

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.)
)
)
BRETT O'DONNELL,)
)
Defendant.)
_____)

Crim. No.

Filed at 3:21 P M
9/3 2015
[Signature]
Deputy Clerk, U.S. District Court
Middle District of Georgia

FACTUAL BASIS FOR GUILTY PLEA

The United States of America, by and through the undersigned attorneys for the Public Integrity Section, Criminal Division, United States Department of Justice, and the defendant BRETT O'DONNELL, personally and through his undersigned counsel, hereby stipulate that, had this case gone to trial, the United States would have proven, through competent evidence, the following facts beyond a reasonable doubt:

THE DEFENDANT BRETT O'DONNELL AND OTHER RELEVANT PARTIES

1. From in or about 2012 through 2014, defendant BRETT O'DONNELL served as a consultant who assisted legislators and politicians, including members of the United States Congress, among others, with their public speaking, debate performances, messaging, interactions with media, and communications strategies.
2. From in and before 2012 through 2014, "Congressman A" was a member of the United States House of Representatives (the "House").
3. From in and before 2012 through 2014, "Person A" was Chief of Staff for Congressman A.

4. The Office of Congressional Ethics (“OCE”) is an independent, non-partisan office established by the House to aid it in maintaining high ethical standards. OCE reviews and investigates allegations of misconduct against House Members, officers, and staff, and reports its findings to the OCE Board, which, in turn, may refer matters to the House Committee on Ethics.

**O’DONNELL’S AGREEMENTS WITH, AND SERVICES TO,
CONGRESSMAN A’S OFFICE AND CAMPAIGNS**

5. In or about June 2012, Congressman A’s office entered into a consulting agreement with O’DONNELL wherein O’DONNELL agreed to provide communications and messaging services to Congressman A. The initial contract covered a period of about six weeks. O’DONNELL and Congressman A’s office executed a second contract in or around September 2012 that ensured the continuation of O’DONNELL’s consulting services until the end of the calendar year for 2012. In or about January 2013, O’DONNELL agreed to a third contractual arrangement with Congressman A’s office in which the parties orally agreed that O’DONNELL would continue to provide consulting services to Congressman A on a month-to-month basis, and would submit invoices to Congressman A’s office at the conclusion of each month. The period of the third agreement between O’DONNELL and Congressman A’s office was ongoing and indefinite, with no specified end date for O’DONNELL’s services.

6. Person A, on behalf of Congressman A’s office, negotiated the above-referenced contractual agreements with O’DONNELL.

7. In exchange for the services O’DONNELL provided to Congressman A from in or about June 2012 to in or about March 2014, and pursuant to the aforementioned agreements, O’DONNELL received approximately \$43,000 in pay from Congressman A’s office. All of the money O’DONNELL received for his services to Congressman A was paid from taxpayer money appropriated by the U.S. Congress to Congressman A’s office. By law, and pursuant to

House rules, those appropriated, congressional funds were to be used for the sole purpose of paying for strictly official congressional expenses and expenditures. By law, and pursuant to House rules, it was unlawful and improper to use appropriated, congressional funds to pay for political campaign-related expenses and expenditures.

8. Throughout the course of O'DONNELL's employment with Congressman A's office, and in addition to services he provided in support of Congressman A's official office and duties, O'DONNELL also provided substantial services to Congressman A's campaigns. In particular, during Congressman A's House reelection campaign in June and July 2012 and the Congressman's Senate campaign in 2013 and 2014, O'DONNELL regularly assisted Congressman A with his campaign debate preparation. O'DONNELL also helped to draft the Congressman's opening and closing remarks for his campaign debates and provided the Congressman with campaign messaging advice.

9. In and before December 2012, having secured Congressman A's reelection to the House, Congressman A and Person A began organizing Congressman A's Senate campaign.

10. On and around February 6, 2013, Congressman A publicly announced his candidacy for the U.S. Senate.

11. O'DONNELL provided consulting services to Congressman A during the Senate campaign. From in or about at least December 2013 to March 2014, the vast majority of O'DONNELL's services to Congressman A focused on the Congressman's Senate campaign.

