

Congress of the United States

Washington, DC 20515

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Dear Messrs. Cohen, Kasowitz, and Pecker:

We write to you to follow up on a series of recent revelations concerning payments made to Stephanie Clifford, a former adult-film star known as Stormy Daniels; Karen McDougal, a former Playboy “Playmate of the Year”; and potentially others in an effort to avoid disclosures of their relationships with Donald Trump. We can assure you we have no interest in Mr. Trump’s personal relationships in and of themselves. However, as the senior Democratic leadership of the House Judiciary Committee and leadership of the Democratic Women’s Working Group, we believe we have an obligation to inquire regarding such matters to the extent they raise questions relating to possible violations of law. These matters raise questions relating to potential violations of federal campaign finance and income tax laws, legal ethics and other laws; bear upon the credibility of Mr. Trump’s denials of past non-consensual sexual misconduct; and may pose risks of future efforts to extort or otherwise influence the President in his official capacity.

Given ongoing developments, including a series of disclosures concerning the potentially unlawful payment of “hush money” to Ms. Clifford in connection with a Nondisclosure Agreement involving Mr. Trump and Ms. Daniels -- culminating in the recent admission by Mr. Trump’s private attorney, Michael Cohen, that he facilitated the payment of \$130,000 to her, his obtaining a restraining order to silence Ms. Clifford, and the filing of a lawsuit by Ms. Clifford to invalidate the Nondisclosure Agreement -- and the report last month in *The New Yorker* that

American Media, Inc. (AMI) made a payment of \$150,000 in August 2016 to Karen McDougal, which had the effect of preventing her from publicly describing her own affair with Mr. Trump;¹ we believe it is critical that Members of Congress receive answers regarding these matters.

Over the last several weeks, the following circumstances have been disclosed with respect to the \$130,000 payment made to Ms. Clifford:

- On January 12, 2018, *The Wall Street Journal* reported that a \$130,000 payment had been made to Ms. Clifford through Mr. Cohen.² In response, Mr. Cohen did not address the payment, but said of the alleged sexual encounter with Ms. Clifford that “President Trump once again vehemently denies any such occurrence” and that “Your’re [sic] obsessive drive to prove a false narrative, one that has been rebuked by all parties, must come to an end.”³ Mr. Cohen sent *The Wall Street Journal* a statement signed by Ms. Clifford purportedly denying she had “a sexual and/or romantic affair” with Mr. Trump or that she received “hush money.”⁴
- Notwithstanding Mr. Cohen’s denials, we also learned in January that Ms. Clifford had previously disclosed in an unpublished 2011 interview with *In Touch* magazine⁵ that she had a sexual encounter with Mr. Trump which took place after they met at a July 2006 Lake Tahoe golf tournament and that their relationship continued for an 11-month period.⁶ In January, the Associated Press reported that *In Touch* did not publish the story after Mr. Cohen threatened aggressive legal action.⁷ Another media outlet, TheDirty.com, also briefly posted a story based on information provided to it by Ms. Clifford, but the website’s founder, Nik Richie, took it down the following day after Ms. Clifford’s then-attorney, Keith Davidson, threatened legal action.⁸
- It was also disclosed in January that in a series of phone conversations and text messages that occurred between August 2016 through October 2016, Ms. Clifford told Jacob Weisberg, the Chairman and Editor-in-Chief of The Slate Group, that Mr. Trump had

¹ Ronan Farrow, *A Playboy Model, and a System for Concealing Infidelity*, NEW YORKER, Feb. 16, 2018.

² Michael Rothfeld & Joe Palazzolo, *Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence*, WALL. ST. J., Jan. 12, 2018, 3:13 PM.

³ Aaron Blake, *Did Trump’s Lawyer Just Implicate Trump in the Stormy Daniels Payment?*, WASH. POST, Feb. 14, 2018; Michael Rothfeld & Joe Palazzolo, *Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence*, WALL. ST. J., Jan. 12, 2018, 3:13 PM; see Megan Twohey & Jim Rutenberg, *Porn Star Was Reportedly Paid To Stay Quiet About Trump*, N.Y. TIMES, Jan. 12, 2018.

⁴ Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels’*, WALL. ST. J., Jan. 18, 2018, 5:48 PM.

⁵ Paul Farhi, *In Touch Publishes 2011 Interview with Porn Star Who Says She Had an Affair with Trump*, WASH. POST, Jan. 19, 2018.

⁶ *Id.*; Michael Rothfeld & Joe Palazzolo, *Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence*, WALL. ST. J., Jan. 12, 2018, 3:13 PM.

⁷ Jake Pearson & Jeff Horwitz, *Porn Star Who Alleged Trump Affair: I Can Now Tell My Story*, Assoc. Press, Feb. 15, 2018; Jake Pearson, *Tabloid Held Porn Star’s 2011 Interview After Trump Threat*, Assoc. Press, Jan. 19, 2018, 5:48 PM.

⁸ Jim Rutenberg *et al.*, *Tools of Trump’s Fixer: Tough Talk, Hush Money and the Tabloids*, N.Y. TIMES, Feb. 19, 2018, at A1.

“negotiated to buy her silence.”⁹ According to Mr. Weisberg, Ms. Clifford said that “she and Trump had worked out an agreement for the presidential candidate to pay her a six-figure sum to keep quiet. More specifically, she said Keith Davidson, a Beverly Hills-based attorney who specializes in claims against celebrities, had worked out the terms with Trump’s lawyer Michael Cohen.”¹⁰

