EXECUTIVE SESSION PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

INTERVIEW OF: GLENN SIMPSON

Wednesday, November 8, 2017

Washington, D.C.

The interview in the above matter was held in Room HVC-304, the Capitol, commencing at 10:14 a.m.

Present: Representatives Conaway, Rooney, Stewart, Gowdy, Stefanik, Schiff, Himes, Speier, Quigley, Swalwell, Castro, and Heck.

Appearances:

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:



For GLENN SIMPSON:

JOSHUA A LEVY, ESQ. ROBERT F. MUSE, ESQ. RACHEL CLATTENBURG, ESQ. CUNNINGHAM LEVY MUSE LLP 1250 CONNECTICUT AVE. NW, SUITE 200 WASHINGTON, DC 20036

interview of Glenn Simpson.

Thank you for speaking to us today. For the record, I am senior counsel here at the House Permanent Select Committee on Intelligence, for the majority. There are others present today who will introduces themselves as the proceedings progress.

Before we begin, I have a security reminder. If you haven't left your electronic devices outside, please do so at this time. This is to include BlackBerrys, iPhones, Androids, tablets, iPads, eReaders, laptops, iPods, recording devices of any kind, cameras, wireless headsets, and any bluetooth transmittable devices.

I also want to state a few things for the record before we proceed. The questioning will be conducted by members and staff during their allotted time period. Some questions may seem basic, but that is because we need to clearly establish facts and understand the situation. Please do not assume we know any facts you have previously disclosed as part of any other investigation or review.

We ask that you give complete and fulsome replies to questions based on your best recollection. If a question is unclear or you are uncertain in your response, please let us know. If you do not know the answer to a question or cannot remember, simply say so.

During the course of this interview we will take any breaks that you desire.

This interview will be transcribed. There is a reporter making a record of these proceedings so we can easily consult the written compilation of your answers at a later time.

Because the reporter cannot record gestures, we ask that you answer verbally. If you forget to do this, you might be reminded to do so. You may also be asked to spell certain terms or unusual phrases.

You are entitled to have counsel present for you, though you are not required to do so. I see that you have brought them with you.

At this time, if counsel could please identify themselves for the record and speak into the microphone.

MR. LEVY: Joshua Levy, counsel for Mr. Simpson.

MR. MUSE: Good morning. My name is Bob Muse. I am also counsel for Glenn Simpson.

And also with you?

MS. CLATTENBURG: Rachel Clattenburg, also counsel for Glenn Simpson.

Thank you all.

To ensure confidentiality we ask that you do not discuss the interview with anyone other than your attorney or attorneys. Consistent with the committee's rules of procedure, you and your counsel, if you wish, will have a reasonable opportunity to inspect the transcript of this interview in order to determine whether your answers were correctly transcribed.

The transcript will remain in the committee's custody. And the committee also reserves the right to request your return for additional questions should the need arise.

The process for the interview will be as follows. The majority will be given 45 minutes to ask questions, then the minority will be given 45 minutes to ask questions. Immediately thereafter we will take a 5-minute break, if you wish, after which time the majority will be given 15 minutes to ask questions and the minority will be given 15 minutes to ask questions. These 15-minute rounds will continue until questioning is complete, and time will be kept for each portion of the interview, with warnings given at the 5- and 1-minute marks, respectively.

Our record today will reflect that you have been compelled to appear today pursuant to a subpoena issued on October 4th, 2017.

Under procedures adopted for the 115th Congress and provided to you and your counsel, along with Rule XI of the Rules of the House of Representatives, only you or your personal counsel may make objections during a deposition.

Objections must be stated concisely, in an nonargumentative manner. If you or your counsel raise an objection, the interview will proceed and the testimony taken is subject to any objection.

You may refuse to answer a question only to preserve a testimonial privilege. When you or your counsel have refused to answer a question to preserve a testimonial privilege, the objection may be ruled on by the chairman after the interview has recessed.

Finally, you are reminded that it is unlawful to deliberately provide false information to Members of Congress or staff.

As this interview is under oath, at this time would you please raise your right hand to be sworn.

[Witness sworn.]

And the proceedings can commence.

Mr. Chairman.

MR. CONAWAY: Mr. Schiff.

