



# An Investigation of Alleged Misconduct by Former Federal Bureau of Investigation Special Agent in Charge Charles McGonigal



OVERSIGHT & REVIEW DIVISION

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*The full version of this report contains information that the Department and the FBI considered to be law enforcement sensitive and therefore could not be publicly released. To create this public version of the report, the Office of the Inspector General redacted (blacked out) portions of the full report.*

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## I. Introduction

This report describes an administrative investigation by the Department of Justice (Department or DOJ) Office of the Inspector General (OIG) following a criminal investigation of Charles McGonigal, a former Federal Bureau of Investigation (FBI) senior official who had served as the Special Agent in Charge (SAC) of Counterintelligence for the FBI's New York Field Office (FBI NY) from October 2016 until he retired from the FBI in September 2018. In January 2023, the Department unsealed two indictments against McGonigal. In a case prosecuted by the U.S. Attorney's Office for the District of Columbia (DC USAO), a grand jury charged McGonigal with concealing that he had received \$225,000 in cash from an Albanian national with ties to the Albanian government, Person A in the indictment, while McGonigal served as SAC and falsely reporting aspects of his foreign travel and foreign contacts. The indictment further charged McGonigal with failing to disclose his meetings, while serving as SAC, with Person A's business associate, Person B, who was described in the indictment as a former Albanian senior government official and an employee of a "Chinese energy conglomerate." In September 2023, McGonigal pled guilty in the U.S. District Court for the District of Columbia (DDC) to concealing that he had received the \$225,000 in cash from Person A, in violation of 18 U.S.C. § 1001(a)(1), and concealing the true nature of his relationship with Person A.

In the other indictment, prosecuted by the U.S. Attorney's Office for the Southern District of New York (SDNY USAO), a grand jury charged McGonigal and an alleged co-conspirator with violating and conspiring to violate the International Emergency Economic Powers Act (IEEPA), money laundering, and conspiring to commit money laundering by providing services to and receiving secret payments from Oleg Deripaska, a sanctioned Russian oligarch, after McGonigal retired from the FBI. The investigation determined that prior to his retirement, and while serving as SAC, McGonigal began building a relationship with Deripaska's agent in the hopes of doing business with Deripaska after McGonigal retired from the FBI. In August 2023, McGonigal pled guilty in the U.S. District Court for the Southern District of New York (SDNY) to conspiracy to violate IEEPA and to commit money laundering.

In December 2023, McGonigal was sentenced in SDNY to 50 months of incarceration. In February 2024, he was sentenced in DDC to 28 months of incarceration to be served after the 50-month sentence imposed in SDNY.

This report describes the OIG's administrative investigation of an allegation that McGonigal, while serving as SAC, had obstructed a criminal investigation that he was then supervising by disclosing sensitive, non-public case information about the subjects and targets of the investigation to the foreign national identified as Person B in the DDC indictment and by withholding information relevant to the case from the investigating FBI NY case agents. Specifically, between October 2016 and September 2018, McGonigal oversaw FBI NY's investigation, conducted jointly with SDNY USAO, of a Chinese-funded think tank called China Energy Fund Committee (CEFC NGO); its parent company, CEFC China Energy Company Limited (CEFC China), a Chinese energy company; Chi Ping Patrick Ho (Ho), an officer of CEFC NGO; and others.<sup>1</sup> The CEFC investigation led to Ho's arrest in November 2017 on bribery and money laundering charges relating to his efforts at the United Nations in New York City and elsewhere to bribe officials from Chad and Uganda into awarding

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<sup>1</sup> Witnesses often used the term "CEFC" interchangeably when referring to CEFC NGO, CEFC China, or both. In this report, we use "CEFC" when referring to CEFC NGO and CEFC China collectively, or when a witness used the term "CEFC" and a further distinction between the two entities is either unclear in context or irrelevant.

business contracts to CEFC China.<sup>2</sup> At the time of Ho's arrest, FBI NY also intended to seek a search warrant to seize specified items in the possession of another individual of interest in the investigation, an Israeli-American (Target 3), but Target 3, who had been overseas, did not return to the United States when expected. In December 2018, Ho was convicted and subsequently sentenced to serve 3 years in prison. Target 3 never returned to the United States.

After Ho's conviction, FBI NY continued to investigate Target 3's activities. On March 28 and 29, 2019, at Target 3's initiation, Target 3 met with the FBI in Belgium pursuant to a proffer agreement with the SDNY USAO and among the information he provided to investigators was information that, in the summer of 2017, the Chairman of CEFC China had obtained nearly, but not completely, accurate information about FBI NY and SDNY USAO's CEFC investigation, including that U.S. authorities had intentions to arrest Ho and others, including possibly Target 3.<sup>3</sup> Target 3 told the FBI and SDNY USAO prosecutors that he believed the source of the Chairman's information was someone within the U.S. government. This information was confidential to law enforcement and should not have been shared with anyone outside the limited number of government personnel authorized to have the information. After a lengthy investigation, in November 2022, Target 3 was indicted by a grand jury in the SDNY and charged with being an unregistered agent of China, brokering illicit weapons deals, violating U.S. sanctions against Iran, and making false statements to the FBI in his March 2019 proffer interview.

In December 2021, Person B in McGonigal's DDC indictment met with FBI agents and, in October 2022, met with FBI agents and SDNY USAO prosecutors and told them that on multiple occasions before Ho's arrest, McGonigal leaked confidential information about the CEFC investigation to Person B, which Person B thereafter provided to Ho and the CEFC China Chairman. In October and November 2022, SDNY USAO and FBI NY considered charging McGonigal with obstruction of justice for both the disclosure of confidential government information to Person B, as well as for failing to disclose to the case agents information McGonigal learned from Person B that was relevant to the CEFC investigation. Ultimately, following an evaluation of the available evidence at that time, SDNY USAO did not charge McGonigal for obstruction of justice for his conduct relating to the CEFC investigative information.

On November 17, 2023, while awaiting sentencing by SDNY and DDC, McGonigal agreed to provide a proffer to the OIG, FBI, and DC USAO regarding, among other things, his activities with Person B and CEFC. As described in this report, McGonigal acknowledged during the proffer interview that he shared information with Person B about the CEFC investigation and anticipated arrests arising from it.

In this report, we describe the evidence obtained during the FBI NY and SDNY USAO investigation of the CEFC leak, as well as additional information the OIG obtained from the two FBI NY case agents (Case Agent 1 and Case Agent 2) and their supervisor (Supervisory Special Agent) who conducted the CEFC investigation (FBI case team), and statements and acknowledgements McGonigal made to the OIG, FBI, and DC USAO during his November 17, 2023 proffer interview. After describing this evidence, we provide our findings and analysis.

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<sup>2</sup> A co-defendant, from Senegal, was also arrested, but SDNY later dismissed the charges against him.

<sup>3</sup> Target 3 subsequently made public statements concerning his proffer.

## A. Methodology

The OIG reviewed documents in the FBI's and SDNY USAO's case files relating to the CEFC leaks. We also interviewed Case Agent 1, Case Agent 2, and the Supervisory Special Agent and, pursuant to the proffer agreement between McGonigal and the DC USAO, obtained information from McGonigal regarding his communications with Person B.

## B. Summary of Findings

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether Department personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

As described in this report, the OIG determined that McGonigal, while he served as the SAC entrusted with overseeing FBI NY's Counterintelligence Program, engaged in a scheme that obstructed an important multi-year criminal investigation under his supervision and compromised the integrity of the FBI. Specifically, the evidence demonstrates that for his own personal gain, McGonigal cultivated a secret, ongoing personal and business relationship with Person B, a close associate of subjects and targets of the CEFC investigation, and leaked sensitive non-public information about the CEFC investigation to Person B, including the existence of the investigation and the anticipated arrests of multiple individuals with ties to CEFC.