- After negotiations regarding the Nondisclosure Agreement and payment stalled, Ms. Clifford reached out in the weeks before the 2016 presidential election to possible media outlets, including *Slate*, ABC’s *Good Morning America*, and the *Daily Beast*, to determine whether she could be compensated by them for her story in lieu of being paid for her silence.¹¹
- On October 8, 2016, a previously unaired *Access Hollywood* television program from 2005 during which Mr. Trump made comments about engaging in inappropriate sexual conduct with women was made public.¹² In response, various women came forward to disclose their past sexual encounters with Mr. Trump.¹³ Likewise, at around that same period, Ms. Clifford sought to “share details concerning her relationship and encounters with Mr. Trump with various media outlets.”¹⁴
- After learning of Ms. Clifford’s efforts to publicly disclose her affair with Mr. Trump, Ms. Clifford states that “Mr. Trump, with the assistance of his attorney, Mr. Cohen aggressively sought to silence Ms. Clifford as part of an effort to avoid her telling the truth, thus helping to ensure he won the Presidential Election.”¹⁵ Mr. Cohen subsequently drafted the Nondisclosure Agreement, pursuant to which Ms. Clifford would receive \$130,000 for her silence.¹⁶ The Nondisclosure Agreement used aliases to refer to Ms. Clifford and Mr. Trump. Ms. Clifford was referred to as “Peggy Paterson” or “PP” and Mr. Trump was referred to as “David Dennison” or “DD”.¹⁷

⁹ Jacob Weisberg, *Stormy’s Story: Did Donald Trump Pay a Porn Star To Keep Quiet About an Affair?*, SLATE, Jan. 16, 2018, 10:10 AM.

¹⁰ *Id.*; see Michael Rothfeld & Joe Palazzolo, *Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence*, WALL. ST. J., Jan. 12, 2018, 3:13 PM.

¹¹ Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels’*, WALL ST. J., Jan. 18, 2018, 5:48 PM; Marlow Stern & Aurora Snow, *Porn Star: Donald Trump and Stormy Daniels Invited Me to Their Hotel Room*, Daily Beast, Jan. 12, 2018, 7:00 PM.

¹² *Transcript: Donald Trump’s Taped Comments About Women*, N.Y. TIMES, Oct. 8, 2016.

¹³ See, e.g., Eliza Relman, *The 22 Women Who Have Accused Trump of Sexual Misconduct*, BUSINESS INSIDER, Dec. 21, 2017, 9:00 AM.

¹⁴ Complaint for Declaratory Relief, *Clifford v. Trump et al.*, No. BC696568 (Sup. Ct. Cal. Los Angeles Coty Mar. 6, 2018), at 2 [hereinafter Complaint].

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 3; Exhibit 1.

- Mr. Cohen, in order to facilitate the \$130,000 payment to Ms. Clifford, established Resolution Consultants LLC, a limited liability company under Delaware law on September 30, 2016, and named himself as the company’s authorized person.¹⁸
- In October 2016, Mr. Cohen missed two deadlines to make the \$130,000 payment to Ms. Clifford “because he couldn’t reach Mr. Trump in the hectic final days of the presidential campaign,” according to a recent report by *The Wall Street Journal*.¹⁹ Then, on October 17, 2016, Mr. Davidson, sent an email to Mr. Cohen threatening to cancel the Nondisclosure Agreement by the end of the day and later sent a second email advising that Ms. Clifford “deems her settlement agreement canceled and void.”²⁰ That same day, Mr. Cohen established Essential Consultants, LLC, a limited liability company under Delaware law and designated himself as its authorized person.²¹ Two minutes later, Mr. Cohen dissolved Resolution Consultants.²²
- Ms. Clifford has asserted Essential Consultants, LLC “was created by Mr. Cohen with Mr. Trump’s knowledge for one purpose – to hide the true source of funds to be used to pay Ms. Clifford, thus further insulating Mr. Trump from later discovery and scrutiny.”²³
- Mr. Cohen used a bank account at First Republic Bank linked to Essential Consultants, LLC to wire the \$130,000 to Mr. Davidson’s client trust account at City National Bank, less than two weeks before the presidential election.²⁴
- On October 28, 2016, the Nondisclosure Agreement was signed by Ms. Clifford on her own behalf and by Mr. Cohen on behalf of Essential Consultants, LLC. Although the Nondisclosure Agreement provided for a signature for “DD”, no such signature was affixed to the document.²⁵ Among other things, the Nondisclosure Agreement includes a recital whereby Ms. Clifford claims “that she has been damaged by [Mr. Trump’s] alleged actions against her, including but not limited to tort claims proximately causing injury to her person.”²⁶

¹⁸ Certificate of Formation for Resolution Consultants LLC, File No. 6168356, Secretary of State, State of Delaware (Sept. 30, 2016); see Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels’*, WALL ST. J., Jan. 18, 2018, 5:48 PM.

¹⁹ Joe Palazzolo & Michael Rothfeld, *Trump Lawyer’s Payment to Porn Star Was Reported as Suspicious by Bank*, WALL ST. J., Mar. 5, 2018, 1:17 PM.

²⁰ Beth Reinhard, Frances Stead Sellers & Emma Brown, *Days Before the Election, Stormy Daniels Threatened To Cancel Deal To Keep Alleged Affair with Trump Secret*, WASH. POST, Mar. 2, 2018 (quoting from an email from Mr. Davidson to Mr. Cohen).

²¹ Certificate of Formation for Essential Consultants LLC, File No. 6185135, Secretary of State, State of Delaware (Oct. 17, 2016); see Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels’*, WALL ST. J., Jan. 18, 2018, 5:48 PM.

²² Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels’*, WALL ST. J., Jan. 18, 2018, 5:48 PM.

²³ Complaint at 3.

²⁴ Joe Palazzolo & Michael Rothfeld, *Trump Lawyer’s Payment to Porn Star Was Reported as Suspicious by Bank*, WALL ST. J., Mar. 5, 2018, 1:17 PM; Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels’*, WALL ST. J., Jan. 18, 2018, 5:48 PM.

²⁵ *Id.* at 3; Exhibit 1.

²⁶ *Id.* at Exhibit 1.

