

December 1, 2021

Hon. Bennie G. Thompson, Chairman  
January 6th Select Committee  
U.S. House of Representatives  
Longworth House Office Building  
Washington, DC 20515

Dear Representative Thompson:

I am writing to you in response to the November 5 subpoena to my client John Eastman, requesting testimony and production of documents. Dr. Eastman hereby asserts his Fifth Amendment right not to be a witness against himself in response to your subpoena. As explained below, Dr. Eastman has faced suggestions from multiple sources that he should be criminally investigated for his service as an adviser to former President Trump. Members of this very Committee have openly spoken of making criminal referrals to the Department of Justice and described the Committee's work in terms of determining "guilt or innocence." Dr. Eastman has a more than reasonable fear that any statements he makes pursuant to this subpoena will be used in an attempt to mount a criminal investigation against him.

We also have several objections to the legal propriety of your subpoena. These objections are important in their own right and as relevant context for Dr. Eastman's assertion of his Fifth Amendment right. First, your committee lacks a "ranking minority member," which makes it impossible to comply with relevant House Rules, including those applicable to subpoenas and depositions. Secondly, your extraordinarily broad subpoena goes far beyond even the most expansive reading of the Committee's authorizing resolution in asking for materials bearing no reasonable relation to the events of January 6. Finally, the lack of true minority representation combined with your decision to take testimony in secret proceedings creates an extreme risk of gross unfairness to the subjects of your investigation. As I already stated, these are serious issues, both in their own right and as critical context for Dr. Eastman's invocation of the Fifth Amendment.

**I. The Committee is Illegitimately Constituted, Operates in Violation of House Rules and Basic Constitutional Rights, and Is Pursuing Matters Well Beyond Its Authorizing Resolution and Basic Separation of Powers Principles**

**a. The Committee’s Membership Was Not Appointed in a Bipartisan Fashion, as Required by Longstanding Precedent, the Express Language of the Authorizing Resolution, and Basic Notions of Fairness**

House Rules and longstanding precedent require bipartisanship in the appointment of committees, both standing and select. Members on standing committees are to be elected “from nominations submitted by the respective party caucus or conference.” Rule X.5(a)(1). Membership on the committee “shall be contingent on continuing membership in the party caucus or conference that nominated the Member,” and those who “cease to be a member” of the party that nominated them “shall automatically cease to be a member of each standing committee to which elected on the basis of nomination by that caucus or conference.” Rule X.5(b)(1). Although Rule I gives the Speaker power to appoint members of *select* committees, longstanding precedent, uniformly followed until now, requires that appointments also be made on a bipartisan basis, giving to the minority leader his or her choice of a (roughly) proportional number of select committee members similar to what Rule X requires for standing committees. Speaker Pelosi acknowledged this longstanding precedent when, during her press conference on June 24, 2021, she expressed her “hope that Kevin [McCarthy, Minority Leader] will appoint responsible people to the Committee.”<sup>1</sup> Moreover, the House Resolution authorizing the creation of The Select Committee to Investigate the January 6th Attack on the United States Capitol (“J6 Committee”) expressly requires that “5 [of the 13 members] must be appointed after consultation with the minority leader.” H.Res. 503 (adopted June 30, 2021). But when Minority Leader McCarthy included among his five appointees highly respected members Jim Banks and Jim Jordan (whose service as Ranking Member of the Judiciary Committee and member of the Committee on Oversight and Reform is highly relevant to the matters to be investigated by the J6 Committee), Speaker Pelosi made what she herself acknowledged was the “unprecedented” decision to reject McCarthy’s appointments,<sup>2</sup> appointing instead on her own authority the only two Republicans who voted for the Commission and whose negative views on former President Trump and his supporters are well known.

In other words, contrary to consistent historical practice and the express language of the authorizing resolution, *none* of the members of the J6 committee were appointed “after consultation with the minority leader.” All of the members were appointed by the Speaker, and all of the staff have been hired by those appointed by the Speaker. The

---

<sup>1</sup> “Transcript of Pelosi Weekly Press Conference” (June 24, 2021), at <https://www.speaker.gov/newsroom/62421>.

<sup>2</sup> See “Pelosi Statement on Republican Recommendations to Serve on the Select Committee to Investigate the January 6th Attack on the U.S. Capitol” (July 21, 2021), available at <https://www.speaker.gov/newsroom/72121-2>.

