

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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February 19, 2019

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

We write seeking clarification on a number of issues prior to Michael Cohen's upcoming appearance before our Committee. Cohen – your first announced witness as Chairman – has admitted to numerous crimes involving deception and lies. When Cohen appears before our Committee, we can only assume that he will continue his pattern of deceit and perjury. Although Cohen falsely attributes his crimes to “blind loyalty to Donald Trump,”¹ a federal judge correctly noted that Cohen's crimes were all motivated by his personal greed and ambition. Your willingness to bend to the will of Clinton operative Lanny J. Davis in holding this hearing—with an admitted serial liar as your first star witness—will make it impossible for any non-biased observer to avoid the conclusion that the Committee under your leadership is simply out to attack the President for partisan gain.

Cohen pleaded guilty to five counts of income tax evasion, one count of making false statements to a financial institution, one count of causing an unlawful corporate contribution, and one count of making false statements to Congress. Cohen remains under investigation by several law enforcement agencies. In an attempt to explain why he committed these crimes, Cohen told the United States District Court: “[m]y weakness can be characterized as a blind loyalty to Donald Trump, and I was weak for not having the strength to question and to refuse his demands.”² This is a knowing and intentionally false statement.

While Cohen has attempted to blame his criminality on “blind loyalty” to President Trump, the facts underlying his crimes show he was a perpetual liar motivated by his own greed. His actions were selfish, not selfless. Cohen lied on his tax returns to pay less taxes. He lied to a bank to get a loan he otherwise would not have received. The United States Attorney's Office for

¹ Statement of Michael Cohen, *United States v. Cohen*, Nos. 18-cr-602, 18-cr-850, at 27 (S.D.N.Y. Dec. 12, 2018) (sentencing hearing), <https://www.documentcloud.org/documents/5549667-Transcript-of-Michael-Cohen-sentencing.html>.

² *Id.*

the Southern District of New York (“SDNY”) described his crimes as being “marked by a pattern of deception that permeated his professional life (and was evidently hidden from the friends and family members who wrote on his behalf).”³ None of these crimes have anything to do with the President.

Because you intend on proceeding with Cohen’s appearance, the Committee must be able to fully assess Cohen’s credibility as a witness. Therefore, we intend to ask questions about Cohen’s conduct throughout his professional life and any other financial dealings he has had, including with his father-in-law. We intend to seek the information Cohen refused to provide the SDNY prosecutors. This is necessary for Congress to expose the fiction Cohen is attempting to perpetuate on the public—that his actions were out of loyalty—when in fact, as was clearly demonstrated at Cohen’s sentencing hearing, he was motivated by his own “greed and ambition.”

Cohen’s Lies to Defraud Financial Institutions

According to SDNY, between tax years 2012 and 2016, Cohen evaded taxes by failing to report more than \$4 million in income to the Internal Revenue Service (“IRS”), which resulted in the avoidance of more than \$1.4 million due in taxes to the United States Treasury Department. Specifically, Cohen failed to report several different streams of income on his tax returns, which he swore were true and accurate.⁴

Failing to disclose \$4 million in personal income to the IRS had nothing to do with Cohen’s false claims of “blind loyalty” to President Trump. The prosecutors at SDNY found that Cohen took “purposeful steps to avoid paying taxes on millions of dollars in income over a five-year period. He made private loans at double-digit interest rates and did not report [to the IRS] the millions of dollars in income it generated.”⁵ The prosecutors further explained that “Cohen failed to report hundreds of thousands of dollars in consulting income and legal work, and underreported payments he received from his ownership of taxi medallions.”⁶ Cohen “provided incomplete information to his accountant, lied about the existence or value of certain assets and income sources, and rebuffed questions that would have revealed income he deliberately concealed.”⁷

Michael Cohen did not confine his dishonesty solely to his taxes, he also lied to banks to obtain loans. According to SDNY prosecutors, “to secure loans, Cohen falsely understated the amount of debt he was carrying, and omitted information from his personal financial statements, to induce a bank to lend based on incomplete information.”⁸ Cohen “submitted a false statement to a bank that failed to disclose more than \$20 million in liabilities as well as tens of thousands in

³ The Government’s Sentencing Memorandum at 1, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. filed Dec. 7, 2018), <https://assets.documentcloud.org/documents/5453401/SDNY-Cohen-sentencing-memo.pdf>.