- Thereafter, Ms. Clifford ceased in her efforts to have her story published in return for compensation. For example, although Ms. Clifford had been in “protracted talks” with the *Daily Beast* about arranging an interview, “[s]he ultimately backed out on Nov. 3, just five days before the 2016 election.”²⁷
- In September 2017, City National Bank asked Mr. Davidson about the source of the \$130,000 wire transfer payment to his client trust account.²⁸ First Republic Bank, from which Mr. Cohen made the wire transfer “flagged the transaction as suspicious and reported it to the Treasury Department.”²⁹
- After certain details regarding Ms. Clifford’s affair with Mr. Trump and the efforts by Mr. Cohen to obtain Ms. Clifford’s silence were reported by the media, including *The Wall Street Journal*,³⁰ Mr. Cohen, as previously noted, sent *The Wall Street Journal* a statement signed by Ms. Clifford purportedly denying she had “a sexual and/or romantic affair” with Mr. Trump or that she received “hush money.”³¹
- On February 13, 2018, Mr. Cohen informed *The New York Times* that he used his own private funds to “facilitate” the payment of the \$130,000 to Ms. Clifford,³² although he has declined to answer questions about whether Mr. Trump reimbursed him for the \$130,000 payment.³³ *The Wall Street Journal* reported on March 5, 2018 that after Mr. Trump won the presidential election, “Mr. Cohen complained to friends that he had yet to be reimbursed for the payment to Ms. Clifford.”³⁴
- On February 27, 2018, Mr. Cohen obtained a restraining order from a private arbitrator designed to silence Ms. Clifford.³⁵ Ms. Clifford’s attorney, Mr. Avenatti, subsequently

²⁷Marlow Stern & Aurora Snow, *Porn Star: Donald Trump and Stormy Daniels Invited Me to Their Hotel Room*, *Daily Beast*, Jan. 12, 2018, 7:00 PM.

²⁸Beth Reinhard, Frances Stead Sellers & Emma Brown, *Days Before the Election, Stormy Daniels Threatened To Cancel Deal To Keep Alleged Affair with Trump Secret*, *WASH. POST*, Mar. 2, 2018.

²⁹Joe Palazzolo & Michael Rothfeld, *Trump Lawyer’s Payment to Porn Star Was Reported as Suspicious by Bank*, *WALL ST. J.*, Mar. 5, 2018, 1:17 PM.

³⁰See, e.g., Michael Rothfeld & Joe Palazzolo, *Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence*, *WALL. ST. J.*, Jan. 12, 2018, 3:13 PM; Megan Twohey & Jim Rutenberg, *Porn Star Was Reportedly Paid To Stay Quiet About Trump*, *N.Y. TIMES*, Jan. 12, 2018.

³¹Joe Palazzolo & Michael Rothfeld, *Trump Lawyer Used Private Company, Pseudonyms To Pay Porn Star ‘Stormy Daniels,’* *WALL ST. J.*, Jan. 18, 2018, 5:48 PM.

³²Maggie Haberman, *Michael D. Cohen, Trump’s Longtime Lawyer, Says He Paid Stormy Daniels Out of His Own Pocket*, *N.Y. TIMES*, Feb. 13, 2018; Tarini Parti, *Buzzfeed Twitter*, Feb. 13, 2018, 8:02 PM.

³³Joe Palazzolo & Michael Rothfeld, *Trump Lawyer’s Payment to Porn Star Was Reported as Suspicious by Bank*, *WALL ST. J.*, Mar. 5, 2018, 1:17 PM.

³⁴*Id.*

³⁵Jim Rutenberg & Peter Baker, *Trump Lawyer Obtained Restraining order to Silence Stormy Daniels*, *N.Y. Times*, March 7, 2018.

described the order as being “completely bogus,” because there was “no hearings, no notice to Ms. Clifford, no opportunity to respond, and no decision on the merits.”³⁶

- On March 6, 2018, Ms. Clifford brought a legal action through her current attorney, Michael J. Avenatti, against Mr. Trump and Esssential Consultants, LLC seeking a declaration that the Nondisclosure Agreement (which was included as part of the lawsuit) was invalid due to Mr. Trump’s failure to execute it. Among other things, Ms. Clifford asserts that: (i) “Mr. Cohen, through intimidation and coercive tactics, forced Ms. Clifford into signing a false statement” [regarding] . . . her relationship with Mr. Trump”;³⁷ (ii) confirmed that Ms. Clifford did have an “intimate relationship with Mr. Trump”;³⁸ (iii) Mr. Cohen is engaged in an ongoing effort “to intimidate Ms. Clifford into silence and ‘shut her up’ in order to ‘protect Mr. Trum;”³⁹ and (iv) Mr. Trump was involved in these efforts (“there can be no doubt that Mr. Trump *at all times* has been fully aware of the negotiations with Ms. Clifford, the existence of and terms of the Hush Agreement, the payment of the \$130,000.00, the use of EC [Essential Consultants, LLC] as a conduit, and the recent attempts to intimidate and silence Ms. Clifford by way of the bogus arbitration proceeding.”).⁴⁰
- On March 8, 2018, White House Press Secretary Sarah Sanders acknowledged that President Trump had knowledge of the recent restraining order involving Ms. Clifford stating, “I have had conversations with the president about this and as I outlined earlier, this case had already been won in arbitration.”⁴¹

And, this is not the only documented instance of supposed “hush money” being used to prevent disclosures of alleged extramarital affairs involving Mr. Trump:

- In July 2016, according to *The Wall Street Journal*, former 1998 Playboy Playmate of the Year Karen McDougal was in discussions with producers at NBC News about her own extramarital affair with Mr. Trump that began in 2006.⁴² Ultimately, however, she entered into a contractual agreement with AMI, which owns the *National Enquirer*. Pursuant to that August 5, 2016 contract,⁴³ AMI paid Ms. McDougal \$150,000. It is widely understood that AMI’s chairman, David Pecker, is a friend and political supporter of Mr. Trump, and is also close friends with Mr. Cohen.⁴⁴

³⁶ Joe Palazzolo, Michael Rothfeld & Lukas I. Alpert, *National Enquirer Shielded Donald Trump From Playboy Model’s Affair Allegation*, WALL ST. J., Nov. 4, 2016.

³⁷ Complaint at 4.

³⁸ *Id.* at 5.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Sarah Fitzpatrick, Trump Lawyer Michael Cohen Tries to Silence Adult Film Star Stormy Daniels, NBC News (Mar. 8, 2018, 12:21 PM).

⁴² Joe Palazzolo, Michael Rothfeld & Lukas I. Alpert, *National Enquirer Shielded Donald Trump From Playboy Model’s Affair Allegation*, WALL ST. J., Nov. 4, 2016.

