

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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March 13, 2019

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

Dear Mr. Chairman:

This letter follows up on your commitment to ensure Michael Cohen testified truthfully at the Committee's hearing titled, "Hearing with Michael Cohen, Former Attorney for President Donald Trump," on February 27, 2019.<sup>1</sup> As Chairman, it is your obligation to ensure that witnesses are not permitted to lie with impunity when testifying before the Committee.

During the hearing, following Cohen's oath to testify truthfully, you explained to the Committee that you privately admonished Cohen about truthfulness. You warned him "if he [Cohen] came in here and lied I would nail him to the cross."<sup>2</sup> You then confirmed this statement with Cohen himself, asking "Didn't I tell you that?"<sup>3</sup> Cohen replied, "Yes, you did more than once."<sup>4</sup> Mr. Chairman, there is now clear and indisputable evidence that Cohen did not testify truthfully before the Committee. We expect you will now follow through with your commitment to hold Cohen accountable.

Following the hearing, we wrote to Attorney General William Barr referring Cohen for a perjury investigation regarding six areas of problematic testimony, including Cohen's testimony that he did not want a role in the Trump Administration.<sup>5</sup> In light of mounting evidence, it appears Cohen likely lied under oath during his appearance before the Committee. Even the Committee's Vice Chair, Rep. Katie Hill, said on Sunday that she expects that you will refer Cohen to the Justice Department for perjury.<sup>6</sup> We write to ask that you join our referral and

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<sup>1</sup> *Hearing with Michael Cohen, Former Attorney for President Donald Trump: Hearing Before the H. Comm. on Oversight & Reform*, 116th Cong. (2019).

<sup>2</sup> *Hearing with Michael Cohen, Former Attorney for President Donald Trump: Hearing Before the H. Comm. on Oversight & Reform*, 116th Cong. 171 (2019) [hereinafter "Cohen Hearing Transcript"].

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Jim Jordan & Mark Meadows, H. Comm. on Oversight & Reform, to William P. Barr, Attorney Gen., Dep't of Justice (Feb. 28, 2019).

<sup>6</sup> Brett Samuels, *Oversight Dem: "I imagine" chairman will ask for investigation into Cohen for alleged perjury*, The Hill (Mar. 10, 2019).

request all relevant documents and communications from Cohen and the Department of Justice (DOJ).

***Cohen lied about his desire to work in the Trump Administration***

Prior to the hearing, we asked that you request information from the DOJ necessary to question Cohen. You declined to do so, leaving Members to rely on publicly available information. We reviewed court filings by the United States Attorney's Office for the Southern District of New York (SDNY), which discussed Cohen's desire and expectation of receiving a role in the Trump Administration. The SDNY prosecutors explained:

During and after the campaign, Cohen privately told friends and colleagues, including in *seized text messages*, that he expected to be given a prominent role and title in the new administration. When that did not materialize, Cohen found a way to monetize his relationship with and access to the President.<sup>7</sup>

During the hearing, Republican Members pressed Cohen on the SDNY prosecutors' statements. On the record, following his oath, Cohen repeatedly testified that he did not seek employment in the White House following President Trump's election. Cohen also testified that the statement submitted by the SDNY prosecutors to the court was "not accurate."<sup>8</sup> Several Members followed up with Cohen on this account:

MR. CLOUD: In today's testimony, you [Cohen] said that you were not looking to work in the White House. The Southern District of New York, in their statement, their sentencing memo, says this: ". . . Cohen privately told friends, colleagues, and including seized text messages, that he expected to be given a prominent role in the new administration." . . . So were they lying, or were you lying today?

MR. COHEN: I'm not saying it's a lie. I'm just saying it's not accurate. I did not want to go to the White House.<sup>9</sup>

Following the exchange between Mr. Cloud and Cohen, Mr. Jordan provided Cohen an opportunity to clarify his remarks. He did not.

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<sup>7</sup> The Government's Sentencing Memorandum at 25, *United States v. Cohen*, 18-cr-602 (S.D.N.Y. Dec. 7, 2018) (emphasis added).

<sup>8</sup> Cohen Hearing Transcript, *supra* note 2, at 96.