⁴ *Id.* at 4.

⁵ *Id.* at 25.

⁶ *Id.* at 26.

⁷ *Id.*

⁸ *Id.*

monthly expenses.”⁹ He lied purposefully, and, according to SDNY prosecutors, “Cohen was specifically asked about the omission, and covered it up by misleadingly telling [the Bank] that the liabilities had been expunged, when in fact they had been re-established at another bank.”¹⁰ Notably, “[t]his false statement was the latest in a series of false statements Cohen had made to this banker and others.”¹¹

All of Cohen’s false statements to these banks were made for his personal benefit. For example, in December 2015, Cohen applied for a home equity line of credit (“HELOC”) from a bank referred to as “Bank-3.” In his HELOC application, Cohen failed to disclose more than \$20 million dollars in debt and he understated his monthly expenses by at least \$70,000 in monthly payments he made to Bank-2 on the \$20 million debt.¹² According to SDNY prosecutors, “[t]hese statements were the latest in a series of false statements Cohen made to financial institutions in connection with credit applications.”¹³ Cohen also lied to this bank in 2013, in connection to a mortgage on his Park Avenue condominium. The SDNY prosecutors noted that “[i]n that application, Cohen did not disclose the \$14 million line of credit he had with Bank-1 at the time.”¹⁴

In yet another instance of making false statements to fraudulently finance extravagant home purchases, in February 2015, Cohen lied to Bank-3 on an application for financing to purchase a summer home for approximately \$8.5 million.¹⁵ The SDNY prosecutors found Cohen “had to go to great and deliberate lengths to keep the debt hidden from Bank-3” in order to receive the loan for the summer home (by this time, the \$14 million line of credit from Bank-1 had become \$20 million in refinanced loans with Bank-2).¹⁶ The prosecutors explained:

Cohen falsely stated that the \$14 million line of credit was undrawn and that he would close it. In truth, Cohen had effectively overdrawn the line of credit, by swapping it out for a fully drawn, larger \$20 million loan from Bank-2. Moreover, when Bank-3 informed Cohen that it would only provide financing if Cohen closed the line of credit, Cohen lied again, misleadingly stating in an email that “[t]he medallion line was closed in the middle of November 2014.”¹⁷

Cohen also lied when he “intentionally omitted tens of thousands in monthly interest payments he was making” on the \$20 million liability he was concealing.¹⁸ According to the SDNY prosecutors, “Bank-3 typically required that a borrower’s monthly expenses represent no more than 45 percent of his monthly income” and “[h]ad Cohen truthfully disclosed his

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 26-27.

¹² *Id.* at 8.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 8-9.

¹⁷ *Id.* at 9.

¹⁸ *Id.*

expenses, including the extent of the monthly interest payments he was required to make to Bank-3, Cohen's debt ratio would have significantly exceeded the benchmark."¹⁹ If Cohen had told the truth, his chances of getting personal financing for multiple home purchases would have been greatly reduced. Simply put, Michael Cohen lied to these banks out of personal greed and for personal benefit—so he could get loans he otherwise would not get.

Cohen's False Claims of "Blind Loyalty"

Cohen's false statements to the IRS and to financial institutions were made to benefit Cohen, and Cohen alone. According to the SDNY prosecutors: "Notably, each of the foregoing false statements involved Cohen overstating his assets or understating his liabilities, as in these instances it served his purposes to appear to have a higher net worth. In contrast, when it served Cohen's purposes to understate his net worth to financial institutions, he did so by concealing income and assets from his creditors."²⁰ Blind loyalty to the President had nothing to do with Cohen making these false statements. On the contrary, the SDNY prosecutors found that Cohen committed his crimes solely to benefit himself.