⁴³ Ronan Farrow, *A Playboy Model, and a System for Concealing Infidelity*, NEW YORKER, Feb. 16, 2018; see Jim Rutenberg *et al.*, *Tools of Trump’s Fixer: Tough Talk, Hush Money and the Tabloids*, N.Y. TIMES, Feb. 19, 2018, at A1.

⁴⁴ See, e.g., *id.*; Joe Palazzolo, Michael Rothfeld & Lukas I. Alpert, *National Enquirer Shielded Donald Trump From Playboy Model’s Affair Allegation*, WALL ST. J., Nov. 4, 2016 (“Since last year, the Enquirer has supported

- The contract gave AMI exclusive rights to Ms. McDougal’s story in perpetuity, but did not require the company to publish it. The *Enquirer* never published the story, even though she expected it would be published, according to individuals familiar with these matters.⁴⁵ During her negotiations with AMI, Ms. McDougal was also represented by Keith Davidson, whose retainer agreement pertained to “claims against Donald Trump and or assisting client in negotiating a confidentiality agreement and/or life rights related to interactions with Donald Trump and/or negotiating assignment of exclusive press opportunities regarding same.”⁴⁶
- Regarding AMI’s agreement to pay Ms. McDougal \$150,000, Hope Hicks, a Trump Campaign spokeswoman (and former White House Director of Communications), said, “We have no knowledge of any of this” and that Ms. McDougal’s claim of an affair with Mr. Trump was “totally untrue.”⁴⁷
- As noted above, on February 16, 2018, *The New Yorker* published an article that confirmed and expounded upon these payments and Ms. McDougal’s nine-month romantic relationship with Mr. Trump. Among other things, the writer, Ronan Farrow, based on interviews with Ms. McDougal and other sources, reported that: (i) Ms. McDougal had memorialized her affair with Mr. Trump in an eight-page handwritten document; (ii) Mr. Trump initially attempted to pay Ms. McDougal after their first romantic liaison and was careful to avoid directly paying for her travel (“‘No paper trails for him,’ she wrote”), but that he arranged for her to be reimbursed (“‘every time I flew to meet him, I booked/paid for flight + hotel + he reimbursed me’”); (iii) six former AMI employees stated that the payments to Ms. McDougal were part of a pattern of so-called “catch-and-kill” arrangements (“‘We had stories and we bought them knowing full well they were never going to run,’” according to Jerry George, a former AMI senior editor, who added, “‘Pecker really considered [Mr. Trump] a friend. We never printed a word about Trump without his approval.’”); (iv) Mr. Pecker’s use of these catch-and-kill arrangements to bury stories about Mr. Trump could provide Mr. Pecker significant leverage in terms of his relationship with Mr. Trump (according to a former AMI employee, Maxine Page, the existence of these catch-and-kill arrangements by AMI involving Mr. Trump is “‘a cause of concern. In theory, you would think that Trump has all the power in that relationship, but in fact Pecker has the power—he has the power to run these stories. He knows where the bodies are buried.’”); and (v) AMI’s interest in Ms. McDougal “seemed to increase” after news broke last January of Mr. Trump’s affair with Ms. Clifford, with the media firm sending her emails about contract extensions, media training, and offers to host Emmy coverage.⁴⁸

Mr. Trump’s presidential bid, endorsing him and publishing negative articles about some of his opponents. In a written statement, Mr. Pecker said that it is no secret that he and Mr. Trump are friends and that he greatly admires him.”).

⁴⁵ Joe Palazzolo, Michael Rothfeld & Lukas I. Alpert, *National Enquirer Shielded Donald Trump From Playboy Model’s Affair Allegation*, WALL ST. J., Nov. 4, 2016.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Ronan Farrow, *A Playboy Model, and a System for Concealing Infidelity*, NEW YORKER, Feb. 16, 2018.

- On February 19, 2018, *The New York Times* reported that Mr. Cohen was also apprised by AMI of its efforts to ensure that Ms. McDougal’s involvement with Mr. Trump was not made public: “In the summer of 2016, American Media came to Mr. Cohen with a story involving Ms. McDougal . . . [and her claim] to have had a consensual affair with Mr. Trump in the mid-2000’s.” Shortly after Ms. McDougal signed the agreement with AMI on August 5, 2016, Ms. McDougal’s attorney, Keith Davidson, sent an email to Mr. Cohen and confirmed to him over the phone that the transaction had been completed.⁴⁹
- Mr. Cohen also sent other catch-and-kill stories to AMI. According to *The New York Times*, in July 2015, he was contacted by “Jeremy Frommer, a hedge-fund manager turned digital entrepreneur, who had obtained photos of Mr. Trump appearing to autograph the breasts of a topless woman from the estate of Bob Guggione, the founder of Penthouse Magazine.”⁵⁰ After some discussion, it was agreed that Mr. Frommer would take the incriminating photos to David Pecker at AMI, while Messrs. Cohen and Pecker simultaneously (and by some appearances, in exchange therefore) discussed business opportunities that could benefit Mr. Frommer’s media company. AMI ended up never publishing the photographs, and, as recently reported by the *Times*, in early 2016 “when the negotiations between AMI and Mr. Frommer began, they were intended to suppress the photos, part of broader efforts by American Media to ‘catch and kill’ information that would damage Mr. Trump.”⁵¹ Mr. Cohen recently confirmed to the *Times* that he had directed that Mr. Frommer take the photographs to AMI.⁵²
- The “hush money” payments and benefits to Ms. Clifford and Ms. McDougal and others appear not to be isolated occurrences. It is reported that Steve Bannon, former White House Chief Strategist and CEO of the Trump Campaign, said the Trump Campaign routinely paid sums of money to women in exchange for their silence regarding their interactions with Mr. Trump. Mr. Bannon said, “‘Kasowitz on the campaign—what did we have, a hundred women? Kasowitz took care of all of them.’”⁵³

What may be even more troubling than the apparent serial use of “hush money” to prevent disclosure of potentially incriminating information is Mr. Trump’s pattern of denying any involvement with regard to a range of credible charges of non-consensual sexual misconduct:

- As noted above, on October 8, 2016, a previously unaired 2005 video from the television program *Access Hollywood* was made public in which Mr. Trump made comments about

