



Written by [Steve Byas](#) on July 25, 2018

The Cohen Tapes: Trump's Watergate?

Appearing on CNN Tuesday with Chris Cuomo, Michael Cohen lawyer Lanny Davis argued that the tape he gave to CNN, which had just been played to the viewers by Cuomo, proved “the truth is on our side.” Davis is well known for his extremely close ties to Bill and Hillary Clinton.



The tape includes a discussion between then-presidential candidate Donald Trump and his then-lawyer Michael Cohen on several issues, including the request of the *New York Times* to unseal Trump's divorce records involving Trump's first wife, Ivana, and other matters. The tape also includes a discussion of the issue of the allegations of Karen McDougal, a former Playboy model, that she had an affair with Trump years ago.

The tape, the quality of which host Cuomo told his audience was poor, was made by Cohen, who was Trump's lawyer at the time. The taping of the conversation, which Trump no doubt thought was private, generated a response from Trump on Wednesday morning. Trump tweeted, “What kind of lawyer would tape a client? So sad! Is this a first, never heard of it before? Why was the tape so abruptly terminated (cut) while I was presumably saying positive things? I hear there are other clients and many reporters that are taped — can this be so? Too bad.”

Actually, it is not unusual for attorneys to tape their clients in preparation for trials, but it is done with the client's knowledge and consent, and not for the purpose of later turning the tapes over to prosecutors or having them played to a national TV audience. While of questionable ethics for a lawyer, secretly taping a conversation is not illegal in New York State, just so long as the person doing the taping is a party to the conversation.

The recording was made in September 2016, and McDougal had apparently sold her “story” of an alleged sexual relationship with Trump to American Media, publisher of the supermarket tabloid *The National Enquirer*, for \$150,000. American Media is led by David Pecker, who is a long-time friend and a strong supporter of Trump. During Trump's successful run for president, the *Enquirer* clearly favored Trump not only against Hillary Clinton in the general election, but also in the Republican primaries, often running negative stories about other Republican hopefuls such as Ben Carson, Marco Rubio, and Ted Cruz.

When McDougal sold her story to American Media/*National Enquirer*, it did not appear in the tabloid, apparently because of the Trump-Pecker friendship. Instead, Pecker apparently offered to sell the rights indirectly to Trump. In the tape, Cohen is heard informing Trump of plans to create a company and finance the purchase of the rights from American Media. “I need to open a company for the transfer of all of that info regarding our friend David,” an apparent reference to David Pecker.



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Trump is heard interrupting Cohen, asking, “What financing?”

Cohen told Trump, “We’ll have to pay,” to which Trump responds either by saying “pay with cash” or “don’t pay with cash” — the recording is unclear. Cohen responded, “no,” but it is not clear what is said next. Former New York Mayor Rudy Giuliani, who is currently Trump’s lawyer, claims that no payment was ever actually made. The fact that there was a discussion over whether to buy rights to McDougal’s story from American Media was already made public by Giuliani.

Of course, simply purchasing the rights to a story — to keep the story from being published — is neither criminal nor particularly unusual. It does not prove that McDougal’s story has any validity. Wealthy people often have to contend with extortion attempts, opting to give the extortionist money to make the problem “go away.” In this case, with less than two months left in a closely-contested political campaign, it would be worth it to Trump to buy the rights from American Media, so as to keep the allegations from becoming public.

Obviously, it is not known whether McDougal’s allegations are true or false. Regardless, McDougal’s offer to sell her story to a tabloid would not be extortion, as there is no indication that she first asked for money from Trump, or even communicated to him her intention to sell her story.

As expected, Davis, a staunch Clinton advocate, put a spin on the story to place Trump in the worst possible light, and conjured up memories of the tapes from the Watergate scandal that ended in President Nixon’s resignation. “Richard Nixon couldn’t spin the tape that did him in, and there’s no way that Mr. Giuliani, who knows from being U.S. Attorney, the only people who use cash are drug dealers and mobsters. Cash is not what you do, and it was Michael Cohen who said, ‘No, no, no, no.’ And Donald Trump, despite what Rudy Giuliani said publicly, the tape contradicts Mr. Giuliani and the word ‘cash’ is heard by everyone.”

Cuomo, however, responded that Trump’s legal team disputes that Trump said “pay with cash,” claiming he said, “Don’t pay with cash.”

Alan Futerfas, an attorney for the Trump Organization, addressed the “cash” issue on Fox News Tuesday night. “There’s no way the president is going to be setting up a corporation using cash, unless you’re a complete idiot. This was leaked on us with a very, very scurrilous description of what was on the tape.”

Futerfas told CNN that “cash” does not refer to currency. “Whoever is telling Davis that cash in that conversation refers to green currency is lying to him. There’s no transaction done in green currency. It doesn’t happen. The whole deal never happened. If it was going to happen, it would be a payment to a large company that would obviously be accompanied by an agreement of sale. Those documents would be prepared by lawyers on both sides.”

Cash, Futerfas explained, is discussed in the “context of the distinction between financing, which is referenced [in the tape], and no financing, which means a full payment, a total one-time payment. That’s the context in which the word cash is used.”

Photo of Michael Cohen: AP Images



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