

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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April 15, 2019

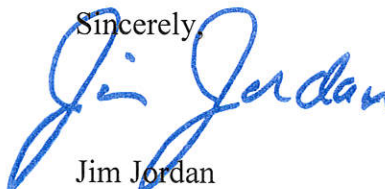
The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Republican Members of the Committee, I write to strenuously object to the subpoena you intend to issue to Mazars USA LLP (Mazars). As explained in the attached memorandum, your intended action is an unprecedented abuse of the Committee's subpoena authority to target and expose the private financial information of the President of the United States. Your intended action is also a blatant violation of your promise to debate and vote on Committee subpoenas. Although there were nine legislative days following your receipt of Mazars's response letter—during which time you informed the media that you intended to subpoena Mazars—you purposefully waited for Members to return to their districts for the Easter district work period before moving forward to subpoena Mazars. This is not the fair and responsible oversight process you promised.

I urge you to seriously reconsider your intention to issue this subpoena. Your obsession with attacking the President and his family for political gain does nothing to improve the efficiency, economy, and operations of the federal government.

Sincerely,



Jim Jordan
Ranking Member

Enclosure

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MEMORANDUM

TO: Members of the Committee on Oversight and Reform

FROM: Ranking Member Jim Jordan

SUBJECT: Chairman Cummings's Unprecedented Subpoena of Mazars USA LLP

On Friday, April 12, 2019, at 3:46 p.m., Chairman Elijah Cummings notified the Members of the Committee that he intends to issue a subpoena to Mazars USA LLP (Mazars), the global accounting firm that served private citizen Donald J. Trump.¹ This subpoena is a grave abuse of the Committee's authority and a violation of the Chairman's pledge to the Committee. Although the Rules of the House of Representatives grant Chairman Cummings broad oversight authority,² we rely on the Chairman to use it responsibly. The Chairman's decision to subpoena Mazars is not a responsible use of the Committee's oversight authority. It is also an unfortunate departure from the public promises that Chairman Cummings made just 76 days ago.

For these reasons, I reluctantly write to inform the Members of the Committee why I strongly object to Chairman Cummings's unprecedented subpoena to Mazars and his irresponsible and gravely dangerous course of conduct in a singular obsession of attacking President Trump and his family for political gain.

I. Chairman Cummings's Partisan Request for Sensitive, Personal Financial Information Is Derived Solely from Convicted Liar Michael Cohen.

On March 20, 2019, Chairman Cummings wrote to Mazars, seeking four broad categories of documents relating to the finances of eight business entities related to President Trump before he sought public office.³ Chairman Cummings requested material from as early as January 1, 2009—years before President Trump was even a candidate for federal office.⁴ The Chairman did

¹ Memorandum from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Members of the Comm. on Oversight & Reform (Apr. 12, 2019) (on file with Committee).

² House Rule X.

³ Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Victor Wahba, Chairman and Chief Exec. Off., Mazars USA LLP (Mar. 20, 2019).

⁴ *Id.*

not consult with the Republican Members of the Committee before initiating his inquiry, nor has he attempted to explain why his probe has any legitimacy.

The Chairman's March 20 letter and his April 12 memorandum cite testimony and material from Michael Cohen as justification for prying into the personal finances of President Trump.⁵ Cohen—Chairman Cummings's first announced witness of the 116th Congress—is a convicted liar and not a credible witness. Cohen's testimony was conceived and presented by Democrat political operative Lanny J. Davis, who boasted that he convinced the Chairman after some time to use the Committee for Cohen's attacks against the President. In fact, Davis recently wrote the Chairman seeking a letter of recommendation to keep Cohen out of jail. Chairman Cummings has said he is still considering Davis's request to help this convicted liar.⁶

At the February 27, 2019, Committee hearing, Cohen repeatedly lied to the Committee, perjuring himself at least seven additional times. Rather than using Cohen's false and misleading testimony as a basis for a broad fishing expedition into the President's personal finances, the Chairman should be referring Cohen to the Justice Department for lying to our Committee.

Chairman Cummings also misrepresented Mazars's response letter, dated March 27, 2019.⁷ Although the Chairman represented in his memorandum—and to the media⁸—that Mazars sought a "friendly" subpoena, they did not. In actuality, attorneys for Mazars informed the Chairman that the "Mazars is unable to produce documents in response to the [r]equest" due to a number of federal and state laws.⁹ Mazars never indicated that it sought a subpoena for this material.