The impact of McGonigal's leaks on the CEFC investigation was substantial. Person B shared the information with at least two investigative targets, Ho and the CEFC China Chairman, which led the Chairman to warn Ho and Target 3 that U.S. authorities planned to arrest Ho, two other Chinese nationals, and possibly a Jewish person associated with CEFC, which Target 3 believed was potentially a reference to him. Based on the evidence described in this report, we concluded that the Chairman's warning played at least some role in Target 3's decision not to return to the United States when expected in November 2017. Because Target 3 did not return when expected, the FBI case team did not seek a search warrant for his residence or cell phone, as they planned to do, which presented a missed opportunity to gather evidence in a significant criminal investigation.

As described in this report, Ho also debated whether to return to the United States in November 2017 after the Chairman's warning—which, again, was based on McGonigal's leaks to Person B—but Ho ultimately decided to return on November 18, 2017, and was arrested. Although Ho was arrested, the leaked information from McGonigal provided Ho a warning and an opportunity to assess his circumstances, and absent a faulty assurance Ho likely received that it was safe for him to return to the United States, could have resulted in further significant obstruction of the FBI and SDNY USAO's CEFC investigation.

In addition, the evidence demonstrates that McGonigal impeded the CEFC investigation by failing to inform his FBI case team about his ongoing contacts with Person B [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As a high-ranking FBI official entrusted with overseeing sensitive counterintelligence and criminal matters, McGonigal's actions were extraordinary and fell far short of the FBI's core values of integrity, accountability, and leadership expected of all FBI personnel. For the reasons we describe in more detail in Section III below, we concluded that McGonigal (1) engaged in disgraceful conduct at the expense of a multi-year criminal investigation and undermined the FBI's integrity and reliability in violation of FBI Offense Code 1.7; (2) deliberately disregarded his supervisory responsibilities in violation of FBI Offense Code 5.2; and (3) misused sensitive, non-public case information for his own private interest and that of another in violation of 5 C.F.R. § 2635.703 of the Standards of Ethical Conduct, FBI Offense Code 2.12, and FBI policies.

## **II. Factual Summary**

### **A. Background on the CEFC Investigation and the Discovery of the Leak of Sensitive, Non-Public Case Information**

According to the FBI case team, the CEFC investigation was a major multi-year investigation for FBI NY's Counterintelligence Division, involving bribery, violations of the Foreign Corrupt Practices Act, and money laundering relating to CEFC's activities, including at the United Nations in New York City. Ho was the head of CEFC NGO, an entity based in Hong Kong and Virginia that held "special consultative status" with the United Nations. The investigation uncovered evidence that Ho used CEFC NGO's special consultative status to develop contacts with government officials in Africa and attempt to bribe them, and in connection with one such scheme did, in fact, bribe a government official (via wire transfers through New York), in exchange for unfair business advantages for CEFC China. FBI NY and SDNY USAO also investigated whether Ho and Target 3 had committed other offenses, including arms trafficking and IEEPA sanctions violations. The existence of the case was known only to a limited number of government personnel, principally individuals within the FBI and Department, including McGonigal. According to the Supervisory Special Agent who supervised the investigation, he provided McGonigal with regular briefings and updates on the case.

In or about July and August 2017, SDNY USAO and FBI NY had prepared draft criminal complaints charging up to five individuals in connection with the investigation, including Ho, Target 3, at least one Senegal national, and one Chinese national. At the time, the investigation was entirely covert and the draft complaints and intended charges were treated as "law enforcement sensitive," which is a designation indicating the information was compiled for law enforcement purposes and must be safeguarded and protected against unauthorized disclosure due to its sensitivity.

On November 16, 2017, a sealed complaint was sworn out charging two of the five individuals, Ho and a Senegal national, both of whom were outside the United States at the time, with bribery and money laundering offenses, and warrants were issued for their arrests. Two days later, Ho and the Senegal national were arrested upon their arrivals to the United States. At this time, according to Case Agent 1, FBI NY also intended to seek a search warrant for Target 3's cell phone and residence, but Target 3 did not return to the United States when expected—and never returned—despite being a U.S. citizen and resident of Maryland.<sup>4</sup>

During his OIG interview, FBI Case Agent 1 told us that he found the movements of the investigative targets in the summer of 2017 strange at the time, but it was not until Target 3, during his proffer in Belgium in

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<sup>4</sup> Both Target 3 and Ho were expected to return to the United States and speak at a CEFC-sponsored event on November 20, 2017, in Washington, D.C.



March 2019, told investigators that he and Ho had received information from the CEFC China Chairman in August 2017 about the anticipated arrests that the case team had evidence of a leak of confidential case information. Specifically, Target 3 told investigators that on August 14, 2017, he and Ho met with the Chairman in Hong Kong, and the Chairman told them that he had learned that U.S. authorities had obtained arrest warrants for individuals involved with CEFC, including Ho, two other Chinese nationals, and a fourth person of Jewish or African descent. Target 3 believed he was potentially the fourth person. According to Target 3, during the August 14, 2017 meeting, the Chairman warned Ho that he should not travel to the United States until the charges against him were resolved. According to Target 3, Ho and the Chairman had not been getting along at the time of this meeting, and Ho told Target 3 after the meeting that he believed the Chairman was jealous of him and had fabricated the information about the anticipated arrests to keep Ho outside the United States. However, Target 3 told investigators that when he met Ho again in October 2017, he cautioned Ho to take the matter seriously and not rush back to the United States.

The specific details the Chairman provided to Target 3 and Ho in August 2017 about the anticipated arrests of multiple individuals associated with CEFC and the nationality or ethnicity of the then-planned defendants, although not entirely accurate, closely tracked the draft complaints at the time and would have been known only to a limited number of individuals with access to confidential law enforcement files. According to Case Agent 1, at the time of Target 3's proffer in March 2019, Target 3 could not have known that the government was contemplating in August 2017 arresting Ho and other individuals associated with CEFC, as that information was never made public. Therefore, FBI investigators believed at the time of the proffer that confidential information about the contemplated charges must have been obtained by someone in U.S. law enforcement who shared it, likely through an intermediary or intermediaries, with the Chairman or his associates. However, investigators did not know who that law enforcement source was. That knowledge came later when investigators focused on Person B, the former Albanian government official who had become a regional advisor for CEFC China in Europe, and McGonigal's communications with him.

## **B. McGonigal's Relationship With Person B, Who Had Connections to CEFC**

At times relevant herein, Person B was a consultant to foreign governments and businesses on international investments, and, in addition to his work for CEFC China, Person B was a non-governmental advisor to the Prime Minister of Albania.

In April 2017, McGonigal asked Person A in McGonigal's DDC indictment to introduce him to Person B. According to the FBI report documenting Person A's FBI interview in January 2022, Person A told investigators that he was first introduced to McGonigal in the spring of 2017 by a former FBI special agent (Former FBI Agent).<sup>5</sup> According to Person A, after this initial introduction, Person A had dinner with McGonigal during which McGonigal asked him whether he knew Person B because Person B's name had

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<sup>5</sup> The Former FBI Agent was indicted on charges of conspiracy, federal program bribery, and honest services wire fraud in connection with a corruption case unrelated to the subject matter of this report. According to court records, the government is no longer pursuing these charges and filed an information charging the Former FBI Agent with one count of knowingly and willfully facilitating an express or implied promise to make a prohibited campaign contribution by a foreign national in violation of the Federal Election Campaign Act. The court recently scheduled a plea agreement hearing. Many years earlier, the Former FBI Agent pled guilty and was sentenced to probation in an unrelated case for criminally accessing a sensitive FBI database for personal purposes, including to provide FBI information to a person outside the FBI who was not authorized to receive the information, while the Former FBI Agent was an FBI employee. As part of his plea agreement in that case, the Former FBI Agent resigned from the FBI.

come up as an associate of CEFC. Person A told investigators that McGonigal did not mention the FBI's investigation or how McGonigal heard of Person B and that Person A did not know whether the FBI was investigating CEFC. According to Person A, during their dinner, he called Person B in McGonigal's presence, advised Person B that he was presently "with the FBI," and then McGonigal asked Person B over the phone whether he would travel to the United States so that McGonigal could meet with him. According to Person A, McGonigal had questions for Person B regarding CEFC.