12. Despite the substantial work O'DONNELL performed for Congressman A's political campaigns, Congressman A's campaigns never used campaign funds to pay O'DONNELL for his campaign-related services. Rather, Congressman A's office at all times

used appropriated, congressional funds to pay O'DONNELL on a month-to-month basis for the consulting services O'DONNELL was providing to Congressman A.

13. In or around early 2013 and then again in or around late 2013, O'DONNELL spoke to Person A about receiving financial compensation from Congressman A's Senate campaign for all of the work O'DONNELL was providing to the Senate campaign. Person A told O'DONNELL that the campaign could not afford to pay O'DONNELL for his services, but that O'DONNELL should "hang on" until after the Senate party primary in May 2014. Significantly, Congressman A's office was still paying O'DONNELL a fixed monthly fee, and O'DONNELL understood Person A's statement as a promise of future, additional payment for his expanded services. O'DONNELL also believed that if he refused to supply consulting services to Congressman A in support of his Senate campaign that Person A, on behalf of Congressman A's office, would terminate O'DONNELL's month-to-month contractual arrangement with the office.

14. From in or about January through March 2014, a series of public campaign debates were held in furtherance of the Senate campaign. Congressman A participated in each of these campaign debates.

15. In or about mid-January, O'DONNELL traveled to Africa to perform charitable work.

16. On or around January 14, 2014, in advance of the first Senate campaign debate, Person A sent an e-mail to Congressman A's Communications Director, cc'ing O'DONNELL, stating, "Since our debate consultant actually abandoned us on our first debate for a bunch of Ethiopians who don't pay him, I may need to send you to Adel this weekend if you are able to go?" At this time, O'DONNELL understood that Congressman A and Person A expected

O'DONNELL to provide consulting services to Congressman A's Senate campaign as part of his work arrangement with Congressman A's office. Accordingly, O'DONNELL asked Person A if a paid campaign consultant that worked with O'DONNELL could stand in for O'DONNELL and provide campaign debate consulting services to Congressman A in O'DONNELL's absence. Person A advised O'DONNELL that Congressman A had approved the substitute arrangement, and O'DONNELL's business associate subsequently provided Congressman A with campaign debate consulting services in advance of the first Senate campaign debate. O'DONNELL later paid his associate for providing these consulting services to Congressman A.

17. On or around February 24, 2014, in the midst of the Senate campaign debate schedule, O'DONNELL replied to an e-mail among key members of Congressman A's Senate campaign team, regarding "Post Debate Analogy and Forward Strategy." In O'DONNELL's reply, he indicated his disagreement with members of the campaign team concerning Congressman A's past and future debate performances. After opining on the campaign's approach to the campaign debates, O'DONNELL stated in relevant part, "You hired me to to [sic] coach the candidate. I won't make ads, write mail pieces, manage the online program or the campaign, but lets [sic] trust each other to play the roles we were hired to do." At this time, O'DONNELL understood that Congressman A and Person A expected O'DONNELL to coach Congressman A in connection with Congressman A's Senate campaign debate performances. At this time, O'DONNELL also understood that Person A, on behalf of Congressman A, had hired O'DONNELL to supply campaign-related consulting services to Congressman A and was causing O'DONNELL to be paid from Congressman A's appropriated funds on a month-to-month basis to do so. During this same time period, that is, in or around December 2013 through March 2014, O'DONNELL was providing limited consulting services to Congressman A in

support of Congressman A's official duties. As such, O'DONNELL knew that Congressman A's office was using appropriated funds to pay O'DONNELL a fixed monthly amount for all of the services O'DONNELL was providing to Congressman A, the vast majority of which were related to the Senate campaign.

OCE INVESTIGATION AND O'DONNELL'S INTERVIEW WITH OCE

18. In or about March 2014, a well-circulated news article was published concerning the possible impropriety of members of Congress using appropriated, congressional funds to pay O'DONNELL to supply consulting services to the members. Congressman A was named as one of the members of Congress who had hired O'DONNELL. Shortly thereafter, Person A met O'DONNELL in Congressman A's official office and told O'DONNELL that Congressman A's office was terminating its relationship with O'DONNELL. Among other things, Person A told O'DONNELL, "Now remember your role with the campaign was as a volunteer." That was the first time that Person A had told O'DONNELL that he was a "volunteer" on the campaigns.

