

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America,)	Criminal Action
)	No. 18-CR-032
Plaintiff,)	
)	INITIAL APPEARANCE
vs.)	AND ARRAIGNMENT
)	
Internet Research Agency,)	Washington, DC
LLC, Concord Management and)	May 9, 2018
Consulting, LLC,)	Time: 1:45 p.m.
)	
Defendants.)	

TRANSCRIPT OF INITIAL APPEARANCE AND ARRAIGNMENT
HELD BEFORE
THE HONORABLE G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S

For the Plaintiff:	Jeannie Sclafani Rhee
	Lawrence Rush Atkinson
	Ryan Kao Dickey
	U.S. DEPARTMENT OF JUSTICE
	Special Counsel's Office
	950 Pennsylvania Ave. NW
	Washington, DC 20530
	(202) 616-0800
	Email: Jsr@usdoj.gov
	Email: Lra@usdoj.gov
	Email: Rkd@usdoj.gov
For the Defendant	
Concord Management	
and Consulting:	Eric A. Dubelier
	Katherine Joanne Seikaly
	REED SMITH LLP
	1301 K Street, NW
	Suite 1000 - East Tower
	Washington, DC 20005
	(202) 414-9291
	Email: Edubelier@reedsmith.com
	Email: Kseikaly@reedsmith.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Court Reporter: Janice E. Dickman, RMR, CRR
Official Court Reporter
United States Courthouse, Room 6523
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3267

1 THE COURTROOM DEPUTY: All right. This is criminal
2 case year 2018-032, United States of America versus Concord
3 Management and Consulting, LLC. This is an initial appearance
4 and arraignment.

5 Will the parties please introduce yourselves to the
6 Court, beginning with the government.

7 MS. RHEE: Good afternoon, Your Honor. Jeannie Rhee,
8 Rush Atkinson, and Ryan Dickey on behalf of the United States.

9 THE COURT: Good afternoon.

10 MR. DUBELIER: Good afternoon, Your Honor. Eric
11 Dubelier and Katherine Seikaly on behalf of the defendant.

12 THE COURT: Good afternoon.

13 So, the purpose of this proceeding is to conduct an
14 initial appearance and arraignment with respect to, I see, one
15 of the defendants in the case, Concord Management and
16 Consulting, LLC. And after that I'm going to have the
17 government address issues with regard to the other outstanding
18 summons in the case and how they would like to proceed with
19 respect to those other summons.

20 Mr. Dubelier --

21 MR. DUBELIER: Dubelier, sir.

22 THE COURT: -- why don't you come to the podium. I
23 just have a few questions for you.

24 MR. DUBELIER: Sure.

25 THE COURT: As I understand it, looking through the

1 papers filed by both parties, you and your firm represent
2 Concord Management and Consulting, LLC, is that correct?

3 MR. DUBELIER: Correct.

4 THE COURT: You do not represent any other defendant
5 in the case?

6 MR. DUBELIER: We do not.

7 THE COURT: Not any other individual defendant in the
8 case?

9 THE DEFENDANT: We do not.

10 THE COURT: What about Concord Catering? The
11 government makes an allegation that there's some association.
12 I don't mean for you to -- do you represent them, or not,
13 today? And are we arraigning them as well?

14 MR. DUBELIER: We're not. And the reason for that,
15 Your Honor, is I think we're dealing with a situation of the
16 government having indicted the proverbial ham sandwich. That
17 company didn't exist as a legal entity during the time period
18 alleged by the government. If at some later time they show me
19 that it did exist, we would probably represent them. But for
20 purposes of today, no, we do not.

21 THE COURT: Okay. And just so I'm clear as I read
22 your submission, it's your belief that Concord Management and
23 Consulting, LLC, has not been properly served under Rule 4, is
24 that correct?

25 MR. DUBELIER: That's correct.

1 THE COURT: But, nevertheless, your client has
2 authorized you to enter a voluntary appearance in this matter
3 and to subject it to the jurisdiction of this Court, is that
4 correct?

5 MR. DUBELIER: That's correct.

6 THE COURT: Okay. And does your client also
7 understand that by doing so, it must also comply with the
8 Federal Rules of Criminal Procedure, the rules of this Court,
9 and with the orders of this Court?

10 MR. DUBELIER: Of course, Your Honor.

11 THE COURT: Okay. We're here today for initial
12 appearance and arraignment. And just to be clear, there's no
13 other corporate representative of your client in the courtroom,
14 is that correct?