Republican caucus has had no role either in the appointment or operations of the J6 Committee.

In addition to lacking validly appointed minority membership, the Committee necessarily lacks a ranking minority member. As you know, the ranking minority member is not simply the most senior member of the minority party (which in this case would be Rep. Liz Cheney). House GOP Rule 14(a)(1) provides that the Republican Steering Committee nominates ranking minority members who are then voted on by the full GOP House Conference. The nomination need not be based on seniority.<sup>3</sup> *Id.* Neither Rep. Cheney nor Rep. Kinzinger were nominated by the Steering Committee or elected by the GOP Conference. The Committee is therefore operating without a ranking minority member. As we explain in the next section, the lack of a ranking minority member makes it impossible for this Committee to comply with clearly applicable House rules on subpoenas and depositions.

**b. Lacking Members Appointed “After Consultation With the Minority Leader” and a “Ranking Minority Member,” the Committee’s Operations Will Necessarily Violate House Rules, Its Authorizing Resolution, and Basic Notions of Due Process.**

The violation of the appointment process described above makes several other legal requirements imposed by House rules and the Committee’s own authorizing resolution impossible to comply with. “Consultation with the ranking minority member shall include three days’ notice before any deposition is taken,” for example. House Committee on Rules, “Regulations for the Use of Deposition Authority” (“Depo. Regs.”) ¶ 2.<sup>4</sup> “When depositions are conducted by committee counsel, there shall be no more than two committee counsel permitted to question a witness per round,” one of whom “shall be designated by the chair and the other by the ranking minority member per round.” *Id.* ¶ 5. Rounds of questioning “shall provide equal time to the majority and the minority.” *Id.* ¶ 6. And “[t]he chair and ranking minority member shall consult regarding the release of deposition testimony.” *Id.* ¶ 10. These requirements of House Rules are mirrored by the authorizing resolution itself, several provisions of which likewise require “consultation with the ranking minority member.” H.Res.503 §§ 6(A), 8. This Committee is incapable of complying with the foregoing rules because it has no ranking minority member with whom to consult, or to appoint the minority’s committee counsel, or to be given “equal time” for questioning.

Two other rules become essentially meaningless with the exclusively partisan appointment of Committee members: Rule XI.2(k)(5), which gives to witnesses brought before the Committee the ability to make a request “to subpoena additional witnesses”; and Rule XI.2(j)(1), which grants to minority members the ability to call witnesses they

---

<sup>3</sup> Rule 14 itself speaks in terms of committee “chairs” rather than “ranking member.” However, Rule 2 states that all references to “chairs” should be construed to refer to the “Ranking Republican Member” during periods where the Republican Party is in the minority.

<sup>4</sup> Available at <https://rules.house.gov/sites/democrats.rules.house.gov/files/RegulationsfortheUseofDepositionAuthority117th.pdf>.

select. There are no members appointed by the minority to exercise the authority under subsection (j)(1), and because only members or counsel designated by the Chair (there being no ranking minority member) can conduct a deposition pursuant to paragraph 5 of the Deposition Regulations, there really would be no point for a witness to request a subpoena to have another witness deposed about information the witness deems necessary but that the Committee does not wish to hear, as there would be no one to perform the adversarial questioning role. Such a stacked deck is hardly conducive to fairness, or to a legitimate search for truth.

This Committee’s disregard of House Rules is no mere legal technicality. The lack of meaningful minority representation leaves the majority free to exercise its vast investigative authority unchecked, creating serious potential for abuse. One of its very first acts was to direct social media and telecommunication companies to preserve communications of private citizens, not just those who entered the Capitol on January 6 but a much larger group of those who were in Washington, D.C. simply to exercise their First Amendment rights of freedom of speech and association and to petition their government for redress of grievances. The letters sent by the committee specifically requested that these companies “preserve information ... about individuals ... who were listed on permit applications or otherwise involved in organizing, funding, or speaking at the January 5, 2021, or January 6, 2021, rallies in the District of Columbia relating to objecting to the certification of the electoral college vote; and individuals potentially involved with discussions of plans to challenge, delay, or interfere with the January 6, 2021, certification....”<sup>5</sup> The letters identified not just metadata, but the “*content* of communications, including all emails, voice messages, text or SMS/MMS messages, videos, photographs, direct messages, address books, contact lists, and other files or other data communications stored in or sent from the account,” *id.* (emphasis added)—and all of this without a search warrant based upon probable cause. The threat to First Amendment freedoms and Fourth Amendment rights inherent in such a demand is palpable.