<sup>9</sup> *Id.*

MR. JORDAN: Earlier you said that the United States Southern District of New York Attorney's Office, that statement is not accurate. You said it's not a lie. You said it's not accurate. Do you stand by that?

MR. COHEN: Yes, I did not want a role in the new [Trump] Administration.

MR. JORDAN: So the court's wrong?

MR. COHEN: Sir, can I finish, please?

MR. JORDAN: Sure.

MR. COHEN: I got exactly the role that I wanted. There is no shame in being personal attorney to the President. I got exactly what I wanted. I asked Mr. Trump for that job, and he gave it to me.

MR. JORDAN: All I'm asking, if I could -- and I appreciate it, Mr. Chairman -- you're saying that statement from the Southern District of New York attorneys is wrong.

MR. COHEN: I'm saying I didn't write it, and it's not accurate.

MR. JORDAN: All right. Thank you.<sup>10</sup>

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MR. ROY: You said clearly to Mr. Cloud and Mr. Jordan that the Southern District of New York lawyers were being untruthful in characterizing your desire to work in the administration. Do you say again that the lawyers of the Southern District of New York are being untruthful in making that characterization, yes or no?

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<sup>10</sup> Cohen Hearing Transcript, *supra* note 2, at 127.

MR. COHEN: I'm saying that's not accurate.<sup>11</sup>

MR. ROY: Okay. So you're saying they're being untruthful.

MR. COHEN: I'm not using the word untruthful, that's yours. I'm saying that that's not accurate. I did not want a role or a title in the administration.<sup>12</sup>

As indicated by the SDNY prosecutors, text messages exist that prove Cohen sought out a job with the White House, directly contradicting Cohen's statements under oath before our Committee. To maintain the integrity of our investigations and hearings, we must obtain these messages and any other potential evidence to get the truth.

The SDNY prosecutors are not the only individuals who believe that Cohen sought out a job at the White House. Several people have spoken out publicly to refute Cohen's statements before this Committee.<sup>13</sup> For example, Bo Dietl, a former New York City Police detective, tweeted during the Committee's hearing:

Getting sick watching these hearings. I know Michael Cohen personally for many years and he told me several times that he was very angry and upset that he didn't get a post in the WH and that he 'would do what he has to do now to protect his family.'<sup>14</sup>

Dr. Darrell Scott, Pastor at the New Spirit Revival Center and a Trump campaign faith-based outreach coordinator, also tweeted during the hearing: "Michael Cohen asked . . . no, BEGGED me REPEATEDLY, to ask the POTUS to give him a job in the Administration! He's STILL lying under oath!"<sup>15</sup> Bruce LeVell, another person involved in the Trump campaign, replied to Dr. Scott's tweet, "I co-sign that Pastor. I remember that conversation[.]"<sup>16</sup>

David Bossie, Trump's deputy campaign manager in 2016, tweeted, "Michael Cohen asked me to support his effort to be Chief of Staff when I helped run the Presidential Transition Team. He perjured himself today."<sup>17</sup>

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<sup>11</sup> *Id.* at 162.

<sup>12</sup> *Id.* at 162-63.

<sup>13</sup> Chris Cillizza, *Why One Simple Lie by Michael Cohen Could Invalidate His Entire Testimony*, CNN (Feb. 28, 2019), <https://amp.cnn.com/cnn/2019/02/28/politics/michael-cohen-donald-trump-white-house/index.html>.

<sup>14</sup> Bo Dietl (@BoDietl), TWITTER (Feb. 27, 2019, 11:13 AM), <https://twitter.com/BoDietl/status/1100790950203478018>.

<sup>15</sup> Dr. Darrell Scott (@PastorDScott), TWITTER (Feb. 27, 2019, 3:44 PM), <https://twitter.com/PastorDScott/status/1100859134948315138>.

<sup>16</sup> Bruce LeVell (@Bruce\_LeVell), TWITTER (Feb. 27, 2019, 3:47 PM), [https://twitter.com/Bruce\\_LeVell/status/1100860065786007565](https://twitter.com/Bruce_LeVell/status/1100860065786007565).

<sup>17</sup> David Bossie (@David\_Bossie), TWITTER (Feb. 27, 2019, 5:12 PM), [https://twitter.com/David\\_Bossie/status/1100926661397278723](https://twitter.com/David_Bossie/status/1100926661397278723).