McGonigal's text messages indicate that the meeting between McGonigal and Person B occurred at a restaurant in New York City on April 10, 2017. FBI email communications indicate that on the morning of April 10, McGonigal requested a briefing on Person B from his FBI subordinates, and Case Agent 1 met with McGonigal later that day. Case Agent 1 understood at the time that McGonigal wanted information on Person B because McGonigal had plans to have dinner with him. During his OIG interview, Case Agent 1 told us that although he did not recall his exact words, he conveyed to McGonigal that Person B was "a concern" for the case team. Case Agent 1 told us that Person B himself was not a target of the CEFC investigation at that time because the FBI did not have evidence connecting him to Ho's criminal activities. However, Case Agent 1 said that he conveyed to McGonigal that as a very close associate of Ho and someone paid by CEFC China to help accomplish CEFC China's objectives in Europe, Person B could have been involved in the activities the FBI was investigating. According to Case Agent 1, at the end of his briefing, McGonigal asked Case Agent 1 whether a meeting with Person B was a good idea. Case Agent 1 told us that he was "shocked" at the time that McGonigal would ask this question because Case Agent 1 believed his briefing had provided more than enough information for any FBI agent to conclude that a meeting with Person B was not a good idea for the investigation. Case Agent 1 said that he did not feel comfortable telling an SAC what to do or not do and ultimately deferred to McGonigal on whether McGonigal should meet with Person B.

The Supervisory Special Agent told us that he had a separate, private conversation with McGonigal in McGonigal's office during which he advised McGonigal not to meet with Person B.<sup>6</sup> According to the Supervisory Special Agent, McGonigal stated that he wanted to tell Person B about the FBI's investigation because McGonigal thought it would be good for relations and possibly encourage Person B to provide information. The Supervisory Special Agent told us that he did not recall exactly what McGonigal said he wanted to share with Person B about the investigation, but the Supervisory Special Agent was left with the impression that McGonigal wanted to share information about the arrests the FBI was considering at that time or, more generally, that CEFC and related individuals were "bad guys" or "in trouble."<sup>7</sup> According to the Supervisory Special Agent, he counseled McGonigal against telling Person B anything about the investigation. However, despite this conversation, and Case Agent 1's briefing, McGonigal met with Person B on April 10 as he had planned.

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<sup>6</sup> We are unable to determine when this conversation occurred. The Supervisory Special Agent said that he did not recall when the conversation took place but estimated that it was sometime within the week before McGonigal's April 10, 2017 meeting with Person B.

<sup>7</sup> The FBI report documenting the FBI's September 15, 2020 interview of the Supervisory Special Agent states that McGonigal wanted to tell Person B about "the pending arrests." During his OIG interview, the Supervisory Special Agent said that "pending arrests" was his impression of what McGonigal wanted to share with Person B but not necessarily McGonigal's exact words. As noted above, the Supervisory Special Agent stated during his OIG interview that, whatever McGonigal's exact words, McGonigal gave him the impression that McGonigal wanted to share information about the arrests or, more generally, about CEFC being bad guys or being in trouble.



According to the FBI report documenting Person B's FBI interview on December 15, 2021, Person B told investigators that during their April 10, 2017 meeting, McGonigal asked Person B questions about Ho, CEFC, and the CEFC China Chairman. According to Person B, McGonigal's questions were discreet, and McGonigal did not tell him much about his work for the FBI. Person B said that he thought McGonigal was possibly assessing him as a potential confidential source. According to Person B, McGonigal did not ask Person B to do anything specifically related to CEFC, but Person A informed Person B that McGonigal wanted to stay close to Person B because CEFC was important to the U.S. government. Person B said that he had the impression that the U.S. government was conducting a threat assessment of CEFC. During a subsequent proffer interview on October 12, 2022, Person B told the FBI case team and SDNY USAO prosecutors that McGonigal had given him his FBI business card during this introductory meeting and had asked him questions about his work, his clients, and other topics. According to his proffer, Person B told McGonigal that he worked for CEFC China and was not paid by Ho, who worked for the CEFC NGO, and they also talked about the Chairman.

Two days after McGonigal's meeting with Person B, on April 12, 2017, McGonigal wrote to a business associate, Sergey Shestakov, that he had "just secured a very good contact in the Albanian Govt [sic] for future business development. Always working towards the future."<sup>8</sup>

Two weeks after the meeting, on April 24, 2017, McGonigal sent an email to the Supervisory Special Agent providing "[a] little background" regarding his meeting with Person B. McGonigal did not explain why he decided to meet with Person B, but McGonigal said that he and Person B discussed "mutual topics of interest." McGonigal stated that he inquired about Person B's position with CEFC and that Person B told him that he (Person B) was a regional advisor for Europe focused on Berlin and that he earned approximately \$50,000 per month from CEFC. McGonigal also stated that he gave his contact information to Person B and expected to meet with him again. McGonigal did not note that he shared any information with Person B about the CEFC investigation.

McGonigal had several more meetings and conversations with Person B over the next several months. McGonigal met with Person B several times in New York City, including one instance in which Person B left a family vacation in Florida to meet with McGonigal, Person A, and the Former FBI Agent in June 2017 and another instance in which Person B introduced McGonigal to a former government official of Romania. Person B also hosted McGonigal in Albania in September and November 2017. During the September 2017 trip, Person B arranged for a private dinner between McGonigal and the Prime Minister of Albania, and McGonigal met again with the Prime Minister during his second trip to Albania 2 months later.<sup>9</sup>

McGonigal did not disclose his ongoing contact with Person B to the FBI case team. According to the Supervisory Special Agent, McGonigal would frequently ask for case updates on who was going to be

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<sup>8</sup> The January 2023 indictment against McGonigal obtained by SDNY USAO charged Shestakov as McGonigal's co-conspirator in providing services to and receiving secret payments from Deripaska and for making false statements to the FBI. In June 2025, Shestakov pled guilty to one count of making false statements in violation of 18 U.S.C. § 1001, and his sentencing is scheduled for October 16, 2025.

<sup>9</sup> On September 9, 2017, McGonigal texted an image of himself with the Prime Minister to a personal friend and texted another personal friend that the Prime Minister was reforming justice (in Albania) and that this presented "Plenty of opportunities."

arrested and when, all the while not disclosing to the team that he was continuing to meet with Person B. McGonigal also did not report his ongoing contacts with Person B, a foreign national, to the FBI, or properly report his foreign travel with Person B, as McGonigal was required to do under FBI policy and as a condition of his security clearance.<sup>10</sup>

## **C. McGonigal's Leaks of Sensitive, Non-public Case Information to Person B**

### **1. The June 2017 Leak and Subsequent Events**

During Person B's October 12, 2022 proffer interview, Person B told the FBI case team and SDNY USAO prosecutors that he left a personal vacation with family and friends in Florida to attend a dinner on June 12, 2017, with McGonigal, Person A, and the Former FBI Agent in New York City. According to Person B, while at the restaurant, Person B and McGonigal were briefly separated from Person A and the Former FBI Agent, and McGonigal told Person B something to the effect of "we are looking into them" or "we are going after them." Person B said that he understood "we" to be the FBI and "them" to be CEFC China or CEFC NGO. According to Person B, McGonigal did not further explain what he meant by this statement, but Person B took from the statement that the FBI was scrutinizing CEFC China or CEFC NGO. Person B told investigators that he was disturbed by this information, which he said confirmed his suspicion that the FBI was examining CEFC China or CEFC NGO, or possibly both. Person B said that he did not recall whether he responded to McGonigal's statement.

At the time of this leak, the FBI's and SDNY USAO's investigation of CEFC, Ho, and others was entirely covert and knowledge of it was limited to a small number of government personnel.