MR. SCHIFF: Two issues I would like to raise. The first is that we have been have very interested in having Mr. Simpson's testimony. He cooperated with the Senate Judiciary Committee and the Senate Intelligence Committee and testified, I think, before one or the other for about 9 or 10 hours.

Because of the approach the majority has taken, Mr. Simpson is not going to be testifying today, as I understand it. He is going to be invoking the Fifth.

MR. CONAWAY: I understand that.

MR. SCHIFF: I think that has been communicated to the committee via his counsel.

And so, first, the approach the majority has taken has resulted in his noncooperation and litigation. So we are not likely to get his testimony today and we are embroiled in litigation, instead of the approach the Senate took on a bipartisan basis that resulted in his lengthy testimony.

And second, why are we proceeding the way we are only with witnesses from Fusion GPS? That is, we have had other witnesses before the committee indicate through counsel they intended to take the Fifth Amendment. We haven't dragged them in here to go through this show.

We are treating witnesses from Fusion GPS differently than we did with other witnesses before the committee. And my question is, why are we treating these witnesses differently.

MR. CONAWAY: So with respect to the first deal, asking the witness to come in and testify is really no different than what the Senate -- other committees have done. He chose to testify there, and we thought it would be appropriate to have him -- get one more shot at testifying here. If he decides to do something different than testify, then that'll be fine and we can move forward.

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MR. SCHIFF: I think that -- and I assume Mr. Simpson would have been very willing to make the same agreement with our committee as he did with the Senate. We chose not to do that.

MR. CONAWAY: And what agreement was that?

MR. SCHIFF: Well, I am sure his that counsel can tell us.

MR. CONAWAY: Well, why don't you tell -- you are making the case for them, Adam. What agreement did --

MR. SCHIFF: I am making the case for a fair committee process --

MR. CONAWAY: Right.

MR. SCHIFF: -- Mr. Chairman, which we are not following here.

MR. CONAWAY: Okay. Then, well, how are we not following it?

MR. SCHIFF: Well, number one, because we weren't willing to entertain the same cooperation agreement --

MR. CONAWAY: And what cooperation agreement is that?

MR. SCHIFF: Well, we can ask the lawyers.

And number two, we are treating these witnesses differently by forcing them to come in to invoke the Fifth when we didn't do that with the other witnesses.

MR. CONAWAY: All right. So let's do the first one first. Help me understand what I need to know about the agreement that the witness made with the Senate that you are aware of that I am not aware of. What is going on here?

MR. SCHIFF: Counsel, would you be willing to share that with us?

MR. CONAWAY: Hang on. You brought the objection, Adam. What is your objection to what we have done?

MR. SCHIFF: My objection is that the majority made the decision from the beginning it did not want his cooperation.

MR. CONAWAY: How do you know that?

MR. SCHIFF: Well, because the course of litigation is quite clear. You never consulted with the minority on how you interact with Fusion GPS. We merely found out through the litigation. We don't even know what the -- many of the documents and litigation are because you won't share them with the minority. That is highly irregular, to put it most --

MR. CONAWAY: Well, that is inside the committee. How does that affect our relationship to the witness?

MR. SCHIFF: Well, how it affects our relationship to the witness, is we, the minority, would like to know what he has to say.

MR. CONAWAY: Well, we do too, Adam, that's why we -- we do too, Adam. That's why we brought him down here -- or asked him to come down.

MR. SCHIFF: Because of your actions, unlike the bipartisan conduct in the Senate, we are not going to have the advantage of his testimony.

MR. CONAWAY: Okay. Help me understand.

MR. SCHIFF. Well, let's invite counsel to explain the agreement that they reached with the Senate.

[Discussion off the record.]

MR. CONAWAY: So what would the counsel like to say as to why are the witness is here this morning?

MR. LEVY: On October 16th, counsel for Fusion GPS submitted a letter to this committee in response --

MR. CONAWAY: Is that the 17-page letter?

MR. LEVY: I believe it was 16 or 17 pages. I don't know exactly how long it was.

The letter responded to four subpoenas -- three or four subpoenas that this committee issued to Fusion GPS' principals. And in that response we attached a letter from Chairman Grassley and Ranking Member Feinstein of the Senate Judiciary Committee that was dated August 3rd, 2017. And in that letter it specified the terms of its agreement with Mr. Simpson for his cooperation.

And we presented the same terms to your staff when we met with staff the day before the subpoenas were issued. And I can point you to that in the record.

