

Congress of the United States
Washington, DC 20515

April 5, 2022

Mr. Ronald A. Klain
Assistant to the President and Chief of Staff
The White House
Washington, DC 20500

Dear Mr. Klain:

On February 11, 2022, President Biden issued an executive order seizing certain assets belonging to the Afghanistan Central Bank and directing that these assets be consolidated at the Federal Reserve Bank of New York.¹ This executive order has set in motion a plan to make up to \$3.5 billion of these assets available to certain plaintiffs with legal claims against the Taliban, known as the “Havlish Plaintiffs.”² To the extent that this plan is legal,³ it deliberately avoids Congressionally-established mechanisms for the compensation of victims of terrorism to benefit a set of politically-connected plaintiffs and trial lawyers at the expense of other victims of terrorism. President Biden must rescind his executive order and direct these funds into existing mechanisms to ensure that all victims of terrorism are treated fairly.

Passed by Congress in 2015, the Justice for United States Victims of State Sponsored Terrorism Act established the United States Victims of State Sponsored Terrorism Fund (VSST Fund).⁴ The VSST Fund provides a way for victims of terrorism with legal judgments or certain other claims against designated state sponsors of terror to receive compensation.⁵ The VSST Fund is generally replenished through enforcement of the International Emergency Economic Powers Act, the Trading With the Enemy Act, and forfeitures arising from certain other prohibited activities.⁶

The law provides for the pro-rata distribution of funds from the VSST Fund to ensure that all successful claimants are treated fairly.⁷ The law also caps attorney’s fees so that victims

¹ See Executive Order 14064, Protecting Certain Property of Da Afghanistan Bank for the Benefit of the People of Afghanistan, 87 Fed. Reg. 8391 (Feb. 15, 2022).

² See *Id.*; see also Charlie Savage, *Spurning Demand by the Taliban, Biden Moves to Split \$7 Billion in Frozen Afghan Funds*, N.Y. TIMES (Feb. 11, 2022).

³ See Savage, *supra* note 2 (noting that “the United States does not recognize the Taliban as the legitimate government of Afghanistan, raising the question of whether funds belonging to the Afghan central bank are really the Taliban’s and so can be used to pay off the Taliban’s judgment debts.”).

⁴ See 34 U.S.C. § 20144.

⁵ See 34 U.S.C. § 20144(c).

⁶ See 34 U.S.C. § 20144(e)(2).

⁷ See 34 U.S.C. § 20144(d).

receive the vast majority of disbursements from the VSST Fund.⁸ The Biden Administration, it seems, has departed from this established process with respect to the assets seized from the Afghanistan Central Bank. Rather than directing the \$3.5 billion in seized assets into the VSST Fund where all victims with valid claims may be equitably compensated under the pro-rata formula established by Congress, the Biden Administration has chosen to circumvent this process in an apparent attempt to pick winners and losers among victims of terrorism.

There are also serious questions about the Biden White House's four-month employment of an attorney who now, as a counsel for the Havlish Plaintiffs in private practice, stands to reap a windfall in attorney's fees. The White House reportedly hired this attorney, Lee Wolosky, as a special counsel to the president in September 2021 to work on matters relating to Afghanistan.⁹ According to *Axios's* reporting at the time, Wolosky worked "with the National Security Council (NSC) and other administration officials on resettlement, as well as other issues related to the U.S. drawdown in Afghanistan."¹⁰ The NSC reportedly spearheaded the Biden Administration's deliberations on what to do with the seized Afghanistan Central Bank assets.¹¹

Wolosky left the White House on January 6, 2022, to return to Jenner & Block, one of the lead firms representing the Havlish Plaintiffs and a potential beneficiary of President Biden's executive order.¹² Just days after leaving the White House, Wolosky identified himself as counsel to the Havlish Plaintiffs in a filing in the District Court for the Southern District of New York.¹³ The White House has denied that Wolosky was involved in the Afghanistan Central Bank assets deliberations.¹⁴ However, the White House's apparent desire to avoid the established VSST Fund process, the steering of the assets to plaintiffs represented by a recently-departed White House official, and the sheer amount of money at issue raise considerable questions about President Biden's order. At the very least, these circumstances create a perception of impropriety with the Biden Administration's plans for the seized Afghanistan Central Bank assets.

To assist the Committee in investigating the White House's handling of these assets, please provide the following documents and information:

1. All documents and communications referring or relating to the potential or contemplated distribution of seized Afghanistan Central Bank assets to the Havlish Plaintiffs for the period January 20, 2021, to the present; and
2. All documents and communications referring or relating to Lee Wolosky's service in the White House between September 2021 and January 2022, including his ethics agreement

⁸ See 34 U.S.C. § 20144(f).

⁹ See Hans Nichols, *Exclusive: Biden tapping Lee Wolosky to handle Afghan resettlement*, AXIOS (Sept. 8, 2021).

¹⁰ *Id.*

¹¹ See Savage, *supra* note 2.

¹² See Lee Fang and Ryan Grim, *Biden's Afghanistan Counsel Left the White House in January. Now He's Poised to Reap Financial Windfall From Billions in Seized Afghan Assets*, THE INTERCEPT (Feb. 15, 2022).

¹³ *Id.*

¹⁴ *Id.*

Mr. Ronald A. Klain

April 5, 2022

Page 3

or any other document or communication referring or relating to his recusal from working on any issues during his employment.

Please provide these documents as soon as possible, but not later than 5:00 p.m. on April 19, 2022. If a full response requires the disclosure of classified information, please provide such information under separate cover. Thank you for your prompt attention to this important matter.

Sincerely,



Jim Jordan
Ranking Member
Committee on the Judiciary



Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights, and Civil Liberties
Committee on the Judiciary



Nicole Malliotakis
Member of Congress