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August 15, 2019

By Email

Honorable Jerrold Nadler, Chairman
House Committee on the Judiciary
Washington, DC 20515-6216

Re: Hope Hicks

Dear Chairman Nadler:

On behalf of our client, Hope Hicks, we are writing in response to your letter of July 18, 2019 requesting clarification regarding her testimony before the House Judiciary Committee on June 19, 2019. Ms. Hicks stands by her testimony. She had no knowledge of, and was not involved in any conversations about, “hush money” payments to Stormy Daniels during the campaign. The information she provided to the Committee was truthful to the best of her knowledge and recollection.

Before we address the specific points in your letter, some background is important. Your letter resulted from the release on July 18, 2019 of search warrant affidavits in the Michael Cohen matter. The search warrant affidavit quoted in your letter was dated April 8, 2018, and the search of Mr. Cohen’s residence and office, as well as his safe deposit box and his two cellphones, occurred the following day. The government had earlier obtained evidence from Mr. Cohen’s email accounts.

Over two months later, on June 27, 2018, Ms. Hicks appeared for an interview with the U.S. Attorney’s Office in the Southern District of New York. She did not request immunity, nor was it offered. In keeping with routine practice in such circumstances, the U.S. Attorney’s Office did offer Ms. Hicks a “proffer agreement,” which assured her that whatever she said during the interview would not be used against her in the future. While witnesses generally accept this protection provided in a “proffer agreement,” Ms. Hicks declined to enter into the proffer agreement with its additional protection for her, and instead she submitted to the interview without any agreement with the government other than to tell the truth to the best of her knowledge and recollection. At that time, the prosecutors obviously had all the information that they used to obtain the April 8, 2018 warrant, plus whatever else they had gathered prior to Ms. Hicks’s interview,

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including from the searches executed over two months before, which included searches of Mr. Cohen's iPhones.

Ms. Hicks was asked about phone calls with Mr. Cohen on October 8, 2016 and about when she first learned about a so-called "hush money" agreement with Stormy Daniels [Stephanie Clifford]. Nothing Ms. Hicks said during her June 27, 2018 interview with the U.S. Attorney's Office is at odds with what she later told the Judiciary Committee. Since June 27, 2018, the U.S. Attorney's Office has not raised any question with Ms. Hicks or her counsel about anything she said during that interview. As you know from the recent disclosure by the U.S. Attorney's office, the "Government has effectively concluded its investigations of (1) who, besides Michael Cohen, was involved in and may be criminally liable for the two campaign finance violations to which Cohen pled guilty ... ; and (2) whether certain individuals ... made false statements, gave false testimony or otherwise obstructed justice in connection with this investigation" (Government's July 15, 2019 letter to Court, filed July 18, 2019.)

Subject to the limitations placed on her as a current or former senior official in the White House, Ms. Hicks has cooperated fully with the Judiciary Committee and other Congressional committees as well as the Office of Special Counsel and the United States Attorney in the Southern District of New York. She has voluntarily submitted to interviews, and she has always answered questions truthfully to the best of her knowledge. She knows precisely when and how she first learned about Karen McDougal, Ms. McDougal's agreement with American Media, and "hush money" payments to Stormy Daniels [Stephanie Clifford]. It was all from press inquiries. Her testimony about those subjects before the Judiciary Committee, like the information she provided to the United States Attorney in the Southern District of New York and the Office of Special Counsel, was truthful and accurate.

In considering the questions raised in your letter, it is important to recognize the limitations of the information in the search warrant affidavit. Except for references to a few texts that were sent on November 4 and 5, 2016 (§ 40(e)), the material in the affidavit relating to Ms. Hicks is simply a chronology of phone calls, without any information about their contents. The fact that various phone calls happen on the same date does not mean they were about the same topic. In the wake of the October 7, 2016 disclosure of the *Access Hollywood* videotape, there were numerous rumors and press inquiries having nothing to do with Karen McDougal or Stormy Daniels. The affidavit does not demonstrate that Ms. Hicks had any knowledge of any arrangement with Ms. McDougal before November 4, 2016, nor does it show that Ms. Hicks had any knowledge during the campaign period of any arrangement with or payments to Ms. Daniels. Moreover, with one exception (*see* § 37(d)), all the calls identified in the affidavit involved Michael Cohen. None of Ms. Hicks' phone calls or conversations with other people on the relevant dates appear in the affidavit, yet any one of those other events could have been the impetus for a call to Mr. Cohen. The affidavit thus contains only an incomplete and misleading picture of Ms. Hicks' activities.