MR. CONAWAY: All right. So as I understand it, the witness has asked to limit the scope of our inquiry. Apparently that was okay with the Senate Judiciary Committee because they are looking at things that we are not. We are looking at a different scope. And so the limitations on the scope were unacceptable and we have asked him to come in.

None of the other witnesses who pled the Fifth lit us up with a -- that -- insulting the integrity of the committee of the investigational process. And we thought it was appropriate to ask Mr. Simpson to come in and testify.

MR. SCHIFF: So Mr. Simpson is being punished for asserting --

MR. CONAWAY: No. He is being asked to come in to testify under subpoena to answer the questions that we believe are appropriate for the investigation without the scope limitations.

MR. SCHIFF: But because Mr. Simpson's counsel wrote a letter to the committee, the answer is that we are going to punish him by coming in, because he asserted his --

MR. CONAWAY: No, the answer is that he made -- he sent us a letter, and we would like to have you come in and respond to the subpoena to testify in front of the committee.

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MR. SCHIFF: And is it because the other witnesses who have pleaded the Fifth did not send a letter that they were not required to come in?

MR. CONAWAY: The witness has been asked to come down here in compliance with a subpoena. The reason why the scope limitations is unacceptable -- I assume the scope limitation would be unacceptable to you as well, but apparently not. It is unacceptable to us in terms of trying to get a fulsome investigation done. And we can get this over with pretty quickly if, in fact, he intends to plead the Fifth.

If he wants to cooperate, we have given him that full opportunity this morning to get that done and taken care of by asking him to come down here and testify in front of the committee.

MR. SCHIFF: And what was unacceptable about the scope limitations?

MR. CONAWAY: We are not going to limit the scope for anybody else. We are not going to limit the scope of the investigation. We need to be able to ask questions, including riveting questions that we had yesterday on who hired the car to take somebody from an airport to the hotel.

So we are not going to limit the scope of the investigation. It still falls within the four questions that we are supposed to ask.

MR. SCHIFF: Mr. Chairman, just last week we agreed to special conditions to allow Carter Page to testify that the Senate did not agree to.

MR. CONAWAY: Right.

MR. SCHIFF: That is, we agreed to depart from our committee rules to publish his transcript. Even though he testified without invoking the Fifth in the Senate, we are more than capable and have demonstrated a willingness to accommodate witnesses before the committee, particularly as to scope, and in fact redacted portions of the transcript from last week.

And we have also had the majority sustain objections to the questions which the minority asked because the majority decided they were beyond the scope of what the majority wanted to learn.

But in any event, you are the majority, you can proceed, but I want to point out the result here is we are not going to get testimony where the Senate did, so we are going to learn nothing from this witness. And I don't think that's a particularly productive course of action.

We have had the same problem, frankly, with how the majority approached Christopher Steele, who the minority also wanted to seek his cooperation. And in both cases, the result is noncooperation and nontestimony.

MR. CONAWAY: Let's limit this conversation to Mr. Simpson.

MR. GOWDY: What scope limitations would you agree to, to gather his testimony today?

MR. SCHIFF: I don't know, Mr. Gowdy, but I would be willing --

MR. GOWDY: Well --

MR. SCHIFF: I would be -- if I can finish, you asked me a question.

MR. GOWDY: Sure.

MR. SCHIFF: I would be willing to work in good faith with Mr. Simpson to secure his cooperation before the committee, much as he did in the Senate. The results here --

MR. GOWDY: I don't know what work in good faith means, Congressman. I have listened to a series of questions where relevance was not a proper objection. Very few things have been ruled out of order in terms of questions. You have fought very strenuously to have a very broad view of those four pillars.

So my question is, if anyone is treating a witness differently, it would be you treating this witness differently and that you are willing to limit the scope of our jurisdiction.

And my question -- I want his testimony -- my question is, how are you willing to limit it? If you won't limit other witnesses, how are you willing to limit this witness' scope so we can gain his testimony today?

MR. SCHIFF: What I would suggest, Mr. Gowdy, which we recommended from the very beginning, is instead of having the majority on a partisan unilateral basis interact with the witnesses to determine whether they testify, the conditions of their testimony, you might actually sit down with us in the minority and have us work jointly with the witnesses and see if we can hammer something out.

MR. GOWDY: Since we are all here now, what limitations would you like to place on his testimony this morning so we can gather whatever information he is willing to share with us?