This Committee’s subpoena history provides further evidence of the dangers of a committee unchecked by House Rules on minority representation. The subpoena issued to Dr. Eastman, for example, seeks materials quite obviously protected by attorney-client and work product privileges.<sup>6</sup> *See, e.g.*, Subpoena ¶¶ 1-3. Other witnesses seemingly have strong claims of executive privilege, such as former President Trump’s Chief of Staff Mark Meadows and former Acting Assistant Attorney General Jeffrey Clark. Under paragraph 7 of the Deposition Regulations, witnesses may refuse to answer questions (or be instructed by private counsel to refuse to answer questions) “only to

---

<sup>5</sup> *See, e.g.*, Letter from Bennie Thompson, Chairman, Select Committee to Investigate the January 6th Attack on the U.S. Capitol, to Guru Gowrappan, Executive Vice President, Verizon Media (Aug. 30, 2021), available at <https://www.justsecurity.org/wp-content/uploads/2021/09/january-6-clearinghouse-combined-telecom-and-social-media-preservation-requests-august-30-2021.pdf>.

<sup>6</sup> I am aware the Committee views certain public statements attributed to Dr. Eastman as a privilege waiver. Without conceding the validity of the argument, any such waiver would apply to at most a very small subset of your subpoena’s requests.

preserve a privilege.” Depo. Regs. ¶ 7. But the Chair of the Committee may then unilaterally “overrul[e] any such objection” and order the witness to answer the question. Should the witness still refuse to answer, he may be “subject to sanction,” *id.*, including, as we have recently seen, referral and indictment for criminal contempt of Congress.<sup>7</sup> The Chair and the Committee thus serve as prosecutor, judge, and jury, contrary to the most basic requirements of due process. The only check on this inherently unfair process is that, under the rules, a “member of the committee” may “appeal the ruling of the chair.” *Id.* But without a single member of the Committee having been appointed “after consultation with the minority leader,” it doesn’t take a rocket scientist to realize that even that check is meaningless with this particular committee.

This Committee’s record on protecting witness privilege is of particular concern for Dr. Eastman who, as a member of the California Bar, is subject to “stringent” ethical rules on the preservation of the attorney-client privilege, which require an attorney “[t]o maintain inviolate the confidence, *and at every peril to himself or herself* to preserve the secrets, of his or her client.” California Rules of Professional Responsibility, Rule 1.6(a) and comment 1, citing Cal. Bus. & Prof. Code § 6068(e)(1) (emphasis added). As the California courts have interpreted that requirement, “every peril” includes being subjected to punishment for contempt. *People v. Rocco*, 281 P. 443, 450 (Cal. Ct. App. 1929), *superseded on other grounds*, 209 Cal. 68, 285 P. 704 (1930); *see also Bury v. Cmty. Hosps. of Cent. California*, No. F036667, 2002 WL 968833, at \*4 (Cal. Ct. App. May 8, 2002) (describing the ethical duty as “a high and stringent obligation that is much broader in scope than the attorney-client evidentiary privilege,” citing *Anderson v. Eaton*, 211 Cal. 113, 116 (1930); *Goldstein v. Lees*, 46 Cal.App.3d 614, 621, fn. 5 (1975)). Breach of ethical duties if he testifies, and contempt of Congress if he doesn’t, is not a viable set of options.

**c. The Committee’s Subpoena Seeks Information Far Beyond the Scope of Its Authorizing Resolution, Intrudes on Constitutionally Protected Freedoms of Speech and Association, and Demonstrates the Committee’s Intent to Exercise Powers that the Constitution Assigns to the Executive and Judicial Branches of Government.**

Without the minority representation required by House Rules, it is little wonder that this Committee would exceed the bounds of authority assigned to it by the Authorizing Resolution. House Resolution 503 authorizes the J6 Committee to “investigate the facts, circumstances, and causes relating to the domestic terrorist attack on the Capitol, including facts and circumstances relating to”: (A) activities of intelligence and law enforcement agencies; (B) “influencing factors... and how technology, including online platforms, financing, and malign foreign influence operations and campaigns may have factored into the motivation, organization, and execution of the domestic terrorist attack on the Capitol”; and (C) “other entities of the public and private sector as determined relevant by the Select Committee....” H.Res.503 § 4(a)(1). Although this charge is broad, the Committee’s subpoena to Dr. Eastman reaches far beyond it. The Subpoena seeks “all documents and communications”

---

<sup>7</sup> *See* Indictment, *United States v. Stephen K. Bannon*, No. 21-cr-00670 (D.D.C., Nov. 12, 2021), available at <https://www.justice.gov/opa/press-release/file/1447811/download>.

