

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

February 21, 2019

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

Dear Mr. Chairman:

I write with concern about the extremely unfair and unsupported accusations you made in a letter you sent to White House Counsel Pat Cipollone on February 15, 2019. You accused two lawyers of making false statements to the Office of Government Ethics (OGE). This is a serious charge, for which you relied only on cherrypicked passages of incomplete, one-sided handwritten notes prepared by OGE staff. By making public assertions that these two lawyers made false statements—without even allowing them to respond—you have besmirched their reputations and have caused them irreparable professional harm. This is not the fair oversight process you promised for the Committee.

In the past, you have been quick to judge others for making what you deemed to be unsubstantiated claims. In 2013, at a hearing about the IRS's targeting of conservatives, you lectured about rushing to judgment. You said then: "This is unsubstantiated nonsense. It undermines the committee's integrity, and it destroys the committee's credibility. The chairman certainly did not withhold judgment – he rushed to it with no evidence whatsoever."¹ At a 2014 hearing about the IRS scandal, you similarly stated, "I believe our committee's work should be a responsible effort to obtain the facts and a responsible effort to find the truth, the whole truth, and nothing but the truth And it should not be a ludicrous competition for some hyperbolic sound bites based on the least amount of evidence."²

In your letter—written, sent, and released publicly without speaking to the people you charge—you wrote that you discovered "false information provided by the lawyers representing President Trump, including Sheri Dillon, President Trump's personal attorney, and Stefan

¹ *The IRS's Systematic Delay and Scrutiny of Tea Party Applications Before the H. Comm. on Oversight and Government Reform*, 113th Cong. 5 (2013) (statement of Rep. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight and Government Reform).

² *IRS Obstruction: Lois Lerner's Missing Emails Before the H. Comm. on Oversight and Government Reform*, 113th Cong. 6 (2014) (statement of Rep. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight and Government Reform).

Passantino, the former Deputy White House Counsel for Compliance and Ethics”³ You even raised the prospect of a criminal conspiracy involving the President, again with no evidence. You wrote: “It now appears that President Trump’s other attorneys—at the White House and in private practice—may have provided false information . . . to federal officials. This raises significant questions about why some of the President’s closest advisers made these false claims and the extent to which they too were acting at the direction of, or in coordination with, the President.”⁴

This overheated rhetoric is not emblematic of responsible oversight. You openly accused two practicing attorneys with distinguished reputations of making false statements to OGE officials multiple times in your letter. As a person who previously admonished the Committee must not rush to judgment without evidence, it is disappointing that you made these statements with such little information and without a firsthand account from the individuals you accuse. To help us understand how you could so confidently accuse two distinguished lawyers of serious crimes, we would ask that you provide us the following information:

1. Do you have any other information other than the OGE-produced notes about Dillon’s or Passantino’s conversations with OGE? If yes, why did you not provide this material to the Republican members?
2. Did you speak with Dillon, Passantino, OGE’s then-Acting Director David Apol or the other relevant agency employees before you accused them of making false statements?
3. Your letter to Mr. Cipollone seeks certain documents. Why are those documents necessary if you have already made conclusions about the subject matter?

We hope you will provide this clarity because you cited little evidence in support of your serious allegations. In the case of Passantino, the sole basis for your serious allegations are notes taken by OGE employees during a single phone conversation with Passantino. As we understand the circumstances, the phone conversation was organized to discuss statements made by Rudy Giuliani during an interview about the payments made to the President’s personal attorney.⁵ While you imply that Passantino spoke with authority about the payments, it is our understanding that Passantino advised then-Acting OGE Director, David Apol, that he had not conferred with the President or anyone at the time about the facts of the matter, and was simply trying to understand the applicability of regulations and OGE guidance as to whether the payments were reportable liabilities. Apol, we understand, does not disagree with this assessment of the conversation.

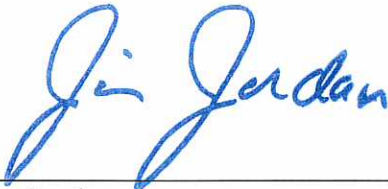
³ Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight & Reform, to Pat Cipollone, Counsel to the President, The White House (Feb. 15, 2019), https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-15.EEC%20to%20Cipollone-WH%20re%20Cohen%20Payments_0.pdf.

⁴ *Id.*

⁵ *Hannity* (Fox News television broadcast May 2, 2018).

The evidence you cited is also not as determinative as you claim it to be. In the document production from OGE you reference in your letter, there are several sets of notes from the relevant phone conversation.⁶ Two note-takers attributed a single observation from the phone conversation to Passantino. The OGE notes reflect that Passantino stated, “My understanding that in course of legal services, he was authorized to outlay and that was part of retainer agreement. Legal fees charged on monthly basis. Sees it as revolving credit as what shouldn’t be disclosed.”⁷ This statement tracks Passantino’s understanding of the regulations and OGE guidance at the time, which stipulated that a bill for legal services only needed to be reported if the bill for services was overdue and exceeded \$10,000.⁸ Based on this one-sided account, it is simply irresponsible to conclude that Passantino made false statements to OGE.

The most concerning aspect of your accusations is the perception that you are attacking Passantino and Dillon only because they represent the Trump Organization and the President. To achieve effective oversight of the executive branch, the work of the Committee must be fair, impartial, and fully inclusive of all the facts. We cannot do our job right when we reach conclusions before we have all the facts. We look forward to hearing back from you on this serious matter.



Jim Jordan
Ranking Member

Sincerely,



Mark Meadows
Ranking Member
Subcommittee on Government Operations

⁶ Office of Gov’t Ethics, Jan. 31, 2019 Document Production at 0010, 0016, 0017, 0026, 0036 (on file with Committee).

⁷ *Id.* at 0020, 0037-0038.

⁸ See 5 C.F.R. § 2634.305 (2006); Office of Gov’t Ethics, Public Financial Disclosure Guide, Frequently Asked Questions: Liabilities 17, <https://www.oge.gov/Web/278eGuide.nsf/Content/FAQs~FAQs:+Liabilities>.