

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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January 22, 2019

Guy Petrillo, Esq.
Petrillo Klein & Boxer LLP
655 Third Avenue, 22d Floor
New York, NY 10017

Dear Mr. Petrillo:

We write concerning your client, Michael D. Cohen. Our staff recently met with Lanny J. Davis, who identified himself as Cohen's Washington, D.C. attorney and media advisor. Davis, a veteran Democrat political operative with expertise in public relations,¹ was unable to answer several questions about Cohen's appearance. He suggested you – as Cohen's criminal defense attorney – are best positioned to provide this assistance.

Scope of Cohen's testimony

Davis told us Cohen's testimony will exclude any matter "under investigation." The non-exhaustive list of issues that Cohen will refuse to address include matters involving the Attorney General for the State of New York, the United States Attorney's Office for the Southern District of New York, and the office of Special Counsel Robert S. Mueller III.

Of course, this is not an easy list of topics to sidestep at a Congressional hearing with such intense public interest. Our Members intend to ask Cohen whatever question they deem appropriate. Among other matters, we learned from Davis our Members will not receive answers to why Cohen defrauded the United States and the State of New York through his business dealings. He will not speak about representations and affirmations he made while seeking loans and other forms of credit from financial institutions. We will not be hearing testimony about why Cohen intentionally provided false and misleading testimony to the United States Congress in previous appearances. We will not be able to learn more about Cohen's role in federal campaign finance law violations. In fact, according to Davis, Cohen's testimony will be circumscribed to what *he* and you are comfortable with *him* addressing.

¹ According to publicity materials, Davis served as Special Counsel to President Clinton and was spokesman for the President and the Clinton White House on wide variety of matters. *Lanny J. Davis, About The Author*, Simon & Schuster, <https://www.simonandschuster.com/authors/Lanny-J-Davis/1446943> (last visited Jan. 18, 2019).

Origins of Cohen's appearance

According to Davis, he has been working with Chairman Elijah E. Cummings for “one or two months” on Cohen’s appearance before the Committee. After an unspecified number of meetings and communications, Davis indicated the Chairman finally “came around” to the idea of having a hearing.

Davis conceded Cohen did not want to testify—and in fact cannot testify about much due to the far-flung criminal investigations of which he is a target, subject or defendant—and Cohen is fearful for his family. Davis acknowledged, “I pushed him to do this,” explaining “this was my idea; nobody else’s.”

Davis confirmed he did not have any discussions with the Department of Justice or the Attorney General for the State of New York before offering Cohen’s appearance to the Committee. Davis is not asking permission, he told us. Instead, Davis stated, “I told them what our decision was.” “I picked this Committee,” Davis said, as the exclusive venue for Cohen to tell his own personal story. Davis indicated his longstanding personal relationship with Chairman Cummings was determinative. Davis stated Cohen does not plan to testify before any other congressional committees in open or closed session.

Purpose of Cohen's appearance

According to Davis, the sole purpose of Cohen’s appearance before the Committee is to allow Cohen to share his personal anecdotes about his time working for the then-private citizen Donald J. Trump, and his experiences after Mr. Trump became President. Pressed on how Cohen’s testimony is jurisdictionally related to the Committee’s role in overseeing the functioning, efficiency, and effectiveness of the federal government, Davis stated Cohen has “anecdotes about his time with the President.” He forewarned the hearing will likely be “unsatisfying” and “frustrating” for Members of the Committee.

Conflict of interest issues and compensation

Given Davis’s close association with former President Bill Clinton and 2016 Democratic nominee for President and former Secretary of State Hillary Rodham Clinton, we also have questions about how Cohen’s legal representatives resolve the conflict of interest Davis’s representation presents.² Davis’s role as consigliere for the Clintons and those close to them raises the specter his client loyalties may be divided. We seek clarification on whether any waivers have been executed.

We do know Cohen is not paying Davis. Davis told us his firm has a representation agreement with a fee. When asked directly whether Cohen is paying his fee, Davis cryptically

² The D.C. Bar Rules of Professional Conduct Rule 1.7 states: (b) . . . a lawyer shall not represent a client with respect to a matter if: . . . (4) The lawyer’s professional judgment on behalf of the client will be or reasonably may be adversely affected by the lawyer’s responsibilities to or interests in a third party or the lawyer’s own financial, business, property, or personal interests.

said he could not answer but if Cohen was paying his fee, “I would say yes.” If Davis is providing free media advisory or legal services, or if someone else is paying Davis’s fees, it adds to the perception Cohen’s appearance is a media stunt initiated, produced, and financed by career Democrat political operatives as a way of scoring political points against the President.

* * *

Several of our questions to Davis went unanswered. Davis, however, believed you were the person to whom we needed to speak.

One of the inherent challenges with the upcoming hearing Lanny Davis has arranged for Chairman Cummings is it will be occurring against the backdrop of news accounts published about the Special Counsel’s work that have proven untrue. Cohen is at the heart of two of these stories. On January 17, 2019, *BuzzFeed News* released a story titled, “President Trump Directed His Attorney Michael Cohen To Lie To Congress About The Moscow Tower Project,” reportedly citing evidence possessed by the Special Counsel’s office.³ Shortly after the publication, in an extremely rare public comment, the Special Counsel’s office released a statement, “BuzzFeed’s description of specific statements to the special counsel’s office, and characterization of documents and testimony obtained by this office, regarding Michael Cohen’s congressional testimony are not accurate.”⁴

The Buzzfeed story was not the first time a public report of this type had to be corrected. In August, Davis made inaccurate public statements about Cohen’s testimony to the Special Counsel about the June 2016 Trump Tower meeting.⁵ After Davis was forced to correct the record, the *Washington Post* reported, “[Davis] is backing away from confident assertions he made that Cohen has information to share with investigators that shows Trump knew in 2016 of Russian efforts to undermine Democratic nominee Hillary Clinton.”⁶ These stories represent some of the misinformation and confusion surrounding Cohen’s criminal cases. With this background, it is important for the Committee to receive accurate information to ensure a fact-based hearing.

