

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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MEMORANDUM

February 23, 2021

To: Members of the Committee on Oversight and Reform

Fr: Chairwoman Carolyn B. Maloney

Re: Notice of Intent to Reissue Subpoena to Mazars USA LLP

This memorandum provides Committee Members with notice of my intent to reissue a subpoena to Mazars USA LLP, former President Donald J. Trump’s longtime accountant, for financial records related to the Committee’s investigations into presidential conflicts of interest, presidential contracts with the federal government and self-dealing, and presidential emoluments.

For more than 22 months, the Committee has been denied key information needed to inform legislative action to address the once-in-a-generation ethics crisis created by former President Trump’s unprecedented conflicts of interest. The Committee’s need for this information—in order to verify key facts and tailor legislative reforms to be as effective and efficient as possible—remains just as compelling now as it was when the Committee first issued its subpoena, and the Committee’s legislative efforts remain just as critical to the American people as they were before President Trump vacated the White House on January 20, 2021.

I. BACKGROUND

On April 15, 2019, the Committee issued a subpoena to Mazars seeking four categories of the President’s personal financial records spanning eight years. At the time, then-Chairman Elijah E. Cummings explained that the “Committee’s interest in these matters informs its review of multiple laws and legislative proposals under our jurisdiction.”¹ Rather than allow the Committee to obtain the information it needs to fulfill its legislative duties, President Trump and his businesses sued to block Mazars from complying with the Committee’s subpoena. Indeed, from the beginning of his presidency, Donald Trump denied the need for any reform of existing ethics laws, arguing that he had no conflicts of interest, that all of his financial reporting was

¹ Memorandum from Chairman Elijah E. Cummings, Committee on Oversight and Reform to Members of the Committee (Apr. 12, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Notice%20of%20Intent%20to%20Issue%20Subpoena%20to%20Mazars%20USA%20LLP.pdf>).

accurate, and that the American public would obtain no benefit from additional financial reporting.²

In July 2020—after 15 months of litigation—the Supreme Court issued an opinion that held that Congress has the power to issue a subpoena “directed at the President’s personal information” and affirmed that “[w]hen Congress seeks information ‘needed for intelligent legislative action,’ it ‘unquestionably’ remains ‘the duty of *all* citizens to cooperate.’”³ The Court then held that courts must perform a “careful analysis” that takes account of separation of powers, including “both the significant legislative interests of Congress and the ‘unique position’ of the President.”⁴ The Court set forth four factors to guide that analysis for a sitting President and remanded to the lower courts to apply them.

Following the Supreme Court’s opinion, I issued a 58-page memorandum to Committee Members on August 26, 2020, that provided detailed explanations of the Committee’s important legislative and oversight interests in obtaining the subpoenaed information about then-President Trump. The memorandum emphasized that Congress is considering “once-in-a-generation ethics reforms, including several provisions specifically applicable to presidents,” and stated that, “in the absence of a detailed understanding of this President’s financial holdings and the conflicts they raise,” Congress cannot effectively tailor “bills that seek to prevent presidential conflicts of interest and self-dealing” and minimize the burden on the President or presidential candidates.⁵

On December 30, 2020, based on its reliance on my memorandum and the Committee’s “stated intention to reissue the subpoena at the beginning of the new Congress,” the D.C. Circuit remanded the case to the District Court for further proceedings consistent with the Supreme Court’s decision.⁶ As the 116th Congress ended, the Committee still had not received any material from Mazars in response to its subpoena.

² See Committee on Oversight and Reform, Memorandum from Chairwoman Carolyn B. Maloney to Members of the Committee (Aug. 26, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Mazars%20Memo%2008.26.2020.pdf>).

³ *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2035-36 (2020) (online at www.supremecourt.gov/opinions/19pdf/19-715_febh.pdf) (internal citations omitted) (emphasis in original).

⁴ *Id.* at 2035.

⁵ Committee on Oversight and Reform, Memorandum from Chairwoman Carolyn B. Maloney to Members of the Committee (Aug. 26, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Mazars%20Memo%2008.26.2020.pdf>).

