

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

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<http://oversight.house.gov>

**MEMORANDUM**

**April 12, 2019**

**To: Members of the Committee on Oversight and Reform**

**Fr: Chairman Elijah E. Cummings**

**Re: Notice of Intent to Issue Subpoena to Mazars USA LLP**

This memorandum provides Committee Members with notice of my intent to issue a subpoena to Mazars USA LLP for documents the company has informed the Committee it cannot produce without a subpoena. Consistent with the bipartisan agreement reached at the Committee's organizational meeting on January 29, 2019, I am attaching a copy of the subpoena and providing 48 hours for Members to convey their views. Also consistent with the agreement, I am informing Committee Members that we will not have a business meeting to consider this subpoena. We will be in recess for the next several weeks, and the calendar does not permit scheduling a mark-up without causing undue delay to the investigation. Nevertheless, I am seeking feedback through a poll of individual Member offices, which are requested to provide any information they would like to be considered on their positions with respect to this subpoena.

**I. NEED FOR SUBPOENA**

On February 27, 2019, President Trump's longtime former attorney, Michael Cohen, testified before the Committee that the President altered the estimated value of his assets and liabilities on financial statements—including inflating or deflating the value of assets depending on the purpose for which he intended to use the statements.<sup>1</sup>

Recent news reports have raised additional concerns regarding the President's financial statements and representations.<sup>2</sup>

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<sup>1</sup> Committee on Oversight and Reform, *Hearing with Michael Cohen, Former Attorney to President Donald Trump* (Feb. 27, 2019) (online at <https://oversight.house.gov/legislation/hearings/with-michael-cohen-former-attorney-to-president-donald-trump>).

<sup>2</sup> *Trump's Alleged Financial Fraud Creates an Important New Vulnerability*, MSNBC (Mar. 1, 2019) (online at [www.msnbc.com/rachel-maddow-show/trumps-alleged-financial-fraud-creates-important-new-vulnerability](http://www.msnbc.com/rachel-maddow-show/trumps-alleged-financial-fraud-creates-important-new-vulnerability)); *How Donald Trump Inflated His Net Worth to Lenders and Investors*, Washington Post (Mar. 28, 2019) (online at [www.washingtonpost.com/graphics/2019/politics/trump-statements-of-financial-condition/](http://www.washingtonpost.com/graphics/2019/politics/trump-statements-of-financial-condition/)).

To corroborate these claims, Mr. Cohen produced to the Committee financial statements from 2011, 2012, and 2013, that raise serious questions about the President's representations, particularly relating to his debts. Several statements were prepared by Mazars.

On March 20, 2019, the Committee sent a letter to Mazars requesting information on how these financial statements and other financial disclosures were prepared, including the financial statements themselves and communications relating to their preparation.<sup>3</sup>

On March 27, 2019, counsel to Mazars sent a response letter explaining that, pursuant to the company's legal obligations, Mazars cannot voluntarily turn over the documents "unless disclosure is made pursuant to, among other things, a Congressional subpoena."<sup>4</sup>

## II. INTENT TO SEEK VIEWS OF MEMBERS

Based on this clear-cut record, I intend to issue a subpoena on Monday to obtain the documents sought by the Committee, and I intend to do so consistent with the bipartisan agreement reached during the Committee's organizational meeting on January 29, 2019.

According to that agreement, a subpoena "should be used only when attempts to reach an accommodation with a witness have reached an impasse or when necessary to obtain certain sensitive information, such as financial information, or through a so-called 'friendly' subpoena to protect a witness." That condition has been met.

The agreement also states: "The Chair intends to consult with the Ranking Member by providing his office with a physical copy of the subpoena at least two days (48 hours) before it is issued." This condition will be met by Monday.

The agreement also states: "when the Ranking Member objects, the Committee will have an open proceeding and a vote when feasible." It also states that "[t]here will be exceptions to this policy," such as when "the calendar does not permit the Committee to schedule a markup." It also states: "But even in this case, the Chair intends to be open with the Ranking Member and give him every opportunity to voice his opinion on the matter."

Consistent with this condition, I am providing this memorandum to all Members with background on the subpoena, and I encourage the Ranking Member and all other Committee Members to inform my office of their views and positions on this subpoena. This is a courtesy I was never extended in the previous eight years during which I served as Ranking Member.

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<sup>3</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Victor Wahba, Chairman and Chief Executive Officer, Mazars USA LLP (Mar. 20, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-03-20.EEC%20to%20Wahba-Mazars.pdf>).

<sup>4</sup> Letter from Jerry D. Bernstein, Counsel for Mazars USA LLP, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 27, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Mazars%20response%20letter%2003-27-2019\\_Redacted.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Mazars%20response%20letter%2003-27-2019_Redacted.pdf)).