MR. SCHIFF: Let me ask counsel.

Can you tell us about the agreement that you entered into with either Senate Judiciary or Senate Intel that was successful in securing Mr. Simpson's cooperation?

MR. LEVY: The August 3rd letter from the Senate Judiciary Committee to Mr. Simpson specifies the scope of that interview. While limited, it was broad. And we could work with -- we offered to work with your staff and the minority staff to figure out a road forward so that there was an identifiable scope so that you could get the information you wanted.

We also needed to protect privileges and legal obligations.

And another condition of the Senate Judiciary Committee letter was that the

chair and the ranking member agreed that nothing that Mr. Simpson said in that interview would interfere with his ability or the company's ability to assert its privileges going forward in that committee's investigation, and we asked that your staff work with us on that agreement. Same terms that two other committees investigating the same subject matter area have agreed to. And a day later, after what we thought was a very good meeting, we received subpoenas.

MR. GOWDY: Well, if we were to proceed today, what questions would be off limits? What areas would you like us not to go into?

MR. LEVY: It's not that we don't want you to go into certain areas, Congressman. It is that we just want to have notice about roughly what the contours of the interview would be within the broad -- very broad scope of what we understand are parameters as defined in the committee's press release.

MR. GOWDY: Do you take exception with the four pillars of jurisdiction that we have cited for every other witness? What did Russia do with respect to our 2016 election process? Who, if anyone, did they do with? What was the U.S. Government's response? And then the issue of maskings or the dissemination of classified information. Do you object to any of the those four areas?

MR. LEVY: I am not objecting or taking exception. It is more that in nearly every other investigation where I have been representing witnesses or participated as an investigator myself it is reasonable to identify a scope of the interview. And there was no scope of the interview identified. And we asked to work with staff to identify that scope and the answer was no.

MR. GOWDY: I guess I think that's what Chairman Conaway is trying to do this morning, is those are the four pillars of our jurisdiction. So can we ask

questions within those four pillars?

MR. LEVY: Well, let's identify. I am happy to discuss this with you Mr. Gowdy. We can talk with staff.

MR. GOWDY: But your talks with staff haven't gotten us very far. So that's why I am wondering, are you willing to talk to Mr. Conaway and decide with Mr. Conaway what questions you think are outside the scope of this committee's investigation?

MR. SCHIFF: And I assume you mean Mr. Conaway and Mr. Schiff, right? MR. GOWDY: Yes.

MR. SCHIFF: Thank you.

MR. GOWDY: I figured that was a given.

MR. LEVY: Assuming that we can achieve an agreement between the chair and the ranking member on the protection of privileges and our client's legal obligations. That was a very material part of the letter that we received from the other committees, and we would like to make sure that we have that assurance. If we have that assurance, we can continue to work with you and/or your staff.

MR. GOWDY: Which privileges in particular are you concerned about?

MR. LEVY: Constitutional and common law privileges, First Amendment, Fifth Amendment, attorney work product doctrine.

MR. GOWDY: I have a vague familiarity with the Fifth Amendment. What is the First Amendment privilege?

MR. LEVY: There is a First Amendment privilege to free association and free speech.

MR. GOWDY: I agree with both of those. How would they limit your client's ability to answer questions?

MR. LEVY: Well, they wouldn't if the committee agreed that nothing he said would interfere with his ability or the company's ability to assert that privilege going forward in the investigation as to requests for documents or to other testimony sought by this committee from Mr. Simpson or any other individual at Fusion GPS.

MR. GOWDY: Maybe I have been out of the practice too long. Can you cite me to the case where I can familiarize myself with a First Amendment privilege to not answer questions?

MR. LEVY: Sure. There's a case in Alaska, a Federal court, that was decided last year by Judge Russell Holland, the judge that presided over the Exxon Valdez case, in which there was a First Amendment challenge to subpoenas for documents and testimony in Pebble Limited Partnership v. EPA. And in that case, the Canadian mining consortium had served subpoenas on a number of its political rivals for their internal strategic communications and for their testimony. And the judge quashed the subpoena on First Amendment grounds, among other grounds.

MR. GOWDY: Can you cite a case above the F. Supp. level? That's a court of appeals case you've been citing. Is there a U.S. Supreme Court case? am familiar with the Fifth Amendment, I am just not familiar with the First Amendment right to not answer questions.