15 MR. DUBELIER: There is not, Your Honor.

16 THE COURT: Okay. But for purposes of this
17 proceeding, your client has authorized you to appear here today
18 and to make representations on its behalf, is that correct?

19 MR. DUBELIER: They have, Your Honor.

20 THE COURT: That is my understanding under Rule
21 43(b)(1), that for an organizational defendant they are
22 permitted to do so. They do not have to appear here in person,
23 whatever that means, but can do so through counsel. And that's
24 what you've been authorized to do, is that correct?

25 MR. DUBELIER: That's correct, Your Honor.

1 THE COURT: And your client has also authorized you
2 to enter a plea here today to the indictment, is that correct?

3 MR. DUBELIER: Yes, they have, Your Honor.

4 THE COURT: Has your client received a copy of the
5 indictment in this case?

6 MR. DUBELIER: It's publicly available, Your Honor;
7 they have it.

8 THE COURT: Does your client understand that it's
9 charged, in Count One of the indictment, with conspiracy to
10 defraud the United States, in violation of 18 U.S.C. 371.

11 MR. DUBELIER: We understand that's what it says.

12 THE COURT: Okay. Understood. Again, initial
13 appearance, this is what we go through.

14 MR. DUBELIER: I understand.

15 THE COURT: Make sure the defendant knows what
16 they're charged with and the consequences if they're found
17 guilty of that crime, and then I make sure they understand what
18 their rights are. So I'm going to do that through you.

19 MR. DUBELIER: Understood, Your Honor. Happy to
20 help.

21 THE COURT: Does your client also understand that if
22 it's found guilty of that charge, that's Count One of the
23 indictment, that it could be fined up to \$500,000 or,
24 alternatively, if there's -- if someone derived any pecuniary
25 gain from the offense, or if the offense resulted in the loss

1 to any person, other than the defendants, that their client may
2 be fined not more than the greater of twice the gross gain or
3 twice the gross loss arising from the criminal conduct?

4 MR. DUBELIER: Yes, they do, Your Honor.

5 THE COURT: Okay. Is your client also aware that it
6 has the right to remain silent in this case, and that anything
7 it says can be used against it?

8 MR. DUBELIER: Yes, it would.

9 THE COURT: Is your client also aware that it has the
10 right to counsel? If at some point it's unable to afford its
11 own counsel, the Court would appoint counsel to represent it
12 free of charge, if it's eligible. Does it understand it has
13 that right in this courthouse?

14 THE DEFENDANT: Yes, they do, Your Honor.

15 THE COURT: All right. Before we do the
16 arraignment -- you can have a seat -- I just want to make sure,
17 does the government have any other preliminarily issues or any
18 questions, any other representations it thinks I need to ask?
19 I'm happy to entertainment them at this time, and then we'll do
20 the arraignment.

21 MS. RHEE: Thank you, Your Honor. Just for
22 clarification, it was the government's understanding, pursuant
23 to a submission by Reed, Smith to the Office of Foreign Asset
24 Control, that the engagement in this case was with respect to
25 both Concord Management and Consulting, LLC, and Concord

1 Catering, and that the engagement with respect to
2 representation in this matter was for both of those corporate
3 entities.

4 We hear Mr. Dubelier's position, that he is entering
5 a notice of appearance only with respect to one of the
6 organizational defendants. But that is the basis for the
7 government's understanding that the scope of representation, at
8 least as we understood it at the time of the submission to
9 OFAC, which was April 11th, 2018, was that the engagement and
10 the scope of representation was as to both organizational
11 defendants.

12 THE COURT: Okay. What would you like me to do with
13 that here today? He's indicated he's not authorized to
14 represent them in this case or in this proceeding here today.
15 I assume he's not authorized to enter a plea on their behalf.

16 MS. RHEE: In which case then we will proceed in the
17 usual course, with pursuit of the service of the summons
18 through official governmental channels.

19 THE COURT: Okay. That's fine.

20 Anything further from the government?

21 MS. RHEE: No, not at this time, Your Honor.

22 THE COURT: All right. You can come forward again.

23 So just to be clear, you are authorized here today to
24 enter a plea on behalf of Concord Management and Consulting,
25 LLC, not Concord Catering, is that correct?

1 MR. DUBELIER: That's correct. And, Your Honor, I
2 think, as you've noted, for purposes of the record, there is a
3 difference between representation and being authorized to
4 appear in court on behalf of a client. We now know that the
5 special counsel apparently has access to our confidential
6 filings at the Office of Foreign Assets Control, which in and
7 of itself is a disturbing fact. But, you know, that goes along
8 with the interrogatories they filed on us, wanting to know what
9 our bank account number was, as well.

