



Conspiracy or Incompetence

by Richard W. Rahn

Many apparent Washington conspiracies are nothing more than sheer incompetence — or a combination of attempted conspiracy coupled with a high degree of incompetence. The investigation into the alleged interference by the Russians into the 2016 election is looking more like a farce than an unbiased, competent, serious undertaking.

Central to the drama is the Deputy Attorney General Rod Rosenstein. Many have called for him to recuse himself or to be dismissed for a variety of good reasons in dealing with Russian case. There are also other reasons he should go, having nothing to do with the Russian case, but with his apparent incompetence to perform his other major responsibilities, which have not been discussed in the press.

A key responsibility, as delegated by the attorney general, of Mr. Rosenstein's office is to oversee the nomination of the 93 United States attorneys. The U.S. attorneys represent the U.S. government before U.S. district and appellate courts. As of two weeks ago, 30 U.S. attorneys still had not been nominated (six others are awaiting Senate confirmation). The administration has been in power for 15 months, yet approximately a third of the U.S. attorneys' offices are vacant. Mr. Rosenstein, who is minding the store?

Last year, Attorney General Jeff Sessions directed Mr. Rosenstein to hire an ombudsman to oversee the troubled civil asset forfeiture program where considerable abuse had occurred in recent years. The problem is that innocent people are having

their assets seized by law enforcement officers even though they had not been convicted of any wrongdoing. Many times, the victims of this law enforcement abuse were not able to get their assets back and undamaged in a timely (if ever) manner. This is a non-partisan issue with civil libertarians on both the left and right, including many members of Congress, pushing for reform. Rather than hire one of the many with a record of voicing concern and trying to correct asset forfeiture abuses, Mr. Rosenstein hired a prosecutor with no experience in the field.

Deputy AG Rosenstein's poor judgment at critical times is perhaps in part due to what many believe is his lack of the necessary breadth and depth of experience for the job. He prepared the memo for the president, justifying the firing of FBI Director James Comey, and he then appointed Mr. Comey's and his good friend, previous FBI Director Robert Mueller, as the special investigator. This occurred the day after the president turned down Mr. Rosenstein's recommendation that Mr. Mueller again be hired to direct the FBI. Mr. Rosenstein also signed off on the FISA warrant recommending to the FISA judge that Carter Page be investigated, even though Mr. Rosenstein probably knew (or should have known) that the Steele dossier, which Justice used as evidence, was paid for by the Clinton campaign and contained information obtained from self-interested Russians.

Mr. Rosenstein is supposed to be overseeing the Mueller investigation, yet he did not object to Mr. Mueller hiring a group of donors to Hillary Clinton's campaign rather than a non-partisan staff, which will be needed for any report to be considered objective and not a witch hunt. He also approved the totally inappropriate early morning raid on Paul Manafort's home, including manhandling his wife while she lay in bed in her nightgown. And he approved the raid on the office of President Trump's attorney, which many believe is a clear violation of attorney-client privilege.

At the same time, he has stonewalled the lawful demands by the appropriate congressional oversight committees for documents they are entitled to see — including the "scope" of activity memo that he gave to Mr. Mueller. On May 4,

2018, a federal district judge ordered Mr. Mueller to produce the unredacted "scope" memo, in part to determine if his activities are fully lawful.

The judge also said Mr. Rosenstein should have recused himself because of his many conflicts of interest. Why hasn't he?

The big open question is why Attorney General Sessions has not fired Mr. Rosenstein given his ethical lapses, conflicts, and incompetence? Because of his reputation of being an upright fellow, the attorney general may yet surprise us by having implemented a plan to indict and/or otherwise remove the bad actors in Justice and the FBI, including Mr. Rosenstein.

If not, it is fair to accuse Mr. Sessions of being incompetent or too timid as many (including former judges) are now doing. It has also been a subject of speculation that Mr. Sessions may be subject to blackmail. This would explain why he agreed to recuse himself from the Russian investigation without telling the president beforehand, and then hiring and inexplicitly protecting Mr. Rosenstein (and indirectly Mr. Mueller). Many people have dark corners in their lives which could not only lead to embarrassment but even jail time from misbehavior that might have been committed decades earlier.

The Washington swamp is not only deep, but very vicious. As we have seen, the swamp dwellers will go to any length to protect what they perceive to be their interests. They will stick with each other, not out of loyalty, but out of fear of what others know about them. In the new movie "The Death of Stalin," there is the delicious scene where the dreadful head of the NKVD, Lavrentiy Beria, is holding papers and shouting to the other members of the Politburo, "I have the files on all of you." He was the first one killed.

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