The following day, June 13, Person B traveled to Washington, D.C., to meet with Ho, who was attending a conference there. Person B told investigators during his proffer that when he met with Ho, he informed Ho that senior FBI officials told him they were after Ho. Person B said that he deliberately used FBI "officials" (plural) to obscure that McGonigal was his source. According to Person B, Ho was skeptical of the information and believed the U.S. government was instead targeting the CEFC China Chairman.<sup>11</sup>

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<sup>10</sup> These reporting violations, and others, were included in the indictment of McGonigal obtained by the DC USAO in January 2023. According to this indictment, McGonigal reported an upcoming "unofficial" trip to Albania in September 2017 but failed to identify his travel companion or who would be paying his lodging and accommodations, his anticipated foreign contacts, or that he would also be traveling to Kosovo. After the September 2017 trip, McGonigal submitted a foreign travel debrief form that did not disclose that he met with the Prime Minister of Albania or with a Kosovar politician, and he falsely denied disclosing his FBI employment to a foreign national outside of official business. With respect to the November 2017 trip, McGonigal reported an upcoming "official" trip to Vienna, Austria for a law enforcement interview but failed to disclose that he would also be traveling to Albania, who his travel companion was, who would be paying his lodging and accommodations, or his anticipated foreign contacts. After the November 2017 trip, McGonigal submitted a foreign travel debrief form that did not disclose that he also traveled to Albania or that he met with Person B and the Prime Minister of Albania, and he did not report that he disclosed his FBI employment to a foreign national outside official business.

<sup>11</sup> Person B told investigators that he took a train ride to Washington, D.C. to meet with Ho for only about 30-60 minutes over coffee before returning to Florida to rejoin his family and friends. Person B told investigators that this meeting was pre-planned and not in reaction to the information McGonigal told him the day before. Person B told investigators that

*Continued*

During his October 2022 proffer interview, Person B told investigators that he told Ho that the FBI might also be looking at an Israeli person in connection with CEFC China or CEFC NGO, but Person B did not know the identity of the Israeli. He and Ho discussed whether the Israeli could be Target 3 or another Israeli businessman who was friends with the Chairman. Target 3 was in Washington, D.C., attending the same conference as Ho, and Ho introduced Person B to Target 3, whom he had previously never met. According to Person B, Person B did not mention McGonigal to Target 3 during this encounter. Two days later, on June 15, 2017, Target 3 left the United States and never returned.

Although Person B said he could not remember when he did so, Person B told investigators that he believed he informed McGonigal that he had shared with Ho the information McGonigal disclosed to him (Person B) on June 12. Person B said he did not recall McGonigal's reaction to learning that Person B passed the information to Ho, a primary investigative target.

A few weeks after Person B's conversations with McGonigal and Ho, Person B was summoned from Germany to meet personally with the CEFC China Chairman in France. According to the FBI report documenting his October 2022 proffer interview, Person B told investigators that this request to meet with the Chairman was sudden and "out of the blue," which is corroborated by Person B's travel records and emails between Target 3 and Ho approximately 1 week later. This FBI report further states that Person B advised investigators that when he arrived at the meeting in France, which investigators determined occurred on July 19, 2017, he learned that he had been summoned to discuss "the Ho situation" and that the Chairman was bothered by the news that CEFC China or CEFC NGO had come under U.S. government scrutiny. Although the Chairman did not explain, Person B surmised that Ho must have told the Chairman about the information Person B shared with Ho in Washington, D.C., a few weeks earlier. According to Person B, the two discussed the potential outcomes of the FBI inquiry, which Person B said he told the Chairman could include harassment, interrogation, detention, or arrest. Person B told investigators that his understanding of potential outcomes was based on his own assumptions and observations about how counterintelligence and criminal investigations are conducted.

[REDACTED]

[REDACTED]

[REDACTED]

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he prefers to meet with people in person. However, he also stated that he believed the matters he discussed with Ho were too sensitive to speak about over the telephone. According to Person B, McGonigal did not tell him whether Ho was under any kind of FBI surveillance.

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On July 25, 2017, Ho left the United States and did not return until his arrest on November 18, 2017.

**2. *The CEFC China Chairman's Warnings to Investigative Targets and McGonigal's Request for Case Details from FBI Subordinate***

On August 14, 2017, a few weeks after McGonigal's leak to Person B in June 2017 described above, and before McGonigal's November 2017 leak described in the next section, the CEFC China Chairman met with Ho and Target 3 in Hong Kong. As described earlier, according to the FBI report documenting Target 3's proffer interview on March 28, 2019, during this meeting, the Chairman advised Ho and Target 3 that U.S. authorities had obtained arrest warrants for approximately four people involved with CEFC, including Ho, two other Chinese nationals, and a fourth person of Jewish or African descent and warned Ho that he should not travel to the United States until the charges against him were resolved. Target 3 told investigators during his March 2019 proffer that he believed he was potentially the fourth person.

At the time of this August 14 meeting, SDNY USAO and FBI NY were contemplating charges but had not yet filed complaints or obtained arrest warrants. The FBI NY investigated whether the Chairman could have obtained information about "arrest warrants" from other sources and found no evidence of any other government leaker. Based on FBI NY's investigation, it appeared that the concept of arrest warrants likely came from the Chairman's conversation with Person B in France in July 2017 about the possible outcomes of an FBI investigation.

From August 19 through August 22, 2017, Person B visited New York City and, on a number of occasions, met separately with McGonigal and the Chairman (who was also visiting New York City). During his October 2022 proffer interview, Person B told investigators that he and McGonigal had several discussions about CEFC NGO, CEFC China, and Ho during this visit. Person B told investigators that he updated McGonigal on the Chairman's movements and CEFC China's business plans. Person B said that he thought he may have also told McGonigal that the Chairman was in New York City at this time and that Person B planned to meet with him. [REDACTED]

According to Person B, at some point during this trip, the Chairman asked Person B for the identity of the Israeli person who was being scrutinized by the FBI in connection with CEFC NGO or CEFC China and, in particular, the Chairman wanted to know whether the Israeli was Ho's friend (Target 3) or someone else who was a friend of the Chairman. Person B told investigators that he did not ask McGonigal specifically who the Israeli person was. According to Person B, he only showed McGonigal a photo of the Chairman's Israeli friend, and, after McGonigal showed no reaction to the photo, Person B assumed (correctly) that it was Target 3, not the Chairman's friend, who was under scrutiny.

On August 21, 2017, the Monday after McGonigal attended a party with Person B over the previous weekend, McGonigal sought to confirm, through an FBI subordinate in FBI NY's Counterintelligence Division, the identity of the Israeli who was a target of the investigation. In particular, FBI records indicate that on August 21, 2017, McGonigal sent an instant message to a subordinate, a Coordinating Supervisory Special Agent, asking, "What was the Israeli's name as it is not in my report," to which the Coordinating Supervisory

Special Agent responded, “[Target 3].” Based on our review of FBI instant messages, it appears that McGonigal also asked this subordinate whether the case team intended to charge the Chairman because the subordinate sent McGonigal an instant message a few hours earlier stating, “[the Chairman] was never an option to charge, although he is the chairman. He will not be part of the group. Once the [special agent] or the [Supervisory Special Agent] gets back to the office, Ill [sic] ask them for details.” During an October 2022 interview, the subordinate told Case Agent 1 and Case Agent 2 that she did not remember these messages or any conversation she may have had with McGonigal. FBI NY and SDNY USAO did not find evidence that McGonigal disclosed this information from the Coordinating Supervisory Special Agent to Person B. However, as described later in this report, McGonigal stated during his November 17, 2023 proffer interview that he did not recall whether he shared with Person B the information he received from the Coordinating Supervisory Special Agent concerning the Israeli and, therefore, left open the possibility that he did so. Further, McGonigal admitted to telling Person B at some point that “there was a chance” the Chairman would be charged.

During Person B’s October 2022 proffer interview, Person B told investigators that he informed the Chairman that Target 3 was likely the Israeli under scrutiny. According to Person B, the Chairman expressed skepticism that the U.S. government was interested in CEFC China or CEFC NGO. In response to the Chairman challenging the accuracy of Person B’s information, Person B said he disclosed McGonigal’s identity to the Chairman and showed him McGonigal’s business card.