II. Chairman Cummings's Partisan Request for Sensitive, Personal Financial Information Violates His Promises to the Committee.

Twelve days ago, on April 3, 2019, Chairman Cummings, in a free-wheeling press availability, announced to the media that he was preparing a subpoena to Mazars for this sensitive, personal information about President Trump's finances.¹⁰ Instead of noticing a business meeting during the week of April 8 for the Committee to consider and debate this subpoena—when there was room in the Committee's calendar—he waited and waited until just after Members had left for the two-week Easter district work period to announce his intention to subpoena Mazars. This action violates the Chairman's promise to the Committee at our organization meeting.

⁵ Memorandum from Elijah E. Cummings, *supra* note 1; Letter from Elijah E. Cummings, *supra* note 3.

⁶ Tweet by Manu Raju, CNN (Apr. 9, 2019, 11:58 a.m.), <https://twitter.com/mkraju/status/1115690562303094784?s=11>.

⁷ Letter from Jerry D. Bernstein, BlankRome, to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Mar. 27, 2019).

⁸ Chairman Cummings told the media: "The accounting firm told us that they will respond and they just want a subpoena so we...we've got to figure out how to accommodate them...but apparently it would mean a friendly subpoena, I assume." Rachael Bade, *Trump's accounting firm to respond to request for documents if subpoenaed, says Democratic lawmaker*, WASH. POST (Apr. 3, 2019).

⁹ *Id.*

¹⁰ Bade, *supra* note 8.

At the organizing meeting of the Committee on January 27, 2019, Chairman Cummings promised:

If the ranking member objects to the issuance of a subpoena in writing, my preference is to bring the subpoena before the committee for a vote when that is feasible. Members deserve the opportunity to go on the record for some of the most important work they will do, and the public deserves the opportunity to see them do that work in the open. The chair prefers that when the ranking member objects the committee will have an open proceeding and a vote when feasible.¹¹

In the Chairman's memorandum, he alleged that he adhered to this agreement because Congress is in recess.¹² However, Chairman Cummings received Mazars's letter on March 27 and he boasted to the press on April 3 that he would issue a subpoena. Between March 27 and today, the House was in session for nine legislative days, during which Chairman Cummings could have scheduled a business meeting or could have contacted me directly or via staff to discuss the matter. Instead, the Chairman did not say a word. The staff said not one word. Chairman Cummings purposefully waited for the Members to return to their districts to avoid public transparency and accountability surrounding his unilateral partisan actions.

The Chairman's maneuvering here is especially concerning against the backdrop of his public statements. For example, during the Committee's hearing on March 14, 2019, Chairman Cummings said: "I'm a man of my word, and I will continue to be that."¹³ While I respect the Chairman personally, his actions here in willfully avoiding a public debate to consider this subpoena to Mazars violate his promises to the Committee.

III. Chairman Cummings Has Already Selectively Released Sensitive Committee Information to Attack the President for Political Gain.

I have concerns that if Chairman Cummings obtains highly sensitive, personal information about the President's finances, he will selectively release the information publicly in a misleading fashion to create a false narrative for partisan political gain. Chairman Cummings has done it before. We deserve better.

On April 1, 2019, in a sensational press release and memorandum, Chairman Cummings released cherry-picked excerpts of highly sensitive information obtained in a closed-door transcribed interview that he scheduled for 8:30 a.m. on a Saturday with no notice to Members.¹⁴ Chairman Cummings released this information publicly without consulting Republican Members

¹¹ *Organizing Meeting, H. Comm. on Oversight & Reform*, 116th Cong. 33 (2019).

¹² Memorandum from Elijah E. Cummings, *supra* note 1.

¹³ *Hearing with Secretary of Commerce Before the H. Comm. on Oversight & Reform*, 116th Cong. 180 (2019).

¹⁴ Memorandum from Democratic Staff to Members of the H. Comm. on Oversight & Reform, *Summary of Interview with White House Whistleblower on Security Clearances* (Apr. 1, 2019).

or having a vote of the Committee. He released this information to generate headlines in his partisan investigation of the security clearance information relating to President Trump's senior advisers.

