.”

The operators were not required by the RFP to make upfront cash payments to the tribe, or to provide any specific amounts of money for the tribe’s maintenance costs (i.e., its ability to maintain its existence until the casino began generating revenue).

Anderson received and evaluated four responses to the RFP, which he did not share with the tribe. Notably, Harrah’s proposed to take up to 24 percent of the net gaming revenue as its management fee. Improving on the terms of the RFP itself, Harrah’s offered to pay \$100,000 a month to the tribe for its operating expenses, along with a \$4 million pre-development fee. Harrah’s also offered to donate \$100,000 per year to set up an educational scholarship fund for tribal members. And it offered to make a one-time \$25 million “quality of life” loan to address tribal citizen’s needs for housing and medical care.

Harrah’s declined to pay a percentage of net revenues to Kenwood No. 2, although it offered to pay Anderson \$50,000 a month in consulting fees, if the tribe approved of the arrangement. Harrah’s pointed out that such an arrangement with a consultant was not a normal business practice; it would have to be approved by the National Indian Gaming Commission.

Harrah’s expressed concern about the legitimacy of Anderson’s claim to be representing the tribe’s interests. It asked to be put directly in touch with the tribal council before proceeding further. Anderson rejected Harrah’s proposal without consulting

with Sarris and the tribal council or informing them of the proposal's existence.

Watch Peter B. Collins interview Peter Byrne on Boxer, Anderson fraud (Article continues below):

A Better Deal—For Anderson

Station Casinos' response to the RFP was far more favorable toward Anderson. It suggested that Kenwood No. 2 and Station Casinos partner to manage the casino. It proposed divvying up 30 percent of the casino revenues—20 percent to Anderson's firm, 80 percent to Station.

The Las Vegas-based corporation offered to pay Anderson \$10 million cash up front and \$15,000 a month for consulting services. It offered \$100,000 a month for tribal operations, but it did not offer the tribe any pre-development fees, scholarships or loans.

On March 7, 2003 Anderson and Boxer asked the Graton Rancheria to assign the Platinum Advisors contract to Kenwood No. 2, and claimed it would not change the terms of the agreement.

But the assignation did change the terms of the agreement. The new arrangement gave Kenwood No. 2 new authority to act as the tribe's exclusive agent. Kenwood No. 2 was allowed to negotiate a cut of the casino operator's management fee for itself. And, importantly, the tribe agreed to waive its sovereign-immunity defense in the case of a contract dispute—a concession it later regretted.

Anderson and Boxer had been negotiating with gaming corporations since the fall of 2002. They first told Sarris and the tribe that they had issued RFPs on March 11, 2003.

Brian Campbell, a tribal member doing legal work for the tribe, got wind of the RFP and asked Boxer for a copy. Boxer gave Campbell a copy but did not tell him about the responses that had been received.

Boxer later testified under oath that he had given drafts of the RFP to the tribe before it was sent out in 2002. The tribe's witnesses testified that Boxer did not do that. Campbell testified that he was surprised that Anderson had asked for 10 percent of the gaming revenues and \$5 million in upfront fees in the RFP.

On March 14, 2003, Anderson told the tribal council about the existence of RFP responses. He did not disclose Harrah's offer to the tribe of tens of millions of dollars in cash.

Anderson told the tribe that Station Casinos had made the best proposal for "superior overall economics."

Even as members expressed outrage at Anderson's self-dealing behavior, the tribal council accepted his recommendation that Station Casinos be selected as its casino operator.

Time to Hire Lawyers

Suspecting that Anderson was more motivated to benefit himself than the tribe, the Graton Rancheria hired attorneys from California Indian Legal Services to watch over its interests. These lawyers noted that it was a conflict of interest for Anderson to negotiate with Station on behalf of the tribe while he was also negotiating with Station on his own behalf for a cut of the management fees. Anderson agreed that he would not negotiate a separate deal.

On April 22, 2003, the tribe signed the revised agreement with Kenwood No. 2. It provided that Anderson's company would receive 4 percent of the net gaming revenues for seven years (later reduced to 2.5 percent). Anderson agreed to donate \$25,000 annually to the UCLA College of Indian Law Program. (UCLA declined to confirm if the donations were made.)

The next day, according to trial exhibits, Anderson secretly made a separate consulting agreement with Station Casinos, despite his promise that he wouldn't.