### ***3. The November 2017 Leak and Subsequent Events***

On November 7, 2017, Person B received an invitation from Ho to attend a CEFC-sponsored event in New York on November 22. During his October 2022 proffer interview, Person B told investigators that shortly after he received this invitation, Person B asked McGonigal over the phone whether he should attend the event. Based on Person B’s email communications, the FBI case team determined that this phone call occurred on November 9, 2017, while Person B was outside the United States. According to Person B, McGonigal responded to his question by telling him to stay in Albania and said something to the effect of “we are ready for them” or “ready for action.”<sup>12</sup> At this time in the CEFC investigation, SDNY USAO and FBI NY were planning to arrest Ho and a Senegal national, and, on November 16, 2017, a complaint was sworn out charging both of them with bribery and money laundering, and warrants were issued for their arrests. Person B further stated that McGonigal did not ask him to share with anyone that the FBI was “ready for them” or “ready for action,” and Person B assumed he should keep it to himself. Person B said that he did not share this information with anyone at CEFC NGO or CEFC China.

During his March 2019 proffer, Target 3 told investigators that, given what he and Ho learned from the CEFC China Chairman about the pending arrest warrants, Ho was debating whether to return to the United States in November 2017, as he had previously planned, to attend CEFC events in Washington, D.C., and New York. However, on November 18, Ho ultimately returned to the United States for the CEFC events and, as noted

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<sup>12</sup> During his December 15, 2021 FBI interview, Person B told investigators that sometime before Ho’s arrest on November 18, 2017, McGonigal told him that the FBI planned to arrest several individuals connected to CEFC, including Ho, the CEFC China Chairman, another Chinese national, and Target 3. Although this more specific information is consistent with what Target 3, during his March 2019 proffer interview, told investigators the Chairman passed onto Ho and Target 3 on August 14, 2017, during Person B’s subsequent proffer on October 12, 2022, Person B did not repeat this statement and instead told investigators that McGonigal told him that “we are ready for them” or “ready for action.”

earlier, was arrested upon his arrival. The FBI case team told us, based on the below-described evidence FBI NY obtained during its investigation of the leaks, that they concluded Ho decided to attend the CEFC event after James Biden or another individual likely told Ho, relying on information provided by a private investigator, that it was safe for Ho to return to the United States.

During their investigation, FBI NY interviewed a retired U.S. Secret Service Agent (Retired USSS Agent-1) who told them that James Biden reached out to him in November 2017 with a request to determine whether there was an arrest warrant for Ho. Retired USSS Agent-1 provided the FBI case team with an email communication from James Biden to Retired USSS Agent-1 dated November 12, 2017, with the subject line, "Re new case I need ASAP—I'm in Hong Kong," followed by, "Have info on an individual I need a background on one specific issue. Very timely. Thanks Jim [phone number]. Please call."<sup>13</sup> Based on a review of his own telephone records, the Retired USSS Agent-1 told FBI agents that phone calls he had with James Biden between November 12 through 14, 2017, related to this email request. According to the FBI report of its October 25, 2021 interview of Retired USSS Agent-1, Retired USSS Agent-1 told FBI agents that when he and James Biden discussed the request over the phone, James Biden said that "we have information from China that Ho may be arrested" and that Ho wanted to travel to the United States but was concerned about a potential warrant for his arrest.<sup>14</sup>

Retired USSS Agent-1 told the FBI agents that James Biden provided Ho's biographical details, and that Retired USSS Agent-1 then recruited another retired U.S. Secret Service agent (Retired USSS Agent-2), who had a private investigation business, to help him perform online and database searches. According to text messages dated November 12, 2017, between the two retired Secret Service agents, Retired USSS-Agent-1 advised Retired USSS-Agent 2:

11:02 a.m.: Our client has a person who may have an active warrant out on him. He is a foreign born person. I'm going to get the info shortly. The client is very interested in this and anxious to know. I will send the info as soon as I get it. Our client is traveling overseas now.

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12:13 a.m.: [Ho's biographical details.] Possibly 3 Chinese and 1 Israeli on the warrant.

During his FBI interview, Retired USSS Agent-1 told the FBI agents that after he and Retired USSS-Agent-2 completed their research, Retired USSS-Agent-1 informed James Biden that they did not find an active arrest warrant for Ho. According to Retired USSS Agent-1, he also told James Biden that because arrest warrants are "sensitive," negative database searches did not necessarily mean that a warrant did not exist.

During his March 2019 proffer, Target 3 told the FBI and SDNY USAO prosecutors that Ho sent Target 3 a text message on November 15, 2017, stating words to the effect that "people came and went, see you on

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<sup>13</sup> Hotel records reflect that James Biden was in Hong Kong on November 12, 2017, and made calls to Retired USSS Agent-1 on that date from his hotel room phone.

<sup>14</sup> In testimony before the House Committee on Oversight and Accountability and the House Committee on the Judiciary, James Biden discussed his November 2017 travel to Hong Kong, and, in connection with that travel, Biden also discussed his engagement of Retired USSS Agent-1. See [Interview of James B. Biden](https://oversight.house.gov/wp-content/uploads/2024/03/James-Biden-Transcript.pdf), before the Committees on Oversight and Accountability and the Judiciary, U.S. House of Representatives, (February 21, 2024), <https://oversight.house.gov/wp-content/uploads/2024/03/James-Biden-Transcript.pdf>.



11/17," indicating that Ho had decided he would go to the United States and expected to see Target 3 while there. Target 3 told investigators that Target 3 continued to believe that Ho should be more cautious.

Unlike Ho, Person B decided not to return to the United States to attend the CEFC event. Instead, Person B hosted McGonigal and Person A in Albania in November 2017, which, as noted previously, was information McGonigal kept secret from the FBI. According to Person B, while in Albania, Person B received a call from an assistant to the Chairman who informed Person B about Ho's arrest. Person B said that the Chairman asked Person B to travel to New York City to assist with the Ho situation. Person B said that after he received this request, he asked McGonigal for guidance on whether he should return to New York to see the Chairman (who was visiting New York), and McGonigal approved of the idea and asked Person B to find out what discussions the Chairman or CEFC was having and report back.

During his October 2022 proffer interview, Person B told investigators that after he arrived in New York on November 20, 2017, he met with the Chairman. Sometime after their meeting, Person B received a call from the Chairman's translator who informed Person B that the FBI was at the Chairman's New York City apartment, and the Chairman wanted to know what he should do. Person B said that he called McGonigal for instruction, and McGonigal told Person B that the Chairman should cooperate, a message Person B relayed to the Chairman through the translator. Later, on November 22, 2017, McGonigal returned to the United States, and Person B met him at Newark Airport. According to Person B, he recounted to McGonigal his discussions with the Chairman.

Throughout this time, in the days before and after Ho's arrest, McGonigal was receiving case updates from FBI NY, including that the case team was attempting to locate the Chairman to serve him with subpoenas for documents relevant to the CEFC investigation. According to Case Agent 1, they were unable to locate the Chairman, and Case Agent 1 waited for hours in the lobby of the Chairman's apartment building, only to learn years later from Person B that McGonigal was in communication with Person B about the Chairman in real time and giving advice to the Chairman through Person B.

McGonigal never disclosed within the FBI that he had been in contact with Person B during this time, that he knew Person B had been meeting with the Chairman in New York, or that Person B had asked him for advice on behalf of the Chairman when the FBI was attempting to serve the Chairman with subpoenas.

