

Scott Michel Comments in New York Times on NY Hush Money Case Involving Trump

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New York Times

The New York Times reported a detailed analysis of the prosecution of former President Trump by the office of the NY District Attorney Alvin Bragg. Mr. Bragg has charged that Trump falsified business records in connection with “orchestrating a \$130,000 hush-money payment to a porn star and covering it up.” Such charges by themselves are misdemeanors, but if the falsifications occurred in connection with the commission of another offense, the allegations can rise to felonies.

Mr. Bragg’s office, according to *The New York Times*, has failed to specify precisely what other crimes the falsifications may have furthered, but speculation centers on election-related and tax fraud offenses. As to the tax aspects, the indictment alleges a scheme whereby Trump lawyer Michael Cohen was paid a purported legal fee to conceal that the transfer to him would be used to pay hush money. Mr. Cohen reported the legal fee on his tax returns and paid taxes on the amount he received, which had been “grossed up” to account for his tax obligations.

Willfully filing a false tax return can be a crime under New York (and federal) law even if there is no tax loss to the government. Thus, *The New York Times* reported:

Even though there was no effort to cheat on the taxes, any attempt to misrepresent the purpose of the hush money on tax documents could be considered a tax crime, experts said.

“What it really is to my observation is misusing the federal and presumably state tax system to characterize a transaction falsely,” said Scott D. Michel, a Member at Caplin and Drysdale. Discussing the prosecution’s apparent theory, he said, “You cannot have a tax system where people can abuse the filing process and abuse the reporting process to further criminal conduct.”

For the full article, please visit *The New York Times*’ website.

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