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Your July 18 letter sets out six exchanges from Ms. Hicks' testimony, and then, on pages 3-4, identifies six alleged inconsistencies between her testimony and the material in the search warrant affidavit. Each one is addressed below.

- The first bullet point on page 3 asserts that according to the affidavit, Ms. Hicks appears to have had “direct knowledge of potential payments to Ms. Daniels.” To the contrary, Ms. Hicks testified truthfully that she had no such knowledge. She was not involved in any discussions about any potential payments. The statement from the affidavit quoted in this bullet point does nothing more than list people with whom Cohen exchanged calls and messages, and contains no information about the contents of the calls or Ms. Hicks' actual knowledge.

- The second bullet point asserts that Ms. Hicks appears “to have communicated directly with Mr. Cohen and President Trump about these payments long before they were made.” To the contrary, Ms. Hicks testified truthfully that she was not involved in any communications about payments to Stormy Daniels during the campaign. Your letter cites the chronology of calls from the affidavit, but this is not proof of Ms. Hicks' knowledge or of the contents of the calls.

The affidavit identifies three calls involving Ms. Hicks and Mr. Cohen on the evening of October 8, 2016, including one, the first call, that Mr. Trump joined. Although she cannot recall the details of each call, she is quite certain that none of her calls that day with Mr. Cohen related to any agreement with or payments to Stormy Daniels [Stephanie Clifford]. One of the many press inquiries Ms. Hicks received following the release of the *Access Hollywood* videotape the day before related to a rumor of a videotape, now known to have originated with the Steele dossier, involving Mr. Trump in Moscow with Russian prostitutes. As Ms. Hicks testified before the Judiciary Committee (Transcript at 196-97), because the website TMZ was rumored to have access to the videotape, and because she knew that Mr. Cohen had a good relationship with Harvey Levin of TMZ, she contacted Mr. Cohen on October 8, 2016, about the rumored videotape. She believes that her calls with Mr. Cohen that day would have been about reaching out to Harvey Levin to see if there was more information about the rumored videotape. Whatever else Mr. Cohen was dealing with that day, his conversations with Ms. Hicks were not about Stormy Daniels or any agreement relating to “hush money.”

On February 27, 2019, Mr. Cohen testified before the House Committee on Oversight and Reform as part of his cooperation with the government. He was asked about the immediate aftermath to the disclosure on October 7, 2016 of the *Access Hollywood* videotape. Mr. Cohen testified that he was in London with his family and Ms. Hicks called him during dinner, stating “that she had just spoken to Mr. Trump and we need you to start making phone calls to the various different news outlets that [Mr. Cohen had] relationships with, and we need to spin this.” (Cohen Transcript at 33.) Although Mr. Cohen did not describe the October 8 conversations as Ms. Hicks has—he made no mention of the videotape in Moscow or of TMZ or Harvey Levin—significantly he did not describe his conversations with Ms. Hicks as being related to any “hush money” payments.

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As with the other calls in the chronology, the affidavit provides no information about the content of the October 28, 2016 call between Ms. Hicks and Mr. Cohen. Ms. Hicks does not remember the reason for that call. But as she has testified, and consistent with what she told prosecutors previously, she was not aware during the campaign of any alleged payments to Ms. Daniels.

- The third bullet point asserts that during her testimony, Ms. Hicks “suggested that any knowledge [she] may have had about the President’s arrangement with Ms. Daniels during the campaign was limited to information relayed to [her] from the press,” but that the record “now seems to suggest that [she] obtained additional information directly from Mr. Cohen prior to any public reporting on the matter.” The suggestion that Ms. Hicks obtained information from Mr. Cohen about any arrangement with Stormy Daniels during the campaign, or before it became known to the press, is not true.