⁴⁹ Jim Rutenberg *et al.*, *Tools of Trump’s Fixer: Tough Talk, Hush Money and the Tabloids*, N.Y. TIMES, Feb. 19, 2018, at A1.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Eliza Relman, *Steve Bannon Suggests Trump’s Lawyer ‘Took Care’ of ‘a Hundred’ Women During the Presidential Campaign*, BUSINESS INSIDER, Jan. 12, 2018, 5:42 PM (quoting from FIRE AND FURY: INSIDE THE TRUMP WHITE HOUSE); *see also* Marc E. Kasowitz, Kasowitz Benson Torres, (last visited Jan. 26, 2018) (noting that Mr. Kasowitz is a New York attorney, whose law firm states that he has represented Mr. Trump “in a wide range of litigation matters for over 15 years”).

engaging in inappropriate sexual conduct with women. In particular, when referring to kissing women and grabbing them by their genitals without their consent, Mr. Trump stated: “You know, I’m automatically attracted to beautiful [women] -- I just start kissing them. It’s like a magnet. Just kiss. I don’t even wait. And when you’re a star, they let you do it. You can do anything. . . . Grab ’em by the pussy. You can do anything.”⁵⁴

- Following the release of that video, at least 19 women have come forward to accuse Mr. Trump of sexual misconduct.⁵⁵ For example, Jessica Drake, an adult-film star, alleged Mr. Trump, while in his pajamas, hugged and kissed her and two other women without permission in his hotel suite after a July 2006 celebrity golf tournament in Lake Tahoe.⁵⁶ Ms. Drake also stated that Mr. Trump offered her \$10,000 and the use of his private jet in exchange for sex, an offer that she rejected.⁵⁷ (Ms. Drake, who also goes by the name “Angel Ryan,” was listed in the Nondisclosure Agreement involving Ms. Clifford as being one of four individuals who had previously been made aware of Ms. Clifford’s romantic relationship with Mr. Trump.) In addition, at least six former beauty pageant contestants claimed that Mr. Trump walked into their pageant changing rooms and observed them in various stages of undress or touched them inappropriately.⁵⁸
- In some instances, women involved in allegations of non-consensual sexual misconduct, faced denials manufactured by Mr. Cohen. Thus, according to *The New York Times*, in early 2016 after a legal affairs website⁵⁹ identified court documents by which Jill Harth, a female former business partner of Mr. Trump, accused him of sexual misconduct, Mr. Cohen issued a statement indicating that Ms. Harth “‘would acknowledge’ that the story was false.” However, Ms. Harth has stated that she did not authorize any such statement and stands by her claims of misconduct against the President.⁶⁰ (Ms. Harth is one of the women who have accused Mr. Trump of sexual misconduct.⁶¹)
- During a campaign rally in October 2016, Mr. Trump said, “‘Every woman lied when they came forward to hurt my campaign. . . . Total fabrication. The events never happened. Never. All of these liars will be sued after the election is over.’”⁶² On November 17, 2017, White House Press Secretary Sarah Huckabee, when asked by a

⁵⁴ Transcript: *Donald Trump’s Taped Comments About Women*, N.Y. TIMES, Oct. 8, 2016.

⁵⁵ See, e.g., Eliza Relman, *The 22 Women Who Have Accused Trump of Sexual Misconduct*, BUSINESS INSIDER, Dec. 21, 2017, 9:00 AM.

⁵⁶ See, e.g., Nancy Dillon & Larry McShane, *Porn Star Jessica Drake Claims Donald Trump Offered Her \$10G, Use of His Private Jet for Sex*, N.Y. DAILY NEWS, Oct. 23, 2016, 6:46 AM.

⁵⁷ *Id.*

⁵⁸ Eliza Relman, *The 22 Women Who Have Accused Trump of Sexual Misconduct*, BUSINESS INSIDER, Dec. 21, 2017, 9:00 AM; see, e.g., Harper Neidig, *Report: Trump Walked into Teen Beauty Pageant Changing Room*, THE HILL, Oct. 12, 2016, 7:54 AM.

⁵⁹ Rachel Stockman, *Exclusive: Inside the \$125 Million Donald Trump Sexual Assault Lawsuit*, LAW & CRIME, Feb. 23, 2016, 3:40 PM.

⁶⁰ Jim Rutenberg et al., *Tools of Trump’s Fixer: Tough Talk, Hush Money and the Tabloids*, N.Y. TIMES, Feb. 19, 2018, at A1.

⁶¹ See, e.g., Matt Ford, *The 19 Women Who Accused President Trump of Sexual Misconduct*, THE ATLANTIC, Dec. 7, 2017.

⁶² Joe Concha, *CBS’s Major Garrett: Why Hasn’t Trump Sued His Sexual Misconduct Accusers?*, THE HILL, Nov. 17, 2017.

CBS news correspondent why President Trump had not sued the women he called liars, she said, “I haven’t asked him that question. . . . I’d have to ask him and let you know why he hasn’t chosen to take that path.”⁶³

These events present several critical legislative and oversight concerns to us, including possible campaign finance, tax, legal ethics and other legal violations, raise serious doubts about the credibility of President Trump’s repeated denials of sexual misconduct, and pose risks of future efforts to extort or otherwise improperly influence the President:

Possible Campaign Finance and other Legal Violations: The payment of \$130,000 that Mr. Cohen facilitated through Essential Consultants, LLC to Ms. Clifford in October 2016 less than two weeks before the election may constitute an unlawful unreported in-kind contribution to the Trump campaign, or, alternatively, an unreported campaign expenditure paid for the purpose of influencing the presidential election.⁶⁴ For example, the American Bridge 21st Century Foundation, in its complaint filed with the Federal Election Commission (FEC), alleges that had Mr. Trump been interested in protecting his reputation, he could have obtained Ms. Clifford’s silence in 2011, when she initially spoke with the media about her alleged affair. Instead, Mr. Cohen waited until just before the presidential election when Mr. Trump faced the prospect of negative news coverage surfacing about this affair.⁶⁵ In addition, depending on the ultimate source of the payments, the Trump campaign may have also unlawfully received a corporate contribution.⁶⁶ The foregoing restrictions are criminal in nature and subject to a fine or up to five years imprisonment.⁶⁷