“relating in any way” to 29 different categories of information, in most cases spanning a 19-month time period from April 1, 2020 through the November 5, 2021 date of the subpoena. *See* Subpoena, Introduction. That broad range is both well before and well after the events of January 6, 2021 that the Committee is charged with investigating. It is hard to imagine, for example, how Dr. Eastman’s writings and communications way back in April 2020—more than seven months before the general election was even held, can plausibly be connected to the events of January 6, 2021.

Moreover, several of the categories quite clearly intrude on the exercise of protected First Amendment rights for events quite removed from January 6. *See, e.g.*, Subpoena ¶ 27 (“All documents and communications relating to protests, marches, public assemblies, rallies, or speeches in Washington, D.C., on November 14, 2020, [and] December 12, 2020 ...”); *see also id.*, Intro. (specifically demanding “contact lists,” among other things); *cf. NAACP v. Alabama*, 357 U.S. 449, 462 (1958) (holding that “privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs”).

Finally, it is manifestly clear that the Committee deems itself engaged in a law enforcement investigative operation rather than a legislative function. As you yourself are quoted by Politico as stating, “we’ll let the evidence based on what we look at *determine guilt or innocence.*”<sup>8</sup> Determining guilt or innocence is no part of Congress’s authority, but constitutionally belongs to the Executive and Judicial branches of government.

## **II. By Operating Exclusively Behind Closed Doors and Barring Witnesses From Releasing Evidence or Testimony Provided During Such Executive Sessions, the Committee Has Imposed a Gag Rule that Prevents Rather than Facilitates Transparency and the Search for Truth.**

House Rule XI.2(k)(7) provides that “[e]vidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.” This Rule is designed to protect against situations when “disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.” Rule XI.2(g)(2)(A). Absent those specific concerns—none of which are really relevant here—committee hearings “shall be open to the public.” *Id.* But instead of a shield protecting national security and other sensitive information, the J6 Committee is using that rule as a sword. It is conducting its business behind closed doors in a way that, combined with subsection (k)(7), amounts to a gag rule, barring witnesses from discussing their testimony while individual members, protected by the Constitution’s

---

<sup>8</sup> *See* Kyle Cheney & Josh Gerstein, *Trump Cannot Shield White House Records from Jan. 6 Committee, Judge Rules*, POLITICO (Nov. 11, 2021, emphasis added), available at <https://www.politico.com/news/2021/11/09/trump-executive-privilege-court-ruling-kings-520512>.

Speech and Debate Clause, can publicly disclose slanted versions of the testimony with impunity.

This concern is by no means speculative. Members of the J6 Committee or its staff have already demonstrated they are giving advance notice of their actions to select members of the media. At 1:52 p.m. on November 29, for example, the Committee posted on its twitter site that it would hold a vote at 7:00 pm on December 1 on a report recommending that the House cite Jeff Clark for criminal contempt,<sup>9</sup> but within minutes, a full article about that action was published by Politico.<sup>10</sup> The Politico story also reveals matters that occurred behind closed doors during and immediately following Clark’s November 5 testimony. *Id.* Indeed, you issued a public press release about that closed-door testimony. Thompson Statement on Jeffrey Clark (Nov. 5, 2021), available at <https://january6house.house.gov/news/press-releases/thompson-statement-jeffrey-clark>.

Moreover, “sources familiar” with the committee’s unreported activities have been talking to the media producing politically damaging stories for Republicans. *See, e.g.,* Jamie Gangel, Zachary Cohen, & Michael Warren, *Exclusive: January 6 committee interested in at least 5 people from Pence’s inner circle*, CNN (Nov. 10, 2021); Kyle Cheney, *Committee interviews Jan. 6 rioter who witnessed state GOP contacts with Trump allies*, Politico (Nov. 4, 2021).