This bullet point conflates the issues relating to Stormy Daniels and Karen McDougal. Ms. Hicks testified during her interview that in early November 2016, she received an inquiry from the *Wall Street Journal* about an arrangement with Karen McDougal, not Ms. Daniels. (See Transcript of June 19, 2019 Interview at 49-50, 151-52, 181, 183-84, 198-99, 266-68) The inquiry made reference to an alleged arrangement between Ms. McDougal and American Media that Ms. Hicks had no prior knowledge of. (Transcript at 181, 183) On November 4, 2016, while looking into the reporter’s inquiry, Ms. Hicks reached out to David Pecker of American Media. (*Id.*) Mr. Pecker explained that American Media had a contract with Ms. McDougal to provide content for their magazines (Transcript at 198-99), and provided Ms. Hicks with the statement that American Media was giving to the *Wall Street Journal*. (Transcript at 151-52, 181, 183-84) Ms. Hicks also communicated with Michael Cohen on November 4, 2016 about the inquiry about Karen McDougal. (See Transcript at 265, 267)

The *Wall Street Journal* reporter who made the inquiry also told Ms. Hicks that Stormy Daniels would be mentioned in the article. (Transcript at 266-67) In testifying about her communications with Mr. Cohen, Ms. Hicks stated that “I don’t recall speaking to him about Stormy other than to relay what the reporter said to me, that she would be mentioned in the story, but there was no additional context.” (Transcript at 266) Ms. Hicks did not testify or suggest that the reporter gave her any information about “the President’s arrangement with Ms. Daniels.” A review of the published article, which is enclosed, shows that it was focused on Ms. McDougal. While the article does briefly mention Ms. Daniels, it makes no mention of any agreement with her. In fact, it was over a year later, in January 2018, that the *Wall Street Journal* first wrote about an agreement with Ms. Daniels to keep her from disclosing a sexual encounter with Mr. Trump.

The third bullet point further insinuates that Cohen spoke frequently to Ms. Hicks about “these payments” before they were reported in the press. This is not true. Ms. Hicks was not part of any conversations about hush money payments to Ms. Daniels before they were reported. The

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sentence from the affidavit that is partially quoted in this bullet point refers to conversations about whether the *Wall Street Journal's* story would get “national traction,” and not to conversations about payments.

- The fourth bullet point asserts that “After the payments were made, [Ms. Hicks] appears to have communicated directly with Mr. Cohen about how to prevent disclosure of those payments from becoming public.” Again, this is not true.

Ms. Hicks told the Committee that after receiving the inquiry from a *Wall Street Journal* reporter, she spoke to Mr. Cohen and others on November 4, 2016 to determine how to respond. According to the affidavit, the article, which focused on Karen McDougal, was published online at about 9:50 p.m. on November 4. (¶ 40(e).) The next day, Mr. Cohen texted Ms. Hicks that the story was “Getting little to no traction.” (*Id.*) The reference to “traction,” made after the *Wall Street Journal* article had been published, plainly had to do with whether the story about Karen McDougal would be reported further (Transcript at 266), and not to an attempt to conceal payments to Ms. Daniels—which were not the topic of the article and which Ms. Hicks had no knowledge of in any event.

- Ms. Hicks testified truthfully that to her knowledge she never spoke to Keith Davidson during the campaign nor did she speak with Dylan Howard or anyone else at American Media about a negative story about Mr. Trump prior to its release. (Transcript at 184) The fifth and sixth bullet points suggest that this testimony is called into question by statements in the affidavit that on November 4, 2016, Mr. Cohen, who was using two different cellphones, appears to have been on a call with Ms. Hicks and Mr. Davidson at the same time (the affidavit does not state for how long), and later on a call with Ms. Hicks and with Mr. Howard at the same time (these calls had “about a minute of overlap”). But the affidavit relies on nothing more than the coincidence of the calls. Ms. Hicks can confirm that it was not unusual for Michael Cohen to have separate conversations on two different phones at the same time. Since Mr. Cohen did not join the parties in a single conference call, the more natural inference from these facts is that Mr. Cohen had separate unrelated conversations with each person. Ms. Hicks stands by her testimony that to her knowledge she never spoke to Keith Davidson during the campaign and did not speak with Dylan Howard or anyone else at American Media about a negative story about Mr. Trump prior to its release.