In addition, in a letter dated February 15, 2019, Chairman Cummings wrongly accused two respected lawyers of making false statements without ever speaking to them and by relying only on cherry-picked passages of incomplete, one-sided, handwritten notes of a conference call between lawyers for the President and officials at the Office of Government Ethics.¹⁵ Chairman Cummings failed to include exculpatory information produced in the document production relating to the same teleconference. The Chairman then released this information publicly to embarrass these lawyers solely based on their representation of President Trump.

IV. Chairman Cummings's Partisan Request for Sensitive, Personal Financial Information Is Not a Responsible Use of the Committee's Oversight Power.

The Supreme Court has cautioned that Congress does not have "general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress."¹⁶ Yet this is precisely what Chairman Cummings intends to do with his subpoena to Mazars for sensitive, personal information about President Trump's finances.

Chairman Cummings has cited no specific law or legislative proposal for which he requires eight years of sensitive, personal financial information about President Trump. Chairman Cummings has offered no detailed explanation for how this sensitive, personal financial information is necessary to examine any of the potential conduct that he attributes to the President in his memorandum. Quite simply, Chairman Cummings seems to be seeking this sensitive, personal financial information in a pursuit to satisfy his preconceived and unsupported conclusions.

The Chairman's raw partisanship and political acts run the risk of devaluing and delegitimizing the Committee's ability to receive unbiased documentary and testimonial information with which to perform our oversight duties.

V. Chairman Cummings's Unprecedented Investigations Attacking the President Reflect Poorly on this Committee.

Finally, Chairman Cummings mischaracterized the letter that Representative Mark Meadows and I sent to Mazars in response to the Chairman's letter. Contrary to the Chairman's assertion, Mr. Meadows and I never urged the company not to comply with the Chairman's

¹⁵ Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Pat Cipollone, Counsel to the President, The White House (Feb. 15, 2019) (on file with the Committee); *see also* Office of Gov't Ethics, Jan. 31, 2019 Document Production at 0037-0038.

¹⁶ *Watkins v. United States*, 354 U.S. 178, 187 (1957) ("There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress Nor is the Congress a law enforcement or trial agency No inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress.").

Memorandum for Members of the Committee on Oversight and Reform
Re: Chairman Cummings's Unprecedented Subpoena of Mazars USA LLP
April 15, 2019

request. The Chairman's assertion is merely a straw-man argument intended to deflect from his unprecedented attacks on the President.¹⁷

In our letter, Mr. Meadows and I informed Mazars about the concerns we had—and continue to have—with respect to the Chairman's unilateral, unchecked partisan inquiry. We have serious concerns with the nature and conduct of Chairman Cummings's investigations, as do many other Members. We will continue to inform the Committee's respondents of these concerns as we see appropriate.

What is unprecedented here is the extent to which Chairman Cummings and House Democrats have gone to attack the President for political gain. Chairman Cummings's subpoena for President Trump's sensitive, personal financial information goes hand-in-glove with Chairman Neal's request for President Trump's personal tax returns and with Chairman Nadler's expansive investigation into 81 entities with personal or business relationships with the President. These are all part of a coordinated and carefully managed campaign to use congressional oversight for partisan advantage—in fact, I recently became aware that Chairman Cummings has executed a secret Memorandum of Understanding with Chairwoman Maxine Waters to attack the President.

The Democrat obsession with the President and his family is gravely dangerous and counterproductive to the work of our Committee. The American people can now see that Democrats' pursuit of the truth is clouded by their obsession with attacking the President and the First Family. None of our actions would be necessary if not for Chairman Cummings's decision to pursue reckless, partisan investigations designed to attack the President and his family.

Chairman Cummings's unilateral subpoena of Mazars does nothing to make life better for our constituents or to improve the economy, efficiency, and effectiveness of the federal government. It is nothing but an exercise in raw partisan politics. This is not the fair and responsible oversight that Chairman Cummings promised.

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¹⁷ Similarly, Chairman Cummings's absurd comparison of subpoenaing eight years of personal financial information about the President to asking a witness about his salary demonstrates how desperate the Chairman is to legitimize his unprecedented conduct.