

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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April 17, 2019

The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Jordan:

I am writing in response to letters you sent on April 5, 2019, urging 12 companies not to cooperate with the Committee's investigation into the skyrocketing prices of prescription drugs.

You personally may have no interest in bringing down drug prices for your constituents, you honestly may believe it is more important to protect drug company profits and stock prices than the budgets of American families, and you may even disagree with President Trump that drug companies are "getting away with murder," but your efforts to interfere with this investigation represent a new low for a Member of this Committee.

It is one thing to have an honest disagreement about the Committee's policy or approach—which would command respect—but it is quite another to actively obstruct an investigation in the service of placing corporate interests over those of the American people.

First, your letters to the drug companies cited a quote from me in support of your claim that the purpose of the Committee's investigation is to bring down drug company stock prices. The problem is that you excised key parts of the quote. You set forth the following text:

We have three people, Congressman, on my staff—I call them the "drug team." And what they deal with is the high cost of prescription drugs. If you follow the headlines, we have already seen the impact they have had ... on stock prices with regard to drugs. I mean, it has been astronomical.¹

However, the full quote makes clear that I was referencing the impact that massive drug company profits and stock prices are having directly on the American taxpayers, who pay billions of dollars for drugs through programs such as Medicare:

¹ See, e.g., Letter from Ranking Member Jim Jordan, Committee on Oversight and Reform, to Mark J. Alles, Chairman and Chief Executive Officer, Celgene Corporation (Apr. 5, 2019) (online at republicans-oversight.house.gov/wp-content/uploads/2019/04/Pharma-Letters.pdf).

But the waste, fraud and abuse is significant because we are saving a lot of money. There are three people on my staff, I call them the drug team. What they deal with is the high price of prescription drugs. If you follow the headlines, we have already seen the impact that they have had, three people, three people have had on stock prices with regard to drugs. I mean, it is has been astronomical, **saving the taxpayers money.**²

As I wrote to the 12 drug companies in January, the goals of the Committee's investigation are to determine why drug companies are increasing prices so dramatically, how they are using the proceeds, and what steps can be taken to reduce drug prices.³ It now seems clear that you disagree with these goals and believe instead that drug company profits and stock prices are more important.

Second, you suggested through your letters to the drug companies that they not comply with the Committee's valid request. You based this action on your inaccurate claim that I released "sensitive information" as part of an entirely separate investigation into breaches of the White House security clearance process.⁴ To the contrary, the information released during the security clearance investigation was carefully vetted to remove sensitive information, and it accurately set forth the concerns of a career whistleblower who exhausted all other avenues to address these concerns internally. As you know, this information was released only after the Committee's multiple unsuccessful requests over the course of three months asking the White House to halt its unprecedented obstruction and begin complying with the Committee's requests for documents and witnesses.

Finally, and perhaps most concerning, your letters to the drug companies professed concern with the Committee's commitment to safeguarding sensitive documents, but you failed to mention that you are the one who is refusing to agree to a protocol we have been working on for weeks to safeguard precisely those documents. In other words, you are blocking a protocol that would address the very concerns you claim to have about protecting sensitive information.

My staff first provided a draft of the protocol to your office on March 21. My staff then followed up multiple times to seek your suggestions, proposals, changes, or any thoughts you may have had about the draft protocol. You never provided any feedback. Instead, on April 5—the same day you wrote to urge the drug companies not to comply with the Committee's requests—your office informed my staff that you would not abide by the terms of the protocol.

After spending weeks trying to consult with you and work with your staff on a bipartisan basis, it is difficult to view the claim in your letters to the drug companies of wanting to "work collaboratively to explore potential bipartisan solutions" as anything but hypocritical.

² Committee on House Administration, *Hearing on Committee Funding for 116th Congress* (Apr. 12, 2019) (online at <https://cha.house.gov/hearing/full-committee-hearing-committee-funding-116th-congress>).

³ See, e.g., Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Mark J. Alles, Chairman and Chief Executive Officer, Celgene Corporation (Jan. 14, 2019).

⁴ See, e.g., Letter from Ranking Member Jim Jordan, Committee on Oversight and Reform, to Mark J. Alles, Chairman and Chief Executive Officer, Celgene Corporation (Apr. 5, 2019) (online at republicans-oversight.house.gov/wp-content/uploads/2019/04/Pharma-Letters.pdf).

As a result of your actions, I am providing copies of the final protocol to the drug companies this week so they will be aware of the manner in which the Committee will handle sensitive information.

With respect to your access to this information, your refusal to abide by the terms of the protocol complicates matters. As Chairman, I have authority to control the “time, place, and manner” of accessing documents produced to the Committee. I urge you to reconsider your approach and review the following options for how you may wish to proceed:

1. You may agree to the protocol we have established to safeguard sensitive information provided by the drug companies in response to the Committee’s requests and receive copies of all documents produced to the Committee;
2. You may work directly with the drug companies to obtain information that they agree to provide to you separately from the Committee under your own protocol or terms; or
3. You may access the information produced by the drug companies to the Committee in majority offices during regular business hours, but you will not be permitted to take copies of those documents.

As always, I am open to discussing this matter further with you. Please let me know by April 19, 2019, how you wish to proceed.

Sincerely,



Elijah E. Cummings
Chairman