In sum, the information in the search warrant affidavit is not inconsistent with Ms. Hicks’ testimony, and does not establish any lack of candor on her part. Ms. Hicks took her obligations seriously when she was interviewed by the Committee. Her testimony was consistent with her previous statements on these issues and was truthful to the best of her knowledge and recollection.

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Please contact us if you have further questions.

Sincerely,



Robert P. Trout



Gloria B. Solomon

RPT/GBS/mt

Enclosure

cc: Honorable Doug Collins, Ranking Member, House Committee on the Judiciary

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<https://www.wsj.com/articles/national-enquirer-shielded-donald-trump-from-playboy-models-affair-allegation-1478309380>

ELECTION 2016

National Enquirer Shielded Donald Trump From Playboy Model's Affair Allegation

Tabloid owner American Media agreed to pay \$150,000 for story from 1998 Playmate of the Year, but hasn't published her account



Donald Trump and former Playboy model Karen McDougal PHOTO: ASSOCIATED PRESS; GETTY IMAGES

By Joe Palazzolo, Michael Rothfeld and Lukas I. Alpert

November 4, 2016

The company that owns the National Enquirer, a backer of Donald Trump, agreed to pay \$150,000 to a former Playboy centerfold model for her story of an affair a decade ago with the Republican presidential nominee, but then didn't publish it, according to documents reviewed by The Wall Street Journal and people familiar with the matter.

The tabloid-newspaper publisher reached an agreement in early August with Karen McDougal, the 1998 Playmate of the Year. American Media Inc., which owns the Enquirer, hasn't published anything about what she has told friends was a consensual romantic relationship she had with Mr. Trump in 2006. At the time, Mr. Trump was married to his current wife, Melania.

Quashing stories that way is known in the tabloid world as "catch and kill."

In a written statement, the company said it wasn't buying Ms. McDougal's story for \$150,000, but rather two years' worth of her fitness columns and magazine covers as well as exclusive life

rights to any relationship she has had with a then-married man. "AMI has not paid people to kill damaging stories about Mr. Trump," the statement said.

Hope Hicks, a Trump campaign spokeswoman, said of the agreement with Ms. McDougal: "We have no knowledge of any of this." She said that Ms. McDougal's claim of an affair with Mr. Trump was "totally untrue."

Ms. McDougal expected her story about Mr. Trump to be published, people familiar with the matter said. American Media didn't intend to run it, said another person familiar with the matter. Ms. McDougal didn't return calls for comment.



American Media CEO David Pecker PHOTO: ROSS WHITE/BFA

Mr. Trump and American Media Chairman and Chief Executive Officer David J. Pecker are longtime friends. Since last year, the Enquirer has supported Mr. Trump's presidential bid, endorsing him and publishing negative articles about some of his opponents.

In a written statement, Mr. Pecker said that it is no secret that he and Mr. Trump are friends and that he greatly admires him. However, he said, the Enquirer under his management "set the agenda" on Mr. Trump's affair with Marla Maples when he was married to his first wife. "That in itself speaks volumes about our commitment to investigative reporting," he said.

AMI covered some of Mr. Trump's relationship with Ms. Maples after Mr. Pecker arrived there in 1998. However, Mr.

Pecker had not joined the company when their extramarital affair was first exposed in the early 90s.

A contract reviewed by the Journal gave American Media exclusive rights to Ms. McDougal's story forever, but didn't obligate the company to publish it and allowed the company to transfer those rights. It barred her from telling her story elsewhere. The company said it also would give her monthly columns to write and would put her on magazine covers.

AMI said in a written statement the company was pleased to hire Ms. McDougal as a columnist.