19. In or about late March 2014, OCE commenced an investigation into whether Congressman A's office had improperly used appropriated, congressional funds to pay O'DONNELL to provide campaign-related services to Congressman A. As part of its investigation, OCE requested numerous parties, including O'DONNELL, to produce records and participate in an interview.

20. In or about April 2014, O'DONNELL received OCE's request for documents and other information relating to his services on behalf of Congressman A, his office, and his campaigns. On or about June 20, 2014, and just days before his meeting with OCE, O'DONNELL produced to OCE more than 2,300 pages of electronic communications and other documents.

21. On one occasion before O'DONNELL's scheduled interview with OCE, O'DONNELL spoke with Person A. Among other things, Person A told O'DONNELL that OCE could go "f@@k themselves" and again told O'DONNELL that he had been a "volunteer" on the campaigns. O'DONNELL understood that Person A was telling O'DONNELL how he should characterize his role on Congressman A's political campaigns in his interview with OCE.

22. On or about June 23, 2014, OCE interviewed O'DONNELL. Before the interview, O'DONNELL signed a form entitled "18 U.S.C. § 1001 ACKNOWLEDGEMENT" in which O'DONNELL acknowledged and agreed that "I have been provided with a copy of the text of section 1001 of title 18, United States Code" and "hereby acknowledge that it applies to any testimony or documents I provide to the Office of Congressional Ethics."

23. During his interview, O'DONNELL knowingly and intentionally made several false statements to OCE in an effort to minimize, and conceal the true nature and scope of, his role as it related to Congressman A's campaigns, and to conceal interactions he had with Person A regarding O'DONNELL's role with the campaigns.

24. In response to OCE's questions, O'DONNELL falsely told OCE that he did not believe he had to perform work for Congressman A's campaigns in order to ensure the continuation of, and ongoing payments for, his working relationship with Congressman A's office. Among his false statements, O'DONNELL told OCE:

- "I never felt like any of my campaign work was expected as part of my duties."
- "I did campaign activities, but I didn't think my payment expected those duties of me."
- "I was working for [Congressman A], but my contract specified duties that were related to his official business and not one time did I think, 'If I say no to helping you

with a speech or getting ready for a debate did I think you're going to fire me because you're not doing your contract.'”

25. However, contrary to his statements to OCE during the interview, O'DONNELL knew at the time he made the statements that by at least in or around December 2013, Congressman A's office expected him to work on Congressman A's campaign. Moreover, contrary to his statements to OCE during the interview, O'DONNELL knew at the time he made the statements that if he did not supply campaign-related services, his paid working arrangement with Congressman A's office could be terminated.

26. In addition, during the interview, OCE asked O'DONNELL about whether he ever inquired with Congressman A's campaign staff about being paid for the services he was providing to the campaigns. In particular, OCE asked O'DONNELL: “Was it at any point while you were, you know, doing this work where you said to members of the campaign staff, ‘I'm doing too much. I'd like to be compensated for what I'm doing’?” O'DONNELL explained, “No. Cause [sic] to be honest with you, I wasn't really doing that much, so. You know, it was nothing for me to do – the few things that I did. It was nothing for me to say, ‘Here are the four ways you win a debate. Here are the four ways you lose a debate.’”

27. However, contrary to his statements to OCE, O'DONNELL knew at the time he made the statements that he had performed substantial work on behalf of Congressman A's campaigns, as set forth in Paragraphs 8-11. In addition, contrary to his statements to OCE, O'DONNELL knew at the time he made the statements that he had spoken to Person A on at least two occasions about O'DONNELL doing too much for Congressman A's Senate campaign and being compensated for his services to the Senate campaign, as set forth in Paragraph 13.

28. The preceding statement is a summary made for the purpose of providing the Court with a factual basis for defendant BRETT O'DONNELL's guilty plea. It does not include all of the facts known to O'DONNELL concerning criminal activity in which he engaged, nor does it contain all the facts that the Government could prove in a trial against O'DONNELL.

RAYMOND HULSER
Chief, Public Integrity Section

DATE: 8/13/15

By: T. Patrick Martin / Sean F. Mulryne
T. Patrick Martin
Sean F. Mulryne
Trial Attorneys
United States Department of Justice
Criminal Division
Public Integrity Section

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BRETT O'DONNELL
Defendant

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