³ Jason Leopold and Anthony Cormier, *President Trump Directed His Attorney Michael Cohen To Lie To Congress About The Moscow Tower Project*, BUZZFEED NEWS (Jan. 17, 2019), https://www.buzzfeednews.com/article/jasonleopold/trump-russia-cohen-moscow-tower-mueller-investigation?ref=hpsplash&bftw=&utm_term=4ldqpf#4ldqpf.

⁴ Statement of Peter Carr, U.S. Dep’t of Justice, Special Counsel’s Office (Jan. 18, 2019); Mary Clare Jalonick and Eric Tucker, *Mueller Disputes Accuracy of BuzzFeed Report on Trump*, AP (Jan. 18, 2019), <https://www.apnews.com/58e8eff8dabb4b5289e4db16435a2b02/>.

⁵ Tom Hamburger and Rosalind S. Helderman, *Attorney For Michael Cohen Backs Away From Confidence That Cohen Has Information About Trump’s Knowledge On Russian Efforts*, WASH. POST. (Aug. 26, 2018), https://www.washingtonpost.com/politics/attorney-for-michael-cohen-backs-away-from-confidence-that-cohen-has-information-about-trumps-knowledge-on-russian-efforts/2018/08/26/09d7f26e-a876-11e8-97ce-cc9042272f07_story.html?utm_term=.4ad53fcd6876 https://www.washingtonpost.com/politics/attorney-for-michael-cohen-backs-away-from-confidence-that-cohen-has-information-about-trumps-knowledge-on-russian-efforts/2018/08/26/09d7f26e-a876-11e8-97ce-cc9042272f07_story.html?utm_term=.4ad53fcd6876.

⁶ *Id.*

In preparation for the hearing, we have asked Chairman Cummings to require Cohen to participate in a transcribed interview, so we may better understand the matters on which he is and is not willing to speak. Davis told us, however, he will not allow this to happen. We also asked the Chairman to seek basic information from the Department of Justice or the Cohen legal team relating to the cases in which Cohen is a criminal defendant. Davis was able to provide some documents related to Cohen's sentencing hearing, but he referred us to you as someone well-positioned to be more responsive.

These are the information and materials we request:

1. Any FD-302 forms and any other investigative reports created by the DOJ or FBI in their investigations into Michael Cohen;
2. Any FD-1023 forms that may have been created involving Michael Cohen;
3. All cooperation agreements between Michael Cohen and DOJ;
4. Any notes taken by DOJ or FBI during their multiple interviews of Michael Cohen;
5. Documentation of all agreements Michael Cohen has with DOJ, the FBI, and any other foreign government's law enforcement agencies;
6. Any copies of waivers referring or relating to Cohen's client representations, whether related to attorney-client, conflict of interest, or otherwise;
7. Any copies of waivers referring or relating to Davis's representation of Cohen whether related to attorney-client, conflict of interest, or otherwise;
8. Identify the scope of Cohen's intended testimony before the Committee on February 7, 2019; and
9. Identify consultations the Cohen legal team has had with the Justice Department, the New York State Attorney General or other investigative or prosecutorial offices with an ongoing investigation of Cohen. For each consultation, identify the government official, the date, and the attendant or resulting testimonial scope limitation.

In summary, Davis made clear that Cohen's upcoming appearance before the Committee is entirely a result of Davis's orchestration. According to Davis, the hearing was Davis's idea and his alone. Cohen apparently did not want to testify—but Davis has persuaded Cohen to appear despite his concerns and fears. Davis picked our Committee as the exclusive venue for Cohen's appearance based on his long-standing personal friendship with Chairman Cummings,

Guy Petrillo, Esq.
January 22, 2019
Page 5

and it took Chairman Cummings one to two months to agree to Davis's plan for Cohen's appearance. Cohen will not testify to any matter "under investigation," and Davis predicted that this constraint will leave Members of the Committee "frustrated" and "unsatisfied." Cohen is apparently not paying Davis for Davis's considerable efforts in advance of this hearing.

As Cohen's February 7, 2019, appearance – the first major hearing for the Chairman – is quickly approaching, we hope you will provide the requested documents and other information no later than January 25, 2019. We look forward to hearing from you.

Sincerely,



Jim Jordan



Mark Meadows

cc: The Honorable Elijah E. Cummings, Chairman, Committee on Oversight and Reform
The Honorable Doug Collins, Committee on the Judiciary
The Honorable Devin Nunes, Permanent Select Committee on Intelligence
The Honorable Matthew Whitaker, Acting Attorney General, U.S. Dep't of Justice
The Honorable Robert S. Mueller III, Special Counsel, U.S. Dep't of Justice
The Honorable Geoffrey S. Berman, U.S. Attorney for the Southern District of New York
The Honorable Letitia James, New York State Attorney General
Lanny J. Davis, Esquire