### III. THE RANKING MEMBER'S UNPRECEDENTED ACTIONS

Finally, I want to address troubling actions taken by Ranking Member Jordan relating to this and other Committee investigations. On March 27, 2019, Ranking Member Jordan sent a letter directly to Mazars—a custodian of records being sought by the Committee—as part of an effort to urge the company not to comply with the Committee's legitimate request or cooperate with the Committee's duly authorized investigation.<sup>5</sup>

It is not an understatement to call the Ranking Member's action unprecedented. In my entire tenure in Congress, regardless of how much I and my Democratic colleagues may have disagreed with the Committee's actions, I never would have publicly encouraged noncompliance by a custodian of records. Obviously, such actions undermine the authority of the Committee and impair its investigations.

In his letter to Mazars, Ranking Member Jordan wrote: "We write to express to you our concerns with the Chairman's inquiry as exceeding the Committee's legislative authority under House Rule X." He also wrote: "his inquiry does not appear to have a valid legislative purpose and instead seems to seek information to embarrass a private individual."

However, the Ranking Member's letter to Mazars omitted the fact—cited repeatedly by Republican Chairmen—that under House Rule X, the Committee has broad latitude to investigate "any matter at any time." His letter also omitted the fact that documents already obtained by the Committee—on their face—raise grave questions about whether the President has been accurate in his financial reporting.

The Ranking Member's letter also omitted multiple instances in which Republicans investigated the finances of "private individuals." For example, Ranking Member Jordan personally attended the deposition of Sidney Blumenthal as part of the Benghazi investigation, during which Mr. Blumenthal was forced to answer questions about his salary and compensation from private sources—topics that had nothing to do with the attacks in Benghazi.<sup>6</sup>

Unfortunately, the Ranking Member's letter to Mazars is not an isolated incident. He has written similarly troubling—and baseless—letters to recipients of other legitimate Committee requests, including on skyrocketing drug prices and agency compliance with the Freedom of Information Act.

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<sup>5</sup> Letter from Ranking Member Jim Jordan, Committee on Oversight and Reform, and Ranking Member Mark Meadows, Subcommittee on Government Operations, to Victor Wahba, Chairman and Chief Executive Officer, Mazars USA LLP (Mar. 27, 2019) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2019/03/2019-03-27-JDJ-MM-to-Wahba-Mazars-re-EEC-Letter-to-Mazars.pdf>).

<sup>6</sup> Select Committee on Benghazi, *Interview of Witnesses, Volume 4 of 11, Deposition of Sidney Blumenthal*, 114th Cong. (June 16, 2015) (online at [www.govinfo.gov/content/pkg/CHRG-114hhrg22298/pdf/CHRG-114hhrg22298.pdf](http://www.govinfo.gov/content/pkg/CHRG-114hhrg22298/pdf/CHRG-114hhrg22298.pdf)).

#### **IV. CONCLUSION**

The Committee has full authority to investigate whether the President may have engaged in illegal conduct before and during his tenure in office, to determine whether he has undisclosed conflicts of interest that may impair his ability to make impartial policy decisions, to assess whether he is complying with the Emoluments Clauses of the Constitution, and to review whether he has accurately reported his finances to the Office of Government Ethics and other federal entities. The Committee's interest in these matters informs its review of multiple laws and legislative proposals under our jurisdiction, and to suggest otherwise is both inaccurate and contrary to the core mission of the Committee to serve as an independent check on the Executive Branch.

Members who wish to provide information relating to their views on this subpoena may email them by 11 a.m. on Monday, April 15, 2019, to the Clerk's office.

# SUBPOENA

## BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mazars USA LLP

You are hereby commanded to be and appear before the  
Committee on Oversight and Reform



of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building, Washington DC 20515

Date: April 29, 2019

Time: 12:00 (noon)

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To any authorized staff member or the U.S. Marshals Service

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Attest:

\_\_\_\_\_  
Chairman or Authorized Member

\_\_\_\_\_  
Clerk

## SCHEDULE A

With respect to Donald J. Trump, Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, the Trump Old Post Office LLC, the Trump Foundation, and any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing:

1. All statements of financial condition, annual statements, periodic financial reports, and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
2. Without regard to time, all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the documents described in Item Number 1;
3. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of documents described in Item Number 1, or any summaries of such documents and records relied upon, or any requests for such documents and records; and
4. All memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the documents described in Item Number 1, including, but not limited to:
  - a. all communications between Donald Bender and Donald J. Trump or any employee or representative of the Trump Organization; and
  - b. all communications related to potential concerns that records, documents, explanations, or other information, including significant judgments, provided by Donald J. Trump or other individuals from the Trump Organization, were incomplete, inaccurate, or otherwise unsatisfactory.

Unless otherwise noted, the time period covered by this subpoena includes calendar years 2011 through 2018.