Finally, Rep. Kinzinger’s past statement that “I think Adam Schiff does a lot of selective leaking” does not put our minds at ease.<sup>11</sup>

Under normal circumstances, minority members who attended the closed-door sessions can counter any false narratives put out, but without the minority’s designated members being allowed to serve on the Committee, there is no one who can correct false narratives without risk of being held in contempt of Congress. Members of your own political party have played this valuable role during periods of GOP control. *See, e.g.,* See Ledyard King, *Sparks fly between Gowdy, Cummings at Benghazi hearing*, USA Today (Oct. 22, 2015) (quoting the late Rep. Elijah Cummings as follows: “Why don’t we just put the entire transcript out there and let the world see it. What do you have to hide?”). The potential of gross unfairness to the subjects of this Committee’s investigation should be obvious. This Committee could choose to release selected portions of Dr. Eastman’s testimony and without context characterize them in a way that could impose significant personal and professional costs on him. Without the equivalent of a Rep. Cummings to protect him, Dr. Eastman would be unable to respond or even to provide basic context on pain of criminal contempt.

---

<sup>9</sup> January 6 Committee Tweet, available at <https://twitter.com/January6thCmte/status/1465393284075896843>

<sup>10</sup> Betsy Woodruff Swan, *Jan. 6 Investigators Prepare to Hold Former Trump Admin Official in Contempt*, POLITICO (Nov. 29, 2021), available at <https://www.politico.com/news/2021/11/29/jan-6-investigators-523456>

<sup>11</sup> <https://www.foxnews.com/media/adam-schiff-impeachment-kinzinger>.

### **III. The Fifth Amendment Right Not to Be Compelled to Be a Witness Against Oneself Protects the Innocent as Well as the Guilty**

The foregoing discussion provides important background as to why Dr. Eastman, though innocent of wrongdoing, would choose to invoke the Fifth Amendment, to which we now turn.

The Fifth Amendment protects an individual from being “compelled in any criminal case to be a witness against himself.” U.S. Const. amend. V. The privilege applies in congressional investigations. *Watkins v. United States*, 354 U.S. 178, 187-88 (1957). An innocent person has the right to claim the Fifth Amendment Privilege if the information requested could conceivably supply a “link in the chain” leading to prosecution. As the Supreme Court held in *Ohio v. Reiner*, the Fifth Amendment “protects the innocent as well as the guilty.” 532 U.S. 17, 18 (2001). It is “a safeguard against heedless, unfounded, or tyrannical prosecutions.” *Quinn v. United States*, 349 U.S. 155, 162 (1955). In a prior congressional investigation also involving the security of federal government property and officials, you correctly described a witness’s invocation of the Fifth Amendment as an “absolute right.”<sup>12</sup>

While Dr. Eastman emphatically denies committing any illegal acts, he nonetheless has a reasonable fear that the requested information could be used against him in court.

#### **A. Dr. Eastman’s Invocation of his Fifth Amendment Privilege is Justified in Response to Public Statements by Members of the Select Committee and Others**

Dr. Eastman’s fear of criminal prosecution—of a “heedless, unfounded, or tyrannical prosecution”—is not speculative or fanciful. The context of the Committee’s subpoena makes clear that he has a more than reasonable apprehension of criminal investigation and prosecution. As you know, members of Congress (including of the Select Committee itself) and other influential voices have implicitly and explicitly argued in favor of criminal prosecutions of former President Trump and his supporters. The following are just a few examples:

- On January 27, 2021, in his opening remarks during the first hearing of the Select Committee, Rep. Kinzinger stated that:

[O]ur mission is very simple: to ensure the trust and ensure accountability...Congress was not prepared on January 6<sup>th</sup>. We weren’t prepared because we never imagined this could happen: an attack by our own people, fostered and encouraged by those granted power through the very system they sought to overturn.

- On March 5, 2021, Rep. Swalwell filed a civil lawsuit in the United States District Court for the District of Columbia. The lawsuit explicitly alleges that President Trump and his supporters violated District of Columbia laws criminalizing

---

<sup>12</sup> <https://www.govinfo.gov/content/pkg/CHRG-111hrg55808/html/CHRG-111hrg55808.htm> (hearing on breach of White House grounds by Mr. & Mrs. Tareq Salahi).



“willfully inciting or urging other persons to engage in a riot.” *Swalwell v. Trump et al.*, 1:21-cv-586-APM (D.DC.), ECF 1.