#### **D. McGonigal's Proffer and Explanations**

During his November 17, 2023 proffer to the OIG, the FBI, and DC USAO about his relationship and conversations with Person B, McGonigal eventually admitted he disclosed to Person B that the FBI planned to arrest individuals associated with CEFC.<sup>15</sup>

During his proffer interview, McGonigal initially downplayed his relationship with Person B, stating that he knew Person B worked for individuals in China and Germany but did not have direct knowledge of what Person B did professionally. When we asked specifically about CEFC, McGonigal initially said that he did not have any substantive conversations with Person B about CEFC and that he would not have asked Person B

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<sup>15</sup> Pursuant to the terms of his proffer agreement, the information McGonigal provided in the proffer could not be used against McGonigal in any criminal proceeding (with exceptions not pertinent here).

questions about CEFC. He also said that his introductory meeting with Person B was not based on Person B's association with CEFC because McGonigal said he did not know Person B was affiliated with CEFC until after he met Person B. After McGonigal was shown text messages indicating that he knew Person B worked for CEFC before their introductory meeting, McGonigal acknowledged that fact but said that he did not know the extent of Person B's position or what Person B did for CEFC before they met. He also said that he did not recall the substance of his conversations with Person B about CEFC, conversations that he said occurred more than once but not frequently.

After McGonigal was shown a text message between him and Person A on April 10, 2017, in which McGonigal asked Person A to think of topics to discuss with Person B that would be of interest to McGonigal's "mission," McGonigal said that he recalled that his mission with Person B was to use him to provide information about CEFC. McGonigal said that Person B had the potential to become a confidential human source for the FBI.

With respect to FBI NY and SDNY USAO's investigation, McGonigal acknowledged that he did discuss the CEFC investigation with Person B at some point, but he initially said that he did not recall when or what he told Person B. However, McGonigal also said that Person B would ask McGonigal for updates on the investigation, and McGonigal would respond by saying, "we would arrest these fucking people because of their conduct." McGonigal admitted making it perfectly clear to Person B that "these people would be arrested" and that Person B would be arrested, too, if he was involved. McGonigal said that he did not recall disclosing to Person B who specifically would be arrested but that he remembered discussing Ho and the CEFC China Chairman with Person B. McGonigal also said that, although he did not recall their nationalities, he assumed everyone who would be arrested was of Chinese nationality.

McGonigal told us during his proffer that he did not recall Person B asking him whether the Chairman was going to be arrested or which Israeli was going to be arrested. He said that he did not recall why he asked an FBI subordinate for information about the Israeli associated with the investigation or whether he gave this information to Person B or anyone else.

Eventually during his proffer, McGonigal acknowledged that he told both Person B and Person A that the FBI was going to arrest individuals associated with CEFC (not just that they "would" arrest people who were breaking the law). McGonigal said that Person B told him that Ho was expected to travel (to the United States) and that McGonigal at some point told Person B that Ho would be arrested if Ho did so. McGonigal further acknowledged that Person B asked whether the Chairman was going to be charged, and McGonigal told Person B that "there was a chance."

According to McGonigal, he was motivated by "bravado" in disclosing information to Person B about the CEFC investigation and anticipated arrests. According to McGonigal, his attitude was "fuck them. If they were breaking the law in the U.S., I wanted them to know they could be arrested." However, he said that he should not have gone as far as he did by telling Person B about the anticipated arrests.

According to McGonigal, he did not disclose information about the investigation to Person B to harm the investigation. He said that he had a relationship with Person B and trusted him and that is why he would have disclosed the arrests to Person B. According to McGonigal, his disclosures did not harm the investigation because the case "was a win."

McGonigal made conflicting statements about whether he knew Person B gave Ho information about the CEFC investigation or anticipated arrests. Initially, McGonigal said that he did not know what Person B did with the information McGonigal disclosed to him but that he did not expect that Person B would inform individuals associated with CEFC that they would be arrested. McGonigal said that he did not recall Person B informing him that Person B had told Ho about his anticipated arrest. However, later in the proffer interview, McGonigal told us that Person B did, in fact, inform him that Person B told Ho about the CEFC investigation and Ho's anticipated arrest. McGonigal acknowledged that he continued his conversations with Person B even after Person B had violated his trust.

As described above, after Person B received an invitation from Ho on November 7, 2017, to attend a CEFC-sponsored event in New York City later that month, Person B asked McGonigal whether he should attend the event, and, according to Person B, McGonigal responded by telling him to stay in Albania. However, during his proffer, McGonigal told us that he did not warn Person B not to travel to the United States. McGonigal said that he did not know whether Person B was on the list of individuals to be arrested but that he probably would not have contacted Person B if he had been on that list.

McGonigal was shown a travel itinerary of his trip to Vienna, Austria from November 17, 2017, through November 21, 2017, during which, as described previously, other evidence indicates McGonigal was also with Person B in Albania. McGonigal told us that he did not recall traveling with Person B during this trip but that he may have attended an event in Berlin that was co-hosted by Person B. He said that he also did not recall Person B traveling to New York City after Ho was arrested or what he discussed with Person B when they met at Newark Airport on November 21.

McGonigal told us that he asked Person B how Ho was doing following Ho's arrest. According to McGonigal, Person B informed him that CEFC was surprised and panicked after the arrest and did not know what to do. McGonigal said that he did not recall Person B telling him about Person B's meetings with the Chairman or that the Chairman was served with any subpoenas. Although McGonigal said that he also did not recall Person B asking for advice on how to handle the case, McGonigal told us that he advised Person B that Ho should hire an attorney, follow the advice of the attorney, and cooperate.

Finally, McGonigal told us that he did not think he had an obligation to share his conversations with Person B with the FBI case team because he did not think those conversations harmed the investigation. He also claimed that he partially told the case team about his conversations with Person B, but not the full extent of them.

### **III. Analysis and Findings**

#### **A. Impact of McGonigal's Conduct on the CEFC Investigation and the FBI**

Based on the evidence described in this report, we determined that while he was the SAC entrusted with overseeing FBI NY's Counterintelligence Program, McGonigal engaged in a scheme that obstructed an important multi-year criminal investigation under his supervision and compromised the integrity of the FBI.

During Person B's October 12, 2022 proffer, Person B told the FBI case team and SDNY USAO prosecutors that McGonigal told him in June 2017 that "we are looking into them" or "we are going after them," which Person B said he understood to mean that the FBI was looking into or going after CEFC China or CEFC NGO.

Later, in November 2017, McGonigal told Person B that the FBI was “ready for them” or “ready for action,” which was just days before FBI NY and SDNY USAO obtained warrants for the arrests of Ho and a co-conspirator on charges in SDNY. Although this information alone would have been more than enough to obstruct or impede the CEFC investigation, we concluded that McGonigal’s own admissions and other evidence demonstrate that McGonigal gave Person B even more specific information than Person B acknowledged during his proffer.

As described earlier in this report, Person B stated during his October 2022 proffer to the FBI that he met with Ho in person on June 13, 2017, and told Ho that, according to senior FBI officials, the FBI was going after Ho and might also be looking at an Israeli person connected to CEFC. McGonigal also eventually admitted that he told Person B, as well as Person A, that the FBI was going to arrest individuals associated with CEFC, and that he told Person B that Ho would be arrested if he returned to the United States. McGonigal further admitted during his proffer that Person B asked whether the CEFC China Chairman was going to be charged, and McGonigal told Person B that “there was a chance.” Given these admissions, and the timing of Person B’s conversation with Ho—1 day after McGonigal’s first known leak to Person B on June 12, 2017—it is reasonable to conclude that McGonigal gave Person B the more specific details that Person B passed to Ho on June 13, 2017.

Although McGonigal initially claimed during his November 17, 2023 proffer interview with the OIG that he did not recall whether he shared information with Person B concerning the Israeli person, for similar reasons, we believe the evidence establishes that McGonigal, through Person B, was the government source for the information Target 3 said the Chairman passed to him and Ho on August 14, 2017, i.e., that U.S. authorities had obtained arrest warrants for four people involved with CEFC, including Ho, two other Chinese nationals, and a fourth person of Jewish or African descent. According to the FBI report documenting Person B’s October 2022 proffer, Person B did not tell FBI investigators that McGonigal gave him these specific details or that Person B passed all these details to the Chairman when he met with the Chairman a few weeks earlier to discuss “the Ho situation.” However, this information closely tracked the complaints SDNY USAO and FBI NY had discussed and drafted in the summer of 2017 and would have been known only to a limited number of individuals with access to confidential law enforcement files, including McGonigal. Given McGonigal’s access to this very sensitive, non-public information and his admission to leaking other sensitive non-public case information to Person B, it is reasonable to conclude that McGonigal also provided this detailed information to Person B, who shared it with the Chairman, who then passed it on to Ho and Target 3. As noted previously, the FBI case team investigated other potential information channels and ultimately found no other likely government source who would have had access to this sensitive case information.