MR. LEVY: Sure. And I don't know if, respectfully, Mr. Gowdy, if you have a case that goes the other way. But NAACP v. Alabama is a Federal Court of Appeals case which preserves the First Amendment right in the face of a subpoena.

There is another case, the name of which escapes me right now, but it dealt

with an effort in California with regard to the protection of same-sex rights in which a party had served subpoenas on its rivals for internal strategic communications, and that court, at the appellate court level, invalidated that subpoena as well.

There is a district court case in the District of Columbia, it's at the F. Supp. level. It's Wyoming v. some government agency that also struck down a subpoena on First Amendment grounds and some other grounds.

So this isn't an unfamiliar area of the law for the Federal courts. It's a well-established principle. It's one that I know both parties are very much in favor of protecting the First Amendment.

MR. SCHIFF: Counsel, can I just interject for a moment? And I only know what I have read about this in the paper.

But from what I read in the paper, I assume that what the issue may be here is, if we are concerned about knowing what Fusion GPS' relationship was with Christopher Steele or who paid for what or other clients they might have related to the Russia stuff, I don't think it's an issue.

If, on the other hand, what we are interested in doing is finding out about other clients who are unrelated to this investigation or other op research they've done that would essentially destroy the firm, then it's an issue.

And so if -- and that's just my reading about this in the papers. If that's the issue, we should be able to resolve that and narrow this to, "Okay, we'll ask about stuff that's relevant to the Russia investigation," not unlike the discussion we had with the witness yesterday about other clients, which we ended up confining to those that were pertinent to the investigation.

If that's the issue, I don't know if it is, that seems it to be eminently resolvable.

MR. GOWDY: Well, I'm outside my jurisdiction. I'm not the chairperson. But --

MR. CONAWAY: We asked Mr. Simpson to come down here today to hear from him. And if counsel thinks we can get that done posthaste and get this thing finished this morning, then I would prefer to go ahead and get it done. But I don't have a clue why your First Amendment rights are at risk from this committee. But, anyway, if we can get that fixed.

We intend, the majority intends to stick to the four questions that we're trying to answer. And I have no idea what my colleagues on the other side of the aisle intend to pursue. But sticking to the four questions is the broad interpretation as we've been using. I would be fine with sticking to that.

MR. LEVY: We set forth a legal memorandum on the First Amendment privileges, which is a large reason why the letter on October 16 was so long. We wanted to set forth the points and authorities in support of that argument.

And we can work with you if we get a written assurance from the chair and the ranking member that the privileges will be protected and that any testimony by our client won't interfere with their ability to invoke any of their constitutional privileges or any of their common law privileges going forward in this investigation.

MR. CONAWAY: Yeah. Well, I am the only nonlawyer in the group, a CPA, and I am a little concerned as to how this committee could interfere with your constitutional rights to do anything. But okay.

Let's -- do you guys think we can work this out or do we have to reset this whole process?

All right. If we could ask the witness and go off the record -- ask the witness and his counsel to give us the room, we'll talk to our colleagues on the

other side of the aisle and see if we can't figure out a way to get this done.

[Discussion off the record.]

[12:47 p.m.]

MR. CONAWAY: All right. During the recess, we think we've collectively come to an agreement that will allow Mr. Simpson to voluntarily testify.

Mechanically, what we would like to do or will do is we will extend the subpoena until next Tuesday, the 14th, at which time we'll schedule you guys to come back.

When you appear, we will sign the agreement that's been drafted that you have a copy of, we will immediately withdraw the subpoena, to allow Mr. Simpson to testify or to be interviewed on a voluntary basis.

Is there anything with respect to that that you guys disagree with? Say again?

MR. LEVY: We agree, subject to the language that we've reviewed in the draft letter that your staff has presented to us.

MR. CONAWAY: Oh, sure. You'll leave today with that draft -- well, it will be the same letter. We'd rather that not be in the public arena. But we won't change that letter that both sides, Adam and his team and my team, have agreed to with you guys.

So if we're in agreement, then we will stand in recess until 10 o'clock next Tuesday.

Mr. Simpson, are you okay with that?

MR. LEVY: We're in agreement.

MR. CONAWAY: Thank you.

We're at recess.

[Whereupon, at 12:49 p.m., the interview was concluded.]