MORE ELECTION 2016 COVERAGE

The tabloid publisher didn't publish Ms. McDougal's story of the alleged extramarital affair even after Mr. Trump's alleged relationships with and comments about women became a campaign issue. In October, the Washington Post published a videotape made by "Access Hollywood" of Mr. Trump, in which he spoke of groping women. Several women subsequently said publicly that he had made unwanted sexual advances.

Mr. Trump has denied their accounts and apologized for his remarks on the tape, calling them locker-room banter.

Ms. McDougal, who continued modeling after appearing in Playboy, told several of her friends she had a relationship for about 10 months with Mr. Trump, beginning in 2006 and lasting into 2007, according to people familiar with her account. Another friend told the Journal that Ms. McDougal's relationship with Mr. Trump lasted about a year.

A friend of Ms. McDougal's recalled attending the Miss Universe pageant at the Shrine Auditorium in Los Angeles as a guest of Mr. Trump in 2006. Mr. Trump's limousine picked up Ms. McDougal and her at Ms. McDougal's Beverly Hills home, and the two women sat in the front row with Mr. Trump and music producers Quincy Jones and David Foster. Mr. Trump escorted them home, the friend said.

Messages left with representatives for Messrs. Jones and Foster weren't immediately returned.

In July, Ms. McDougal was in talks with producers at ABC News to tell her story, but she ultimately agreed to the deal with AMI, guided by her lawyer Keith Davidson, according to two people familiar with the discussions.

"I did indeed represent Ms. McDougal and currently represent Ms. McDougal in her negotiations with American Media Inc. to provide services to them," Mr. Davidson said.

Mr. Davidson also represented Stephanie Clifford, a former adult-film star whose professional name is Stormy Daniels and who was in discussions with ABC's "Good Morning America" in recent months to publicly disclose what she said was a past relationship with Mr. Trump, according to people familiar with the talks. Ms. Clifford cut off contact with the network without telling her story. She didn't respond to requests for comment.

An ABC spokesperson declined to comment on Ms. McDougal or Ms. Clifford.

The Trump spokeswoman, Ms. Hicks, said it was "absolutely, unequivocally" untrue that Ms. Clifford had a relationship with Mr. Trump.

Mr. Davidson's work for Ms. McDougal was in connection with "claims against Donald Trump and or assisting client in negotiating a confidentiality agreement and/or life rights related to interactions with Donald Trump and/or negotiating assignment of exclusive press opportunities regarding same," according to a copy of Mr. Davidson's agreement to represent her, which was reviewed by the Journal.

The agreement between Ms. McDougal and AMI doesn't mention Mr. Trump by name, but gives the publisher the rights to "any romantic, personal and/or physical relationship McDougal has ever had with any then-married man." The document says AMI is entitled to damages of at least \$150,000 if she discloses her story elsewhere on social media or gives interviews about it.

Ms. McDougal hasn't appeared in or written for any AMI publications since signing the agreement, according to a person familiar with the matter.

Mr. Trump's relationship with Mr. Pecker, the chairman of American Media, is well-documented. In the 1990s, when Mr. Pecker was president and chief executive of Hachette Filipacchi Magazines, the publisher put out "Trump Style," a custom quarterly magazine distributed to guests at Trump properties.

As the presidential race ramped up last year, the Enquirer published a series of columns by Mr. Trump. One began, "I am the only one who can make America great again!" Another was headlined, "Donald Trump: The Man Behind the Legend!"

Amplifications:

David Pecker cited the Enquirer's coverage of Donald Trump's extramarital affair with Marla Maples as evidence of his commitment to investigative journalism. This story has been updated to make clear that the affair occurred and was first revealed in the early 1990s, predating Mr. Pecker's arrival at the company. The Enquirer did publish articles about Mr. Trump and Ms. Maples before his arrival in 1998 and continued to do so afterward. (Nov. 6, 2016)

Write to Joe Palazzolo at joe.palazzolo@wsj.com, Michael Rothfeld at michael.rothfeld@wsj.com and Lukas I. Alpert at lukas.alpert@wsj.com

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