Although the full extent of the harm from McGonigal’s leaks of sensitive investigative information to foreign subjects and targets will likely never be fully known, we determined that the impact of McGonigal’s conduct on the CEFC investigation, a significant FBI criminal investigation, was substantial. Indeed, it was McGonigal’s June 2017 leak to Person B that led to the CEFC China Chairman discussing “the Ho situation” with Person B in France in July 2017 and meeting with Ho and Target 3 in Hong Kong in August 2017 to warn both of them that U.S. authorities planned to arrest Ho and others, including possibly a Jewish person associated with CEFC. Based on the evidence described in this report, we concluded that the Chairman’s warning played at least some role in Target 3’s decision not to return to the United States in November 2017 or at any time since then. As noted previously, Target 3 told the FBI in March 2019 that he believed he was potentially the fourth person whom U.S. authorities planned to arrest, and he never returned to the United States after the

Chairman's August warning, despite the fact that Target 3 had principally resided in Maryland since 1998. Although Target 3 denied during his March 2019 proffer that he was concerned about being arrested, the timing of McGonigal's leak to Person B on November 9, 2017 about the impending arrests, and Target 3's failure to return to the United States 2 weeks later to speak at the CEFC event, as Ho and others believed he would, made it likely that McGonigal's leak contributed to Target 3's change in travel plans. We determined further that Target 3's denial that he was concerned about being arrested is undermined by statements Target 3 made during his March 2019 proffer that he warned Ho to be cautious and not rush back to the United States.<sup>16</sup>

Because Target 3 did not return when expected, the FBI did not seek a search warrant for his residence or cell phone, as the FBI case team had planned to do. The inability to seek and execute the search warrant as planned represented a missed opportunity to gather evidence in a significant criminal investigation. After a multi-year investigation into Target 3's activities, in November 2022, SDNY USAO obtained an indictment charging Target 3 with, among other things: (1) failing to register as a foreign agent pursuant to the Foreign Agents Registration Act while working for Chinese principals, including Ho, CEFC NGO, and CEFC China, to advance the interests of China in the United States; and (2) violating the Arms Export Control Act by working with Ho and others to broker the illicit sales of Chinese-manufactured weapons and Iranian oil to China.<sup>17</sup> It is impossible to know how the conduct and length of the investigation would have benefited from the FBI having the ability to execute the search warrants in November 2017. Nevertheless, the evidence indicates that this missed opportunity was the result of illicit actions by the very person entrusted with overseeing the investigation.

Additionally, information from Target 3 indicates that Ho also questioned whether to attend the CEFC event in New York in November 2017 because of the warning he had received from the Chairman—a warning that was based on McGonigal's leaks to Person B. As described previously, the FBI case team told us they concluded that Ho decided to attend the CEFC event after Ho was likely told, based on information provided by a private investigator, that it was safe for Ho to return to the United States. However, the existence of the pending arrest warrant was not public as it was under seal. Although Ho returned to the United States and was arrested, the leaked information from McGonigal provided Ho a warning and an opportunity to assess his circumstances, and absent the faulty assurance Ho likely received that it was safe for him to return, could have resulted in further significant obstruction of the CEFC investigation.

Finally, McGonigal's failure to inform the FBI case team of his many conversations with Person B had tangible consequences for the investigation. [REDACTED]

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<sup>16</sup> Even before the Chairman's August 2017 warning, the circumstances of Target 3's departure from the United States on June 15, 2017, raise the question whether Ho or Person B shared McGonigal's June 2017 leak with Target 3 as early as June 13 and whether this information caused Target 3 to leave the United States in the first place. As described in Section II.C.1., above, just 1 day after McGonigal's leak to Person B on June 12 that the FBI was looking at Ho and might also be looking at an Israeli person, Person B shared that information with Ho in person in Washington, D.C., and, during Person B's very brief visit to D.C. to meet with Ho, Ho introduced Person B to Target 3; 2 days later, Target 3 departed the United States, never to return. The evidence the FBI case team obtained during their investigation of the leak did not include further information about Target 3's travel plans, including whether his travel plans pre-dated McGonigal's leak. Accordingly, we focus our analysis on the reason Target 3 failed to return to the United States when expected in November 2017.

<sup>17</sup> In September 2024, Target 3 was arrested outside the United States, and the Department is seeking his extradition.



[REDACTED]

In addition, McGonigal knew the agents under his supervision were expending time and resources attempting to locate the Chairman on at least November 19 and 20, 2017, and did not know where the Chairman was until November 22, all while McGonigal was aware that Person B had flown to New York on November 20 for the specific purpose of meeting with the Chairman there.

There is no question that McGonigal knew that his actions were both wrongful and likely to negatively impact the investigation. As the SAC over Counterintelligence in FBI NY since October 2016, and an FBI agent since 1996, McGonigal was well aware of his obligations to keep investigations and planned arrests confidential, to share information relevant to the investigation with his case team, and that his failure to do so could have an adverse effect on the case.

Although McGonigal attempted to minimize his motivations as mere “bravado,” the evidence showed that McGonigal’s actions were motivated by his desire to protect Person B, a potentially lucrative business connection for him upon retiring from the FBI.<sup>18</sup> In fact, Person B became a valuable partner for McGonigal, hosting McGonigal overseas and participating with McGonigal in meetings with other foreign nationals. Some of their activities together relating to Albania are part of the indictment the DC USAO obtained in January 2023. The evidence showed that McGonigal knew Person B was paid \$50,000 per month by CEFC China. An investigation into the Chairman would have had a serious financial impact on Person B and, therefore, on McGonigal’s future business plans. Further, sharing information with his case team would have exposed McGonigal’s ongoing relationship with Person B and opened McGonigal to questions from his team and FBI leadership about his activities.

The impact of McGonigal’s misconduct extends far beyond the damage he inflicted on the CEFC case. When an SAC trades sensitive government information for personal advantage and engages in the same conduct he is responsible for investigating, the betrayal infects the morale of those who serve the FBI with honor and integrity and undermines the public’s confidence in the FBI.

## **B. McGonigal’s Violations**

We analyzed McGonigal’s actions in the context of applicable laws, government ethics rules, and FBI policies that are designed to protect non-public government information and the integrity of ongoing FBI investigations. Based upon the foregoing, we concluded by a preponderance of the evidence that McGonigal violated multiple FBI Offense Codes and policies and the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Ethical Conduct) by engaging in disgraceful conduct that compromised the

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<sup>18</sup> For example, as noted previously, 2 days after his introductory meeting with Person B, McGonigal wrote to a business associate, Sergey Shestakov, that he had “just secured a very good contact in the Albanian Govt [sic] for future business development. Always working towards the future.” In addition, during his proffer, Person B told investigators that he planned to keep in touch with McGonigal after their introductory meeting because the two had talked about future business opportunities.



integrity of the FBI, disregarded his supervisory responsibilities, and misused sensitive, non-public case information for his own private interest and that of another.

***1. Through His Leaks of Sensitive, Non-Public Case Information, McGonigal Engaged in Disgraceful Conduct in Violation of FBI Offense Code 1.7***

FBI Offense Code 1.7 specifically prohibits FBI employees from engaging in conduct during the investigative or litigative phases of a criminal or civil case that dishonors, disgraces, discredits, or otherwise brings the integrity or reliability of the FBI into question.