Similarly, AMI’s \$150,000 payment to Ms. McDougal also may constitute a prohibited in-kind contribution or unreported expenditure made for the purpose of influencing the 2016 presidential election.⁶⁸ For instance, Free Speech for People, in its FEC complaint against the Trump campaign with regard to this payment, alleges that this expenditure was “‘coordinated’ with a candidate as an in-kind contribution to the candidate and must be reported as a contribution to and expenditure by that candidate’s authorized committee.”⁶⁹ The law defines “coordinated” as meaning “made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or a political party committee.”⁷⁰

⁶³ *Id.*

⁶⁴ See 52 U.S.C. § 30104(b) (2018); see, e.g., Supplemental Complaint by American Bridge 21st Century Foundation v. Donald J. Trump *et al.*, Mur. No. ___, Federal Election Commission (Feb. 15, 2018); Complaint by American Bridge 21st Century Foundation v. Donald J. Trump *et al.*, Mur. No. ___, Federal Election Commission (Feb. 12, 2018); Complaint by Common Cause & Paul S. Ryan v. Donald J. Trump for President, Inc. & The Trump Organization, Mur. No. ___, Federal Election Commission (Jan. 22, 2018).

⁶⁵ Complaint by American Bridge 21st Century Foundation v. Donald J. Trump *et al.*, Mur. No. ___, Federal Election Commission (Feb. 12, 2018), at 6.

⁶⁶ See 52 U.S.C. § 30118(a) (2018).

⁶⁷ 52 U.S.C. § 30109(d) (2018).

⁶⁸ See, e.g., Complaint by Common Cause & Paul S. Ryan v. President Donald J. Trump, Donald J. Trump for President, Inc., & America Media, Inc., Mur. No. ___, Federal Election Commission (Feb. 20, 2018); Complaint by Free Speech for People & Shanna M. Cleveland v. Donald J. Trump for President & America Media, Inc., Mur. No. ___, Federal Election Commission (Feb. 16, 2018).

⁶⁹ Complaint by Free Speech for People & Shanna M. Cleveland v. Donald J. Trump for President & America Media, Inc., Mur. No. ___, Federal Election Commission (Feb. 16, 2018).

⁷⁰ 11 C.F.R. § 109.20 (2018).

(Moreover, any payment or benefit to Mr. Frommer in connection with his providing photos to AMI may also similarly contravene the campaign finance laws.)

These payments and benefits may also violate the federal income tax laws, as it is unlawful to deduct any amount “paid or incurred in connection with . . . participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office or . . . any attempt to influence the general public, or segments thereof, with respect to elections.”⁷¹ To the extent Mr. Trump or the Trump Organization may have attempted to treat any travel reimbursements or other payments to Ms. McDougal or others as a business expense, this may also give rise to income tax issues. For example, criminal federal tax law penalties may be imposed for filing a fraudulent or false return, statement or other document.⁷²

In addition, although not criminal in nature, the contention that Mr. Trump may not have been involved in or made aware of the Nondisclosure Agreement and that Mr. Cohen used his “own personal funds to facilitate a payment of \$130,000 to Ms. Stephanie Clifford”⁷³ raises a host of legal ethics issues. Charles Wolfram a professor of legal ethics at Cornell University noted, “The thing seems so weird that it invites an inquiry into what you’re doing. Lawyers don’t go around giving \$130,000 to strangers, benefiting their clients, without billing their clients.”⁷⁴ Potentially implicated provisions include Rule 1.4 of the New York State Rules of Professional Conduct which provides that lawyers are required to: “promptly inform their clients of any decisions or circumstances with respect to which the client’s ‘informed consent’” is required including “material developments in the matter including settlement . . . offers.” Rule 1.8 of the New York Rules also prohibits lawyers from lending funds to clients during contemplated or pending litigation, and also requires a written agreement if there is a loan between a lawyer and a client. And Rule 8.4 prohibits lawyers from engaging “in conduct involving dishonesty, fraud, deceit or misrepresentation.”

Possible Pattern of Misstatements and Cover-ups Concerning Sexual Misconduct: Misstatements, intentional or otherwise, by President Trump have proven to be commonplace – as of last January, President Trump has reportedly made nearly 2,000 false or misleading claims during his presidency.⁷⁵ However, in our view, lying about sexual assault or misconduct is a particularly grievous concern not only because of its reputational damage to the women involved, but because it may be reflective of a general contempt for the rights of women.

Thus, when confronted with allegations of inappropriate non-consensual behavior with women over the course of the 2016 presidential campaign, Mr. Trump repeatedly denied them, just as he and his representatives have previously sought to deny any involvement with, or payments to, Ms. Clifford and Ms. McDougal:

⁷¹ 26 U.S.C. § 162(e) (2018). Also, the Internal Revenue Code restricts political activities by a tax-exempt entity. 26 U.S.C. §§ 501(c), 527 (2018).

⁷² See, e.g., 26 U.S.C. § 7206 (2018).

⁷³ Tarini Parti, Buzzfeed Twitter, Feb. 13, 2018, 8:02 PM; Maggie Haberman, *Michael D. Cohen, Trump’s Longtime Lawyer, Says He Paid Stormy Daniels Out of His Own Pocket*, N.Y. TIMES, Feb. 13, 2018.

⁷⁴ Maggie Haberman & Charlie Savage, *Trump Lawyer’s Payment to Porn Star Raises New Questions*, N.Y. TIMES, Feb. 15, 2018, at A17.

⁷⁵ Glenn Kessler, Meg Kelly & Nicole Lewis, *President Trump Has Made 1,950 False or Misleading Claims Over 347 Days*, WASH. POST, Jan. 2, 2018.