Cohen's claims of falling under a Svengali-like spell of blind loyalty to President Trump were dismissed outright by United States District Judge William H. Pauley III. Judge Pauley described Cohen's criminal conduct as "extensive," and remarked at his sentencing hearing that Cohen "pled guilty to a veritable smorgasbord of fraudulent conduct."²¹ Directly refuting Cohen's claims of blind loyalty, Judge Pauley found "[e]ach of the crimes involved deception and each appears to have been motivated by personal greed and ambition."²² The SDNY prosecutors elaborated that Cohen's "consciousness of wrongdoing is fleeting, that his remorse is minimal, and that his instinct to blame others is strong."²³ Tellingly, when Cohen could not blame his behavior on "blind loyalty" to President Trump, he tried blaming the bank he defrauded. According to Cohen's Presentence Report (as cited by the SDNY prosecutors), Cohen attempted "to lessen [his] culpability and place the burden on Bank-3."²⁴

On this record, it is apparent that Michael Cohen—the star witness in your partisan attack against the President—has no credibility as a witness before the Committee. Blaming the President for his criminal conduct is just another example of Cohen's primal instinct to blame others for his actions.

Cohen's False Claims of Cooperation

¹⁹ *Id.* at 9-10.

²⁰ *Id.* at 10.

²¹ Statement of Judge William H. Pauley III, *United States v. Cohen*, Nos. 18-cr-602, 18-cr-850, at 31 (S.D.N.Y. Dec. 12, 2018) (sentencing hearing).

²² *Id.*

²³ The Government's Sentencing Memorandum at 27, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. filed Dec. 7, 2018).

²⁴ *Id.*

Cohen also made false claims at his sentencing hearing about his cooperation with the Government in order to reduce or eliminate his prison term. Cohen claimed that he cooperated with prosecutors, and promised he would continue to cooperate with government, offering as much information as he truthfully possessed.²⁵

The SDNY prosecutors completely refuted this self-serving statement, stating Cohen “didn’t come anywhere close to assisting” that office in their investigation.²⁶ In fact, according to the prosecutors, there were a number of activities that Cohen refused to discuss with the SDNY prosecutors—activities which may have increased his prison term. In sum, Cohen avoided fully discussing his own crimes and misdeeds while attempting to shift the blame away from onto others to reduce his punishment.

Cohen’s Exploitation of the Trump Name for Personal Benefit

Contrary to Cohen’s false statements, publicly available information shows that Cohen sought to use his association with President Trump for Cohen’s personal gain. Cohen reportedly liked to brag that he was the President’s “fixer,” and sought to ingratiate himself with New York society. According to a profile in the *Washington Post*:

Yet, even while doting on “Mr. Trump,” as he called his boss, Cohen was squarely focused on his own ambitions. Trump was Cohen’s ticket to greater wealth, TV appearances and Page Six, the New York Post’s daily serving of intel about Manhattan’s jet set. Theirs was a relationship Cohen could boast about to anyone he encountered, including childhood friends from Long Island, some of whom said they did not expect him to amount to anything extraordinary.²⁷

The same profile noted how Cohen attempted to hold meetings with New York Republican Party officials under the guise of helping Mr. Trump launch a gubernatorial campaign. At these meetings, Cohen reportedly would turn the conversation into ways that Mr. Trump’s run could help him politically, from running for mayor of New York to even making a bid for lieutenant governor alongside Mr. Trump.²⁸

Cohen even paid someone to set up a fake Twitter account called @WomenForCohen.²⁹ One of the tweets from May 2016 stated: “No wonder @realDonaldTrump chose @MichaelCohen212 as his right hand man! He’s charming, intelligent, & handsome!” Once

²⁵ Statement of Michael Cohen, United States v. Cohen, Nos. 18-cr-602, 18-cr-850, at 28 (S.D.N.Y. Dec. 12, 2018) (sentencing hearing).

²⁶ *Id.* at 20.

²⁷ Paul Schwartzman, *Michael Cohen’s Secret Agenda*, WASHINGTON POST (Feb. 9, 2019), https://www.washingtonpost.com/graphics/2019/politics/michael-cohens-secret-agenda-as-trumps-fixer/?utm_term=.92bb1b12a558.

