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May 7, 2019

VIA E-MAIL

The Honorable Jerrold Nadler
Chairman
United States House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
HJUD.Correspondence@mail.house.gov

Re: April 22, 2019 Subpoena

Dear Chairman Nadler,

As you know, I previously accepted service of the subpoena for documents issued by the United States House of Representatives Committee on the Judiciary (hereinafter, the "Committee"), with return time and date of 10:00 am EDT, today May 7, 2019, on behalf of my client Donald F. McGahn, former Counsel to the President of the United States. Upon receipt of the subpoena, I forwarded it to the White House Counsel's Office as it seeks, as relevant to Mr. McGahn, production of White House documents and other materials relating to Executive Branch equities (collectively, "White House documents"). Subsequently, representatives from the White House Counsel's Office and the Department of Justice reviewed the documents in question.

This morning, I received the enclosed letter from current Counsel to the President, Pat A. Cipollone. In it, Mr. Cipollone explains that Acting Chief of Staff, Mick Mulvaney, who I understand is the custodian of documents for the White House, has directed that Mr. McGahn not produce the White House documents "because they implicate significant Executive Branch confidentiality interests and executive privilege." Mr. Cipollone's letter goes on to note that "the Department of Justice is aware of and concurs with this legal position."

As you will appreciate, Mr. McGahn, as a former Assistant to the President and the most senior attorney for the President in his official capacity, continues to owe certain duties and obligations to the President which he is not free to disregard. Here, the Committee seeks to compel Mr. McGahn to produce White House documents the Executive Branch has directed that he not

produce. Where co-equal branches of government are making contradictory demands on Mr. McGahn concerning the same set of documents, the appropriate response for Mr. McGahn is to maintain the status quo unless and until the Committee and the Executive Branch can reach an accommodation. Please note Mr. Cipollone writes that his office will respond to the Committee about the White House documents.

Finally, I apologize that my response is later than requested in the subpoena. I did not receive Mr. Cipollone's letter until after 10:00 am EDT today. Although I was informed by phone earlier this morning that the White House would be taking this position, I believed it was important that the Committee receive Mr. Cipollone's letter contemporaneously with mine for Mr. McGahn.

I am, of course, available to you or Committee staff if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. A. Burck', with a long horizontal flourish extending to the right.

William A. Burck

cc: Honorable Doug Collins, Ranking Member

Enclosure