During the hearing, CNN journalist Dana Bash rebutted Cohen's testimony on live television. She stated, "the one potential problem that I thought Michael Cohen has is when he was asked if he wanted a job in the White House, and he said no. Our reporting [shows] . . . he very much wanted a job in the White House."<sup>18</sup> Another CNN journalist, Nathan McDermott, tweeted, "Good point by @DanaBashCNN that when Cohen was asked in the hearings whether he wanted a job in the White House and he said 'no' he contradicted mountains of reporting that show he did, in fact, want one."<sup>19</sup>

### ***Cohen lied about not seeking a pardon***

Cohen made an additional false statement to this Committee when he testified under oath: "I have never asked for, nor would I accept, a pardon from President Trump."<sup>20</sup> Last week, however, Lanny Davis, Cohen's media advisor and lawyer, contradicted Cohen's testimony. Davis stated that Cohen had "directed his attorney to explore possibilities of a pardon at one point with Trump lawyer Rudy Giuliani as well as other lawyers advising President Trump."<sup>21</sup>

On March 12, nearly two weeks after Cohen's testimony, his lawyer, Michael Monico, sent you a letter conceding that Cohen's statement about a pardon was not accurate and "could have been clearer" but stating that Cohen stood by his testimony.<sup>22</sup> Monico asserted that Cohen wrote his statement about the pardon "in the context of [his] decision in June 2018 to leave the Trump Joint Defense Agreement . . . ."<sup>23</sup>

This *ex post* assertion by Cohen's lawyers does not undo Cohen's intentionally false and misleading statement and is manifestly unpersuasive. Regardless of the context in which Cohen wrote this statement, Cohen *uttered* the statement under oath in the context of apologizing for all his criminal activities. Cohen's denial of ever seeking a pardon, which he made during his carefully crafted opening statement, contained no qualifiers about the context of his statement. It did not restrict his denial to the period after Cohen left the joint defense agreement. In fact, there is no mention whatsoever in Cohen's prepared testimony about the joint defense agreement. Simply put, Cohen's denial of ever seeking a pardon, as uttered under oath in his testimony, was absolute and unequivocal.

Although Cohen's attorneys now claim that Cohen did not mislead the Committee, it is clear—and Cohen's lawyers concede—that Cohen asked his legal representatives to seek a

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<sup>18</sup> CNN Newsroom (@CNNnewsroom), TWITTER (Feb. 27, 2019, 9:25 AM), <https://twitter.com/CNNnewsroom/status/1100809107026538496>.

<sup>19</sup> Nathan McDermott (@natemcdermott), TWITTER (Feb. 27, 2019, 12:19 PM), <https://twitter.com/natemcdermott/status/1100807647710900224>.

<sup>20</sup> Cohen Hearing Transcript, *supra* note 2, at 28.

<sup>21</sup> Rebecca Ballhaus et al., *Lawyer for Cohen Approached Attorneys About Pardon*, Wall St. J., (Mar. 6, 2019), <https://www.wsj.com/articles/attorney-says-cohen-directed-his-lawyer-to-seek-trump-pardon-contradicting-testimony-11551931412>.

<sup>22</sup> Letter from Michael Monico to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Mar. 12, 2019).

<sup>23</sup> *Id.*

The Honorable Elijah E. Cummings

March 13, 2019


Page 6

pardon on his behalf. Therefore, in light of this undisputed evidence, Cohen's testimony under oath that he "*never* asked for . . . a pardon" cannot be true. Cohen's intentionally false statement under oath is material to the Committee's assessment of his credibility.

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This Committee cannot stand idly by when a witness comes to a hearing, swears an oath to testify truthfully, and provides material testimony that appears on its face to be demonstrably false. Accordingly, we urge you to request from both Michael Cohen and the Department of Justice all documents and communications relating to Cohen's desire or attempts to obtain a position in the Trump Administration, as well as Cohen's efforts to seek a pardon for his crimes. We also encourage you to uphold the prerogatives of the Committee by joining our referral to the Department of Justice.

Thank you for your consideration of this request. We look forward to hearing back from you soon on this important matter.



Jim Jordan  
Ranking Member

Sincerely,



Mark Meadows  
Ranking Member  
Subcommittee on Government Operations