There can be no doubt that McGonigal's obstructive and deceptive actions compromised the integrity of the FBI. For any FBI employee to leak sensitive, non-public case information to a close associate of an investigative subject or target, for private gain, constitutes a serious violation of public trust. For an SAC responsible for overseeing the counterintelligence program of a major FBI field office to do so, compromising one of his own important cases in the process, to curry favor with those under investigation in the hope of developing lucrative business relationships and opportunities for himself, is especially egregious and certainly dishonors, disgraces, and discredits the FBI and undermines the FBI's integrity and reliability. McGonigal also compromised the FBI's integrity by allowing himself to be used by Person B who, having seen McGonigal's willingness to share sensitive case information, apparently sought additional details from McGonigal about the people under investigation. During his November 17, 2023 proffer to the OIG, the FBI, and DC USAO, McGonigal could not offer any explanation for why on August 21, the Monday after he attended a weekend party with Person B, he asked an FBI subordinate for the identity of the Israeli who was under investigation or whether the CEFC China Chairman was among the targets who would be charged. McGonigal said that he did not recall whether he shared information with Person B concerning the Israeli and, therefore, left open the possibility that he had done so. However, as noted above, McGonigal admitted to telling Person B at some point that "there was a chance" the Chairman would be charged.

Accordingly, we concluded that McGonigal engaged in disgraceful conduct that compromised the integrity of the FBI in violation of FBI Offense Code 1.7 by leaking sensitive, non-public case information to a close associate of the investigative subjects and targets of a criminal investigation McGonigal oversaw, at the expense of an important multi-year criminal case and the FBI's integrity and reliability. McGonigal further violated Offense Code 1.7 the FBI by allowing a foreign national to use him for corrupt purposes.

***2. McGonigal's Ongoing Relationship with Person B and His Deliberate Failures to Share Information with His FBI Case Team Amounted to a Dereliction of His Supervisory Responsibilities***

Offense Code 5.2 defines dereliction of supervisory responsibilities as a supervisor (or an employee acting in an authorized supervisory capacity) failing to exercise reasonable care in the execution of his duties or responsibilities, disregarding his duties or responsibilities, or significantly deviating from appropriate methods of supervision.

McGonigal's decision to develop a personal and business relationship with a close associate of subjects and targets of a criminal investigation he oversaw, and his failure to inform his FBI case team of this relationship, were in complete disregard for his duties and responsibilities as SAC. According to the Supervisory Special Agent, McGonigal would frequently ask for case updates on who was going to be arrested and when, all the

while not disclosing to the team that he was continuing to meet with Person B and sharing FBI information with him.

As discussed above, McGonigal's failure to inform the FBI case team of his many conversations with Person B also had tangible consequences for the investigation. [REDACTED]

[REDACTED] In addition, McGonigal knew his agents were expending time and resources attempting to locate the Chairman on at least November 19 and 20, 2017, and did not know where the Chairman was until November 22, all while McGonigal was aware that Person B had flown to New York on November 20 for the specific purpose of meeting with the Chairman there.

Although Offense Code 5.2 does not appear to require that a supervisor disregard his or her supervisory responsibilities knowingly or deliberately, there can be no question that McGonigal did just that. Sharing information with his case team would have exposed McGonigal's ongoing relationship with Person B and opened McGonigal to questions from the FBI case team and SDNY USAO prosecutors, as well as FBI leadership, about his activities.

Accordingly, we concluded McGonigal deliberately disregarded his supervisory responsibilities in violation of FBI Offense Code 5.2 by developing and cultivating an inappropriate personal and business relationship with Person B, and intentionally withholding important case information from his FBI subordinates.

### ***3. McGonigal Misused Sensitive, Non-Public Case Information for His Own Interest and That of Another***

The Standards of Ethical Conduct recognize that public service is a public trust and require that executive branch employees place loyalty to the Constitution, laws, and ethical principles above private gain. See 5 C.F.R. § 2635.101. The Standards of Ethical Conduct prohibit federal employees of the Executive Branch from, among other things, allowing the improper use of non-public information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. See 5 C.F.R. § 2635.703(a). Section 703 defines non-public information as "information that the employee gains by reason of Federal employment and that the employee knows or reasonably should know has not been made available to the general public," including information the employee "knows or reasonably should know...[h]as not actually been disseminated to the general public and is not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b). These provisions, as with all Standards of Ethical Conduct, are intended to help ensure public confidence in the integrity of the Federal government. See 5 C.F.R. § 2635.101(a). During times relevant herein, the FBI Ethics and Integrity Policy Guide incorporated Section 2635.703's prohibition against knowing unauthorized disclosures made for the purpose of furthering a private interest. See FBI Ethics and Integrity Program Policy Directive and Policy Guide 0754DPG (February 2, 2015) § 4.7.1.4.

As noted above, at the time McGonigal disclosed the FBI's CEFC investigation and the anticipated arrests of Ho and others to Person B, FBI NY and SDNY USAO's joint investigation was entirely covert, and the draft complaints and intended charges were treated as "law enforcement sensitive," which is a designation indicating the information was compiled for law enforcement purposes and must be safeguarded and protected against unauthorized disclosure due to its sensitivity. See FBI's Law Enforcement Sensitive Information Policy Directive and Policy Guide, 0736DPG, December 2014, in effect during times relevant

herein (LES Policy). Under the FBI's LES Policy, McGonigal, as SAC, had the authority to approve the disclosure of LES information to domestic partners or foreign nationals, but only if coordinated with the appropriate FBI operational component and only when consistent with all legal protections and limitations on dissemination. Here, however, McGonigal did not have the authority to disclose LES information to Person B. He did not coordinate his disclosures with anyone, and the disclosures did not serve any law enforcement function or other lawful purpose. Further, McGonigal made no credible claim during his November 17, 2023 proffer to the OIG, the FBI, and DC USAO that his disclosures served a law enforcement function, maintaining that he was motivated by "bravado" and that he disclosed the pending arrests to Person B because he had a relationship with Person B and trusted him.

Moreover, McGonigal's unauthorized disclosures were knowingly made, evidenced by the fact that he leaked the information to Person B in secret and withheld his ongoing relationship and activities with Person B from the FBI. As an SAC, McGonigal knew that tipping off a close associate of the investigative subjects and targets that certain individuals were under investigation and about to be arrested posed great risk of harm to the case and, potentially, to the investigating agents. McGonigal undoubtedly also knew that the CEFC investigation and anticipated arrests would have a serious financial impact on Person B and, consequently, on McGonigal's future business plans. Indeed, as noted previously, 2 days after his introductory meeting with Person B, McGonigal wrote to his business associate, Sergey Shestakov, "just secured a very good contact in the Albanian Govt [sic] for future business development. Always working towards the future."

Accordingly, we concluded that McGonigal misused non-public case information for his own private gain and that of another in violation of 5 C.F.R. § 2635.703. McGonigal also violated FBI Offense Code 2.12 and the FBI Ethics and Integrity Program Policy Directive and Policy Guide, which incorporates the ethical guidelines and prohibitions set forth in the Standards of Ethical Conduct. In addition, through his unauthorized disclosures of LES information to Person B, McGonigal violated the FBI's LES Policy.

#### **IV. Conclusion**

Based on the evidence provided by FBI NY and SDNY USAO, the OIG's interviews of the FBI case agents and supervisor who handled the CEFC investigation, and McGonigal's own admissions during his November 17, 2023 proffer, the OIG concluded that McGonigal: engaged in disgraceful conduct at the expense of a multi-year criminal investigation and undermined the FBI's integrity and reliability in violation of FBI Offense Code 1.7; deliberately disregarded his supervisory responsibilities in violation of FBI Offense Code 5.2; misused sensitive, non-public case information for his own private interest and that of another in violation of 5 C.F.R. § 2635.703 of the Standards of Ethical Conduct, FBI Offense Code 2.12, and the FBI Ethics and Integrity Program Policy Directive; and made unauthorized disclosures of LES information to Person B in violation of the FBI's LES Policy.

McGonigal's actions, while he served as a high-ranking FBI official entrusted with overseeing sensitive counterintelligence and criminal matters, were extraordinary and dishonored the FBI's core values of integrity, accountability, and leadership expected of all FBI personnel. Through his scheme, McGonigal intentionally damaged an important criminal case, violated the public trust, and compromised the integrity of the FBI.