- After the *Access Hollywood* video was publicly released, Mr. Trump dismissed his comments as mere “locker room banter, a conversation that took place many years ago.”⁷⁶
- During the second presidential debate on October 8, 2016, Mr. Trump again disavowed the comments he made during the *Access Hollywood* video about kissing women without permission and grabbing their genitals. In response to questioning during the debate about whether he actually had done so, he stated, “No. . . . I have not.”⁷⁷
- The following week, during an interview with *The New York Times* regarding the allegations of Ms. Leeds and Ms. Crooks, two women who accused Mr. Trump of sexual assault, “a highly agitated Mr. Trump” denied the women’s claims, shouting “None of this ever took place.” “He said that the *Times* was making up the allegations to hurt him and that he would sue the news organization if it reported them,” according to the *Times* and told the reporter, “You are a disgusting human being.” “Asked whether he had ever done any of the kissing or groping that he had described on the recording, Mr. Trump was once again insistent: “I don’t do it. I don’t do it. It was locker room talk.”⁷⁸
- On the day following the publication of *The New York Times* story regarding the allegations of the two women, Marc Kasowitz sent letters to the *Times* reporter as well as the *Times* Executive Editor threatening to sue the *Times* if it did not retract the “libelous” article and claiming that it was “reckless, defamatory and constitutes libel per se.”⁷⁹ Neither Mr. Kasowitz nor Mr. Trump followed through on their threat to sue *The New York Times* for libel. The one-year statute of limitations for filing such a libel suit under New York law expired on October 12, 2017.⁸⁰
- On the day following the publication of a February 19, 2018 *Washington Post* article reporting on Ms. Crooks’ repeated efforts to call attention to a 2006 incident with Mr. Trump during which she said he forcibly kissed her,⁸¹ President Trump denied knowing the woman and accused the *Washington Post* of publishing “[f]ake” news.⁸²

⁷⁶ Reena Flores *et al.*, “I Never Said I’m a Perfect Person,” *Trump Says About Lewd Comments*; CBS News, Oct. 8, 2016, 10:58 AM.

⁷⁷ Megan Twohey & Michael Barbaro, *Two Women Say Donald Touched Them Inappropriately*, N.Y. TIMES, Oct. 12, 2016; *see* Patrick Healy & Jonathan Martin, *In Second Debate, Donald Trump and Hillary Clinton Spar in Bitter, Personal Terms*, N.Y. TIMES, Oct. 9, 2016.

⁷⁸ Megan Twohey & Michael Barbaro, *Two Women Say Donald Touched Them Inappropriately*, N.Y. TIMES, Oct. 12, 2016.

⁷⁹ Staci Zaretsky, *Donald Trump’s Biglaw Firm Threatens To Sue New York Times Over Publication of Sexual Assault Allegations*, *Above the Law*, Oct. 13, 2016.

⁸⁰ Eriq Gardner, *One Year After Trump’s Pledge to Sue N.Y. Times, He Lets Groping Story Go*, HOLLYWOOD REPORTER, Oct. 11, 2017; Staci Zaretsky, *Donald Trump’s Biglaw Firm Threatens To Sue New York Times Over Publication of Sexual Assault Allegations*, *Above the Law*, Oct. 13, 2016.

⁸¹ Eli Saslow, *Is Anyone Listening? This Trump Accuser Keeps Asking Herself That. But She Plans To Keep Talking About that Day in 2006*, WASH. POST, Feb. 19, 2018.

⁸² Tamara Keith, *Trump Denies Woman’s Allegation of Unwanted Kissing in Trump Tower*, Nat’l Pub. Radio, Feb. 20, 2018.

As a result of the foregoing, we are concerned that the misleading statements concerning Mr. Trump's involvement with Ms. Clifford and Ms. McDougal calls into question his denials of any involvement with the 19 or more women who have previously accused him of sexual misconduct.

Risks of Future Efforts to Extort or Otherwise Influence the President in his Official Capacity: One of our most profound concerns is that there may exist additional unreported extramarital relationships, catch-and-kill agreements, or other incidents in Mr. Trump's past that could serve as the foundation of an attempt to extort the President, or otherwise influence any official action he might take. As you know, applicants for sensitive national security positions are required to demonstrate that they can protect classified information under a range of guidelines, including sexual misbehavior.⁸³ Under applicable guidelines, this could include legal activities between consenting adults as well as other activities reflecting lack of judgment or discretion or which may subject an individual to undue influence or coercion.⁸⁴ It goes without saying that the President—holding the most sensitive position in the free world—should be held to the highest possible standard in this regard.

Given these collective concerns, we ask that, as relevant, each of you answer the following initial questions:

1. With regard to the October 2016 Nondisclosure Agreement and payment, and February 2018 restraining order involving Ms. Clifford (for Mr. Cohen):
 - a) Please describe the purpose and source of the October 2016 payment of \$130,000 to Ms. Clifford, and whether and when Mr. Trump or anyone in the Trump Campaign or Trump Organization was made aware of this transaction.
 - b) With respect to your statement, "In a private transaction in 2016, I used my own personal funds to facilitate a payment of \$130,000 to Ms. Stephanie Clifford,"⁸⁵ please describe what you meant by "personal funds" and "facilitate."
 - c) Please explain how any amount expended by you or Essential Consultants, LLC in this regard was treated for tax purposes.
 - d) With respect to your statement, "[n]either the Trump Organization nor the Trump campaign . . . reimbursed me for the payment, either directly or indirectly"⁸⁶ you failed to note whether Mr. Trump himself reimbursed you for the payment. Please inform us if he or any other person or entity has or plans to provide reimbursement, and if so when. Was any payment you or your firm made in this regard as a gift, and if so, for whose benefit was this gift made? Please inform us whether any portion of the payment was a loan, and if so please provide us with copies of any loan documentation and let us know if it was in any way related to possible litigation.

⁸³ Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, Guideline D – Sexual Behavior, 32 C.F.R. § 147.6 (2018) (noting that "[se]xual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress" may "raise a security concern").

⁸⁴ *Id.*; see, e.g., Jeffrey Bennett, *5 Sexual Behaviors Which Could Result in Clearance Denial*, ClearnaceJobs.com, Aug. 15, 2017.

⁸⁵ Tarini Parti, BuzzFeed Twitter, Feb. 13, 2018, 8:02 PM; Maggie Haberman, *Michael D. Cohen, Trump's Longtime Lawyer, Says He Paid Stormy Daniels Out of His Own Pocket*, N.Y. TIMES, Feb. 13, 2018.