Kenwood No. 2 contracted to assist Station Casinos “maintain its relationship” with the tribe. Station Casinos agreed to pay Anderson \$20,000 per month and it bought the option on the Highway 37 site for \$750,000, netting Kenwood No. 2 a \$650,000 profit. (The tribe later reimbursed Station for the option payment).

Station Casinos agreed to pay Anderson a total of \$9.5 million for achieving various “milestones” as it helped the tribe to navigate the bureaucracy of getting its casino up and running.

Anderson did not tell the tribe about his side deal with Station Casinos. “The evidence indicates that Kenwood No. 2 intentionally kept information regarding the Station/Kenwood No. 2 agreement secret from the Tribe,” the arbitrators found. “[Exhibit] 490 [Douglas Boxer] notation: ‘don’t tell Sarris: negotiation.’”

Boxer did not respond to multiple requests for comment.

In fact, the tribe did not learn of the secret side agreement’s existence until June 2003, when Station Casinos included a copy of the side agreement in the paperwork accompanying its negotiations with the tribe, the arbitrators found. Station Casinos declined to comment.

Picking on the Wrong Wetland

On the same day they signed the side agreement, Station Casinos and Anderson announced that the Graton Rancheria planned to develop the Highway 37 site for a casino. A coalition of environmental groups that supported the Bay Delta Restoration Plan to restore local wetland habitats enlisted local, state and federally elected officials to vehemently oppose erecting the casino.

The tribe’s attempt to “appease these groups by offering to restore hundreds of acres of wetlands on the property” was a non-starter. After Diane Feinstein, a U.S. senator from California, “threatened to redraft the Tribe’s restoration language to obstruct the Tribe’s ability to open a casino anywhere,” the Graton Rancheria backed

down and nixed the wetlands as a possibility.

The tribe ended up paying for and donating the Highway 37 wetlands to the Sonoma County Land Trust, which has restored it. The wetlands debacle ended up costing the tribe about \$5 million, which included paying for the unusable land and for Kenwood No. 2's profit on the land-purchase option.

Without Anderson's assistance, Sarris and the tribe went looking for an alternative site to build their casino, and eventually bought 270 acres in Rohnert Park for \$100 million, which it borrowed from Station Casinos. The tribe had little or no contact with Anderson and Boxer after 2005, when it stopped using their services.

Boxer testified that Kenwood No. 2 did significant work for the tribe prior to 2006. The trial record reports that in 2004 Boxer "'killed' a bill" in the state assembly that would "require gaming tribes to negotiate with local governments to mitigate the impact of casinos."

Boxer said at trial that he had designed publicity and lobbying campaigns for the tribe; helped it to create a financial budget and to find office space; and "assisted tribal members in securing personal loans."

The arbitrators determined that lobbying on the tribe's behalf violated California law because Kenwood No. 2 was not a registered lobbying firm. Regardless, the judges found that Anderson and Boxer did not materially assist the tribe in jumping through the complicated governmental, environmental and financing procedures necessary to obtain a gaming compact and open the casino.

Sarris testified that the tribe felt that "Kenwood No. 2 was providing little or no value . . . and the Tribe wanted to sever its relationship with [Anderson and Boxer] but was afraid that if it did so, [they] might retaliate and use [their] political connections against the Tribe."

The tribe estimated that it ended up paying Kenwood No. 2 \$10,000 an hour for the services it did receive before the contract ended.

Nonetheless, the tribe invited Anderson and Boxer to attend the opening party for the Graton Resort and Casino on Nov. 5, 2014. That same day, Anderson demanded that the Federated Indians of Graton Rancheria wire a payment of \$43 million to his bank account.

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Northern California-based journalist Peter Byrne combines investigative reporting with science writing. In 2017, Peter's 11-part series in the Point Reyes Light "Busted: Breast Cancer Money and the Media" won the top science writing award from the American Association for the Advancement of Science. He has received national, regional, and local recognition for investigative work, writing style, and in-depth profiles of politicians and scientists. Peter reports on terrorism and its twin, counter terrorism, from epicenters of violence such as Mosul, Iraq and Orange County, California. He has written highly regarded books on quantum physics and writes for many publications, including Scientific American, New Scientist, Quanta, American Consequences, Mother Jones, and the North Bay Bohemian. He can be found at www.peterbyrne.info.
