

Congress of the United States
Washington, DC 20515

February 20, 2020

Mr. Marc Sherman
c/o Joel S. Green, Esq.
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, D.C. 20006

Dear Mr. Sherman:

Our Committees are investigating potential improper influence at the Department of Veterans Affairs (VA) by members of the Mar-a-Lago Club in Palm Beach, Florida.

According to reports, three members of the private club—Dr. Bruce Moskowitz, Mr. Sherman, and Mr. Isaac Perlmutter—have exerted significant influence over VA’s policy, personnel, and program decisions even though none of them hold positions at VA or have any government or U.S. military experience. Former VA Secretary David Shulkin recently wrote that “knowing that Ike, Bruce and Marc had the president’s ear in ways that I did not, even as his cabinet secretary, I made efforts to be responsive to their advice and feedback.” He further explained that “there was a ‘second track’ of VA decision-making led by the president’s alternative advisers that didn’t include me.”¹

Reports indicate that Mr. Perlmutter, Dr. Moskowitz, and Mr. Sherman provided input on job candidates, edited a budget for a VA program, and were “treated as having decision-making authority on policy initiatives.”² Reports have also raised questions about their role in VA’s June 2019 approval of the use of a new drug, Spravato, to treat depression despite concerns about the drug’s effectiveness.³ VA officials reportedly raised ethics questions about then-Secretary

¹ David Shulkin, *It Shouldn’t Be This Hard to Serve Your Country: Our Broken Government and the Plight of Veterans* (2019).

² *VA Shadow Rulers Had Sway Over Contracting and Budgeting*, ProPublica (Dec. 3, 2018) (online at www.propublica.org/article/va-shadow-rulers-had-sway-over-contracting-and-budgeting); *see also The Shadow Rulers of the VA*, ProPublica (Aug. 7, 2018) (online at www.propublica.org/article/ike-perlmutter-bruce-moskowitz-marc-sherman-shadow-rulers-of-the-va); *CREW Obtains New Docs On Mar-a-Lago Member’s VA Influence*, Citizens for Responsibility and Ethics in Washington (Aug. 20, 2019) (online at www.citizensforethics.org/mar-a-lago-members-va-influence/).

³ *Veterans Agency to Offer New Depression Drug, Despite Cost and Safety Concerns*, New York Times (June 21, 2019) (online at www.nytimes.com/2019/06/21/health/ketamine-depression-veterans.html); *Trump’s Praise Put Drug For Vets on Fast Track, but Experts Aren’t Sure It Works*, Center for Public Integrity (June 18, 2019) (online at https://publicintegrity.org/federal-politics/trumps-raves-put-drug-for-vets-on-fast-track-but-experts-arent-sure-it-works/?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosvitals&stream=top).

Shulkin's appearance at an event at the New York Stock Exchange on November 7, 2017, which also involved Johnson & Johnson and Mr. Perlmutter's company, Marvel.⁴

To assist the Committees in conducting our review, please produce the following documents by March 6, 2020, covering the period from November 9, 2016, to the present:

1. All communications to or from any VA personnel, including but not limited to the individuals identified below and any assistants or designees of these individuals:
 - a. Dr. David Shulkin (including but not limited to emails to and from Drshulkin@aol.com and secshulkin@gmail.com);
 - b. Robert Wilkie;
 - c. Thomas Bowman;
 - d. Peter O'Rourke;
 - e. John Ulyot;
 - f. Darin Selnick;
 - g. Jake Leinenkugel; or
 - h. Camilo Sandoval; and

2. All communications to or from any White House personnel, including but not limited to:
 - a. President Trump;
 - b. John Kelly;
 - c. Jared Kushner;
 - d. Stephen Miller;
 - e. Darin Selnick;
 - f. Drew Trojanowski;
 - g. Jake Leinenkugel; or
 - h. Camilo Sandoval; and

3. All communications to or from Dr. Bruce Moskowitz or Mr. Isaac Perlmutter, regarding:
 - a. VA;
 - b. Veterans Health Administration (VHA);
 - c. VA Formulary;
 - d. any candidates for positions at VA;
 - e. President Trump;
 - f. the White House;
 - g. Epic Systems Corporation;
 - h. Cerner Corporation;

⁴ *The Shadow Rulers of the VA*, ProPublica (Aug. 7, 2018) (online at www.propublica.org/article/ike-perlmutter-bruce-moskowitz-marc-sherman-shadow-rulers-of-the-va).

- i. electronic medical records or electronic health records;
 - j. the November 7, 2017 New York Stock Exchange event;
 - k. development of a mobile app for veterans;
 - l. development of a medical device registry;
 - m. Johnson & Johnson;
 - n. Janssen Pharmaceuticals;
 - o. Alex Gorsky;
 - p. Courtney Billington;
 - q. Spravato or esketamine;
 - r. veterans' mental health, depression, or suicides; or
 - s. any individual listed in Requests 1 or 2 above; and
4. All communications to or from any directors, executives, or personnel at Johnson & Johnson or Janssen Pharmaceuticals regarding:
- a. VA;
 - b. veterans;
 - c. the November 7, 2017 New York Stock Exchange event;
 - d. Spravato or esketamine; or
 - e. Veterans' mental health, suicide, or depression; and
5. Documents sufficient to show all direct and indirect holdings in Johnson & Johnson controlled by Marc Sherman, or by any foundations, trusts, or other entities controlled by Marc Sherman, as well as the acquisition, sale, or transfer of such holdings, during this period.

Please note that this request covers communications sent or received by government email accounts as well as personal email accounts and other methods of communication.

In addition, the Committees request that you preserve all potentially relevant evidence, including all records, documents, communications, and other information within your possession, custody, or control relating to the subjects of this investigation. Please take reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutation of electronic records, including emails, as well as negligent or intentional handling which would foreseeably make such records incomplete or inaccessible.

The Committee on Veterans' Affairs has jurisdiction over "veterans' hospitals, medical care, and treatment of veterans" under House Rule X. The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to this request. Should you have any questions about this request, please contact the Committee on Veterans' Affairs at (202) 225-9756 or the Committee on Oversight and Reform at (202) 225-5051.

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Thank you for your prompt attention to this request.

Sincerely,



Mark Takano
Chairman
Committee on Veterans' Affairs



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform

Enclosure

cc: The Honorable Dr. Phil Roe, Ranking Member
Committee on Veterans' Affairs

The Honorable Jim Jordan, Ranking Member
Committee on Oversight and Reform

Responding to Document Requests from the Veterans' Affairs Committee and Oversight Committee

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Four sets of each production shall be delivered, one set to the Veterans' Affairs Committee Majority Staff, one set to the Veterans' Affairs Committee Minority Staff, one set to the Oversight Committee Majority Staff, and one set to the Oversight Committee Minority Staff. When documents are produced to the Committees, production sets shall be delivered to the Veterans' Affairs Committee Majority Staff in Room B234 of the Longworth House Office Building, to the Oversight Committee Majority Staff in Room 2157 of the Rayburn House Office Building and the Veterans' Affairs and Oversight Committees Minority Staff at the rooms of their designation.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.