⁸⁶ *Id.*

- e) With respect to the February 27, 2018 temporary restraining order from an arbitrator concerning Ms. Clifford, please let us know whether and the extent Ms. Clifford received notice and an opportunity to respond to the proceeding, the source of payment for any legal fees or costs relating to this matter and whether and when Mr. Trump was made aware of the proceeding. If Ms. Clifford did not receive notice and an opportunity to be heard, please describe how this squares with President Trump's assertions last month that he supports "due process" with respect to matters of sexual misconduct (particularly given Ms. Clifford's assertion in the Nondisclosure Agreement that Mr. Trump had caused "injury to her person").
2. With regard to payments made by AMI and Mr. Trump to Ms. McDougal (for Messrs. Pecker and Cohen):
- a) Please provide a copy of the final so-called "life-story rights agreement",⁸⁷ describe the purpose and source of the payment of \$150,000 to Ms. McDougal, and whether and when Mr. Trump or anyone in the Trump Campaign or Trump Organization, or any attorney or representative thereof, was made aware of this transaction.
 - b) Please explain how any payments by Mr. Trump or others made directly to Ms. McDougal or others for travel reimbursement or other services outside of such agreements were treated on Mr. Trump's or the Trump Organization's tax returns.
 - c) Please inform us whether the following reported statements are accurate, and if not, why not: (i) "After Trump won the Republican nomination, . . . A.M.I. increased its offer" to Ms. McDougal;⁸⁸ (ii) "[a]s voters went to the polls on Election day, [Dylan Howard, AMI's chief content officer], and A.M.I.'s general counsel were on the phone with McDougal and a law firm representing her, promising to boost McDougal's career . . . ;"⁸⁹ (iii) "A.M.I.'s interest in McDougal seemed to increase after news broke of Trump's alleged affair with Clifford;"⁹⁰ and (iv) *In Touch* Magazine did not publish Ms. McDougal's story about her relationship with Mr. Trump after receiving legal threats from Mr. Cohen.⁹¹
3. With regard to payments or other benefits potentially made to or for the benefit of Jeremy Frommer (for Messrs. Pecker and Cohen):
- a) Please provide a copy of any non-disclosure, confidentiality or similar agreement with Mr. Frommer relating to potentially incriminating photographs involving Mr. Trump; describe the purpose and source of any payments or other benefits promised or provided to Mr. Frommer, and whether and when Mr. Trump or anyone in the Trump Campaign or Trump Organization, or any attorney or representative thereof, was made aware of the matter.

⁸⁷ Ronan Farrow, *A Playboy Model, and a System for Concealing Infidelity*, NEW YORKER, Feb. 16, 2018.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Jake Pearson & Jeff Horwitz, *Porn Star Who Alleged Trump Affair: I Can Now Tell My Story*, Assoc. Press, Feb. 15, 2018; Jake Pearson, *Tabloid Held Porn Star's 2011 Interview After Trump Threat*, Assoc. Press, Jan. 19, 2018, 5:48 PM.

4. With regard to any additional payments made to prevent disclosures regarding Mr. Trump beyond the payments or benefits made to Ms. Clifford, Ms. McDougal and Mr. Frommer (for Messrs. Pecker, Cohen, and Kasowitz):

- a) Please describe any additional payments or benefits that may have been made or legal threats issued in order to prevent relevant individuals from disclosing potentially damaging information about Mr. Trump, along with a copy of the final nondisclosure or other agreement, the purpose and source of such payments, whether and when Mr. Trump or anyone in the Trump Campaign or Trump Organization, or any attorney or representative thereof, was made aware of the relevant transaction, and how such payments were treated for tax purposes.

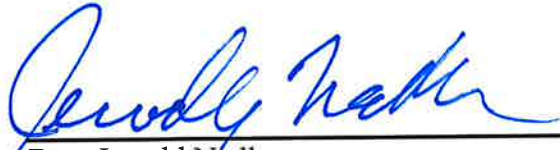
At a time of ever-increasing concern over sexual harassment and growing appreciation of the importance of offering support to survivors of sexual assault, we believe it is imperative that those responsible be held accountable for their actions, rather than compounding the pain through blanket denials and empty legal threats. Such a course of conduct would be troubling for any individual, let alone the President of the United States.

Last month, in reacting to the scandal concerning his former staffer Rob Porter and the general handling of charges of domestic violence by the White House, President Trump stated that he was “totally opposed to domestic violence,”⁹² and emphasized the importance of “due process” concerning charges of sexual abuse and violence. Given the foregoing, we would hope and expect you would work with us to insure that the principles of transparency and due process apply to the very serious legal concerns raised in this letter.

Thank you for your prompt attention to this matter. We would ask that you respond to our offices by no later than March 23, 2018.

Sincerely,


⁹² Julie Hirschfeld Davis, Maggie Haberman & Michael D. Shear, *Trump, A Week After Porter Resigned, Says He's "Totally Opposed" to Domestic Violence*, N.Y. TIMES, Feb. 14, 2018.



Rep. Jerrold Nadler
Ranking Member
House Committee on the Judiciary



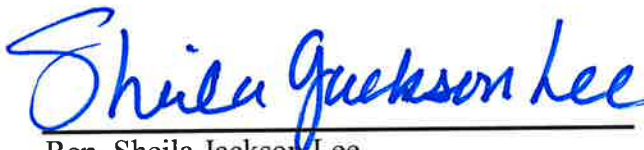
Rep. Lois Frankel
Chair
Democratic Women's Working Group



Rep. Brenda L. Lawrence
Vice-Chair
Democratic Women's Working Group



Rep. Zoe Lofgren
Ranking Member
Subcommittee on Immigration and Border Security



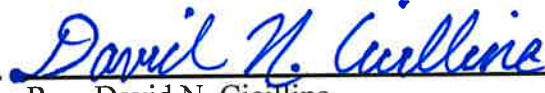
Rep. Sheila Jackson Lee
Ranking Member
Subcommittee on Crime, Terrorism, and
Homeland Security



Rep. Steve Cohen
Ranking Member
Subcommittee on the Constitution and Civil
Justice



Rep. Henry C. "Hank" Johnson, Jr.
Ranking Member
Subcommittee on Courts, Intellectual
Property, and the Internet



Rep. David N. Cicilline
Ranking Member
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law



Rep. Jamie Raskin
Vice Ranking Member
House Committee on the Judiciary