²⁸ *Id.*

²⁹ Michael Rothfeld et al., *Cohen Hired IT Firm to Rig Early CNBC, Drudge Polls to Favor Trump*, WALL STREET JOURNAL (Jan. 17, 2019), <https://www.wsj.com/articles/poll-rigging-for-trump-and-creating-womenforcohen-one-it-firms-work-order-11547722801>.

again, Cohen sought to leverage his association with Donald Trump to advance his own personal agenda.

Cohen's Testimony Is Not Credible

Ultimately, as the SDNY prosecutors found, Cohen's crimes were not "borne from naiveté, carelessness, misplaced loyalty, or political ideology. Rather, these were knowing and calculated acts—acts Cohen executed in order to profit personally, build his own power, and enhance his level of influence."³⁰ Cohen's claims of acting out of "blind loyalty" are patently false, and were rejected by both the SDNY attorney who prosecuted Michael Cohen and the Judge who sentenced him. There are also reported allegations that Cohen was filing fraudulent lawsuits long before he ever met President Trump.³¹

The purpose for which you have invited Michael Cohen to testify is, according Lanny J. Davis, to discuss personal anecdotes about President Trump. As articulated by Davis, Cohen's appearance has no nexus to the Committee's mission of overseeing the economy, efficiency, and effectiveness of the federal government.

If you insist on providing Cohen a venue to spin his personal anecdotes about the President, then it would be prudent to conduct transcribed interviews with others who also have personal experience with Cohen prior to this hearing. We ask that you arrange transcribed interviews with Cohen's former business partner Evgeny "Gene" Freidman, chairman of New York Republican Party Ed Cox, and other witnesses with firsthand information about Cohen's crimes of deception and lies. Information gained in these transcribed interviews would allow Members and the public to assess the credibility of Cohen's statements before the Committee.

To ensure all Members of the Committee are prepared adequately for this hearing, we have asked that you seek documents and testimony from DOJ and the FBI, and from Cohen.³² The following documents and information are necessary for the Committee to have a fact-based hearing—and avoid reckless speculation and conjecture at the hearing. To date, however, you have failed to request this material. Accordingly, we renew our request that you require the DOJ and the FBI to produce, in unredacted form, the following documents:

1. All FD-302 forms and any other investigative reports created by the DOJ or FBI in their investigations into Michael Cohen;
2. All FD-1023 forms that may have been created involving Michael Cohen;

³⁰ The Government's Sentencing Memorandum at 27-28, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. filed Dec. 7, 2018).

³¹ Seth Hettena, *Better Call Cohen: The Shady Cases of a Trump Lawyer's Personal Injury Practice*, ROLLING STONE (May 1, 2018), <https://www.rollingstone.com/politics/politics-news/better-call-cohen-the-shady-cases-of-a-trump-lawyers-personal-injury-practice-630515/>.

³² Letter from Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform, to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Jan. 11, 2019), <https://republicans-oversight.house.gov/wp-content/uploads/2019/01/2019-01-11-JDJ-to-EEC-re-Cohen-Testimony.pdf>.

3. All contact reports involving Michael Cohen and the FBI;
4. Michael Cohen's Presentence Report and Presentence Investigation file;
5. All notes taken by DOJ or FBI during their multiple interviews of Michael Cohen;
and
6. Documentation of all agreements Michael Cohen has with DOJ, the FBI, and any other foreign government's law enforcement agencies.

It is incumbent on our Committee to conduct our work thoroughly and responsibly. Michael Cohen's crimes of deception for personal greed and ambition—and his instinct to blame others for his actions—call into question the truthfulness of every word he will utter at your first big hearing. We trust you understand the dire consequences to the reputation of the Committee if you allow Cohen to continue his pattern of deceit for his personal gain. Cohen may benefit personally from spreading innuendo and gossip, but a partisan media circus designed solely to attack the President is of no benefit to the Committee, its mission, or our constituents.

We hope you will work with us and the Republican Members to avoid an unproductive and chaotic hearing. If you are going to provide a platform for this convicted felon and perjurer, we ought to ensure we have the necessary information to prepare to question him. As the Committee prepares for the seminal hearing under your leadership, we look forward to hearing back from you soon.

Sincerely,


Jim Jordan
Ranking Member


Mark Meadows
Ranking Member
Subcommittee on Government Operations