10 So I think Your Honor understands the distinction. I
11 want to be clear on the record, there's an issue of
12 representation, there's an issue of what I'm authorized to do
13 today. I'm authorized to appear today on behalf of the one
14 defendant, enter a plea of not guilty. And I'm prepared to do
15 that.

16 THE COURT: Okay. Well, let's go forward and do that
17 then. Counsel, your client -- and your client, let's be clear,
18 Concord Management and Consulting, LLC, having had an
19 opportunity to review the indictment in this case and having
20 been informed of the charge it faces and the penalty if it's
21 found guilty of that charge, does it waive formal reading of
22 the indictment? And how does it plead, guilty or not guilty?

23 MR. DUBELIER: Your Honor, we waive formal reading of
24 the indictment. We enter a plea of not guilty. We exercise
25 our right to a speedy trial.

1 THE COURT: Okay. I will enter a plea of not guilty
2 on behalf of Concord Management and Consulting, LLC, in the
3 record of this case.

4 You can have a seat.

5 MR. DUBELIER: Thank you, Your Honor.

6 THE COURT: So, Government, there are other summons
7 that have been issued and those defendants are not in the
8 courtroom here today. So what, if anything, would you like the
9 Court to do at this time with regard to those summons?

10 MS. RHEE: We would --

11 THE COURT: I'm specifically referring to Concord
12 Catering and the lead defendant in the case.

13 MS. RHEE: The Internet Research Agency, Your Honor.

14 THE COURT: Thank you. Internet Research Agency.
15 They're not here. I don't believe they're here.

16 MS. RHEE: Alas, they are not here.

17 THE COURT: They are not here, yes.

18 MS. RHEE: The government would be thrilled if they
19 were here. What we would ask for is an additional control date
20 as we pursue, through other channels, service of those summons,
21 Your Honor.

22 THE COURT: Okay. What do you want to propose in
23 terms of the control date?

24 MS. RHEE: We could do another 60 days out.

25 THE COURT: Okay. Well, let's do that. Let's set

1 another control date for purposes of further update from the
2 government on whether or not it has affected service with
3 regard to those other two defendants. Will you need a new
4 summons?

5 MS. RHEE: In all likelihood we will. And we will
6 contact chambers just for the update on the date of the
7 summons.

8 THE COURT: Right. Okay. Well, let's go ahead and
9 set a control date then, 60 days out, whatever that would be.

10 Also, the status date, the district judge in this
11 case has offered the following dates for the initial status
12 hearing, so the parties need to pick one: It's May 11th, which
13 I think is this Friday, at 10 a.m. She also has available May
14 15th at 10 a.m. or 2 p.m., May 16th at 2 p.m. So, what's the
15 parties' preference, if any?

16 MS. RHEE: Why don't we pick the 2 p.m. date on May
17 16th, if that is okay with defense counsel?

18 MR. DUBELIER: Perfect.

19 THE COURT: Okay. So, we'll set it. And the next
20 date in this case is May 16th, at 2 p.m., before Judge
21 Friedrich.

22 Sixty days out?

23 THE COURTROOM DEPUTY: I'm looking at July 9th.

24 THE COURT: July 9th, 1:45. Does that work for
25 everyone?

1 MS. RHEE: Yes, Your Honor.

2 THE COURT: Counsel, July 9th at 1:45 for the control
3 date?

4 MR. DUBELIER: I don't think we really care, Your
5 Honor.

6 THE COURT: Okay.

7 MR. DUBELIER: Thank you.

8 THE COURT: Okay. Good enough.

9 All right. So we'll set that July 9th at 1:45. I
10 think that will be before Magistrate Judge -- who's July?

11 THE COURTROOM DEPUTY: Meriweather, Judge
12 Meriweather.

13 THE COURT: Meriweather. Okay, 1:45.

14 Any further requests from the government?

15 MS. RHEE: Not at this time, Your Honor.

16 THE COURT: Defense?

17 MR. DUBELIER: Nothing. Thank you, Your Honor.

18 THE COURT: Okay. Good luck to everyone. Parties
19 are excused.

20 * * *

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OFFICIAL COURT REPORTER

I, JANICE DICKMAN, do hereby certify that the above and foregoing constitutes a true and accurate transcript of my stenograph notes and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated this 9th day of May, 2018.

/s/ _____

Janice E. Dickman, CRR, RMR
Official Court Reporter
Room 6523
333 Constitution Avenue NW
Washington, D.C. 20001