⁶ *Trump v. Mazars USA, LLP*, Judgment, No 19-5142 (D.C. Cir., Dec. 30, 2020) (online at [www.cadc.uscourts.gov/internet/judgments.nsf/F6BB601698800BEE8525864E00574E5A/\\$file/19-5142-1877778.pdf](http://www.cadc.uscourts.gov/internet/judgments.nsf/F6BB601698800BEE8525864E00574E5A/$file/19-5142-1877778.pdf)). Because the House is not a continuing body, the Committee’s subpoena lapsed at the end of the 116th Congress. The House authorized the Committee to reissue its subpoena due to ongoing litigation, which the House has routinely authorized under both Republican and Democratic leadership. See H. Res. 8 § 2(c).

II. NEED FOR SUBPOENAED MATERIALS

In the 117th Congress, the Committee is continuing its investigation of presidential conflicts of interest, presidential contracting and self-dealing, and presidential emoluments in order to inform consideration of landmark ethics reform and other remedial legislation. The information sought by the Committee’s subpoena to Mazars is vital to the Committee’s ongoing investigations and the House’s legislative activity in these areas.

As explained in my August 26 memorandum:

The Committee fully intends to continue this investigation and ethics reform legislation in the next Congress, regardless of who holds the presidency, because the Committee’s goal is to prevent problems raised by the circumstances of [President Trump] from being repeated.⁷

Donald Trump’s unprecedented actions as President—including his refusal to divest from his “complex and opaque financial holdings”—have laid bare several apparent weaknesses and gaps in the laws and regulations governing presidential financial disclosure, conflicts of interest, and emoluments.⁸

The subpoenaed information from Mazars will allow the Committee and Congress to more fully identify the areas that need reform and craft appropriate legislation in response. These materials will help Congress understand how to most effectively increase transparency in the finances of presidents and presidential candidates, strengthen anti-corruption laws and agencies, prevent future presidential conflicts of interest and profiteering, and create a sensible and efficient statutory regime for emoluments reporting and congressional consent. These goals are essential for the health of our democracy, no matter who is in the White House.

In the 116th Congress, the House passed ethics reform legislation, including H.R. 1, aimed at correcting certain abuses by the President, but the Senate failed to consider these bills. Demonstrating the “immense importance” that the House attaches to these issues, at the beginning of the 117th Congress, H.R. 1 was re-introduced in the House, though once again without the benefit of the former President’s information. This resulted in a bill that will need to be amended once Congress obtains the specific information sought in this case.⁹

The “ethics crisis” triggered by President Trump remains.¹⁰ The former President’s contempt for ethics reforms not only caused grave damage to public confidence in government

⁷ Committee on Oversight and Reform, Memorandum from Chairwoman Carolyn B. Maloney to Members of the Committee (Aug. 26, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Mazars%20Memo%2008.26.2020.pdf>).

⁸ *Id.*

⁹ H.R. 1 (2021).

¹⁰ Committee on Oversight and Reform, *Hearing on H.R. 1: Strengthening Ethics Rules for the Executive Branch*, 116th Cong. (Feb. 6, 2019) (online at <https://oversight.house.gov/legislation/hearings/hr-1-strengthening-ethics-rules-for-the-executive-branch>).

during his Administration, but also set a dangerous precedent for future administrations. As Committee Member John Sarbanes explained upon the reintroduction of H.R. 1: “the imperative for democracy reform has only grown since 2019.”¹¹ In the 117th Congress, we have an historic opportunity to turn urgently needed reform measures into law, and the subpoenaed information is necessary to support this effort. Part of this effort will include determining and demonstrating the actual extent of the conflicts of interest, which President Trump has repeatedly denied, in order to urge the Senate to consider and pass vitally important reform measures.

III. CONCLUSION

For all the reasons previously set forth by the Committee, including, but not limited to, Chairman Cummings’ April 2019 Memorandum and contemporaneous correspondence, my August 2020 Memorandum, and the Committee’s legal briefs explaining the Committee’s ongoing need for former President Trump’s personal financial information to support its legislative activities, I plan to reissue the subpoena to Mazars and continue to vigorously press the Committee’s case in the District Court.

Attached to this memorandum are: (1) my August 2020 Memorandum to Committee Members, and (2) the proposed subpoena, which includes a schedule identical to the subpoena issued by the Committee in the 116th Congress.

¹¹ Center for Public Integrity, *Democrats Push Wide-Ranging Voting, Ethics Reforms in Charged Moment for Democracy* (Jan. 15, 2021) (online at <https://publicintegrity.org/politics/elections/ballotboxbarriers/voting-reforms-moment-for-democracy/>).