- On August 5, 2021, an editorial from Harvard law professor Laurence H. Tribe, University of Michigan law professor Barbara McQuade, and University of Alabama law professor Joyce White Vance appeared in the Washington Post entitled “Here’s a roadmap for the Justice Department to follow in investigating Trump.” The editorial argued that Trump and “members of his inner circle” should be investigated for criminal offenses including Obstruction of an Official Proceeding (18 U.S.C. § 1512); Conspiracy to Defraud the Government (18 U.S.C § 371); Voter Fraud for pressuring state officials not to certify the election (52 U.S. Code § 20511); the Hatch Act (5 U.S. Code § 7323); and even the Racketeer Influenced and Corrupt Organizations Act (“RICO,” 18 U.S.C.A. § 1962(c)); Insurrection (18 U.S. Code § 2383); and Seditious Conspiracy (18 U.S. Code § 2384).
- On September 24, 2021, Rep. Raskin made the following statement during an appearance on The Dean Obeidallah Show:

[Interviewer]: Are you surprised that all these people are charged for storming the capitol who were there, that Donald Trump has not been charged with anything?

Rep. Raskin: Well of course he was charged with “incitement to violent insurrection” in the House and he was impeached for it...[b]ut you’re right he’s not been criminally charged yet for it. But we’re perfectly willing to turn over evidence of criminal acts to the Department of Justice.

The above cited statements are just a sampling of the near daily insinuations from multiple sources that persons associated with or who advised former President Trump should be subject to criminal prosecution. Under these circumstances, Dr. Eastman is well justified in invoking the protections of the Fifth Amendment in response to your subpoena.<sup>13</sup>

**B. The Fifth Amendment Privilege Bars Congress from Compelling A Witness to Provide Testimony Through the Act of Producing Documents**

Courts have held that the Fifth Amendment privilege against self-incrimination extends beyond mere testimony to cover the communicative aspects inherent in the act of producing documents. *See, e.g. United States v. Hubbell*, 167 F.3d 552 (D.C. Cir. 1999). As the *Hubbell* court stated:

---

<sup>13</sup> We are aware of cases holding that a congressional committee may reject the assertion of the Fifth Amendment where it is “perfectly clear...that the witness is mistaken, and that the answers cannot possibly have a tendency to incriminate.” *See, e.g., Hoffman v. United States*, 341 U.S. 479, 488 (1951). The above cited examples (as well as others) make clear that the Committee does not hold this view in this case.

[T]he act of production communicates at least four different statements. It testifies to the fact that: i) documents responsive to a given subpoena exist, ii) they are in the possession or control of the subpoenaed party, iii) the documents provided in response to the subpoena are authentic; and iv) the responding party believes that the documents produced are those described in the subpoena.

*Id.* at 567-68. For this reason, we are declining on Fifth Amendment grounds to produce the documents requested by your subpoena.

We recognize that your subpoena instructs us to provide a log specifying documents withheld and the basis for withholding. However, when a party relies explicitly upon the “act of production” privilege, courts have recognized that creating such a log would in and of itself defeat the privilege asserted. *See, e.g. SEC v. Coldicutt*, 2017 U.S. Dist. LEXIS 88401 (C.D. CA 2017) (“[T]he involuntary act of producing a more detailed privilege log could have a testimonial aspect”); *United States SEC v. Karroum*, 2015 U.S. Dist. LEXIS 164718, \*12 (D.C. Dist. 2015) (“[W]hen the individual has acknowledged the existence of the documents already – and knowledge of those documents exists independent of him – his production of such documents is not testimonial in nature.”). For this reason, to the extent any responsive documents exist, we are declining on Fifth Amendment grounds to provide the requested privilege log.

In asserting this privilege, it is not our wish to hinder any legitimate investigation into the events of January 6. However, this Committee’s disregard of House Rules, insistence on secret proceedings, and intimations that the results of its investigation could lead to criminal prosecutions raise insurmountable Fifth Amendment concerns. Given all this, Dr. Eastman unfortunately feels compelled to accept my advice and to assert his Fifth Amendment rights. Thank you in advance for your consideration of this letter.

Sincerely,

/s/ Charles Burnham

Charles Burnham  
Burnham & Gorokhov PLLC

cc: Minority Leader Kevin McCarthy  
Representatives Jim Banks, Jim Jordan, Rodney Davis, Kelly Armstrong, & Troy Nehls