

APPENDIX A

to

Committee Report

**116TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE MATT GAETZ**

FEBRUARY 3, 2020

Mr. BROWN, from the Investigative Subcommittee, submitted the following

REPORT

To the Committee on Ethics

INVESTIGATIVE SUBCOMMITTEE

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Chairman

Michael Guest, Mississippi
Ranking Member

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C O N T E N T S

I. INTRODUCTION 1

II. PROCEDURAL HISTORY 2

III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT 2

IV. FACTS 3

V. ANALYSIS 7

A. THE ISC DID NOT FIND THAT REPRESENTATIVE GAETZ’S ACTIONS CONSTITUTE WITNESS TAMPERING OR OBSTRUCTION OF CONGRESS. 7

B. THE ISC FOUND THAT REPRESENTATIVE GAETZ’S ACTIONS DID NOT REFLECT CREDITABLY UPON THE HOUSE. 9

VI. CONCLUSION 11

APPENDIX A: EXHIBITS TO INVESTIGATIVE SUBCOMMITTEE REPORT

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REPORT OF THE INVESTIGATIVE SUBCOMMITTEE

I. INTRODUCTION

On June 25, 2019, an Investigative Subcommittee (ISC) was formed, pursuant to House Rule XI, clause 3(b)(2) and Committee on Ethics (Committee) Rule 16(d), to investigate allegations that Representative Matt Gaetz sought to threaten, intimidate, harass, or otherwise improperly influence President Donald Trump’s former attorney, Michael Cohen, in connection with Mr. Cohen’s testimony before the House Committee on Oversight and Reform (Oversight Committee). The investigation arose out of a post (or “tweet”) made by Representative Gaetz, on the social media platform Twitter, the day before Mr. Cohen was set to testify before the Oversight Committee. Representative Gaetz removed the tweet on the same day he posted it, before Mr. Cohen’s testimony.

In a complaint filed with the Committee, one of Representative Gaetz’s colleagues alleged that Representative Gaetz’s post regarding Mr. Cohen was a violation of 18 U.S.C. § 1512, the federal witness tampering statute.¹ Federal law prohibits witness tampering in connection with a congressional proceeding, as well as obstruction of Congress, when done with the requisite criminal intent. The ISC, however, did not find sufficient evidence to conclude that Representative Gaetz violated the witness tampering or obstruction of Congress statutes.

Representative Gaetz’s actions nevertheless raise concerns. Members of Congress should safeguard the work of the House of Representatives. By making statements that were reasonably perceived as threats to a witness, the day before that witness was scheduled to testify in a congressional hearing, Representative Gaetz instead risked interfering with that work.

Based on its review, the ISC determined that Representative Gaetz acted in a manner that was inconsistent with the standards set for Members of Congress and his actions did not reflect creditably upon the House of Representatives. The ISC, accordingly, found that Representative Gaetz violated House Rule XXIII, clause 1 of the Code of Official Conduct and recommends that the Committee admonish Representative Gaetz for his tweet.

¹ Exhibit 1.

II. PROCEDURAL HISTORY

On March 13, 2019, the Committee received a letter from Representative Kathleen Rice requesting an investigation into allegations involving Representative Gaetz.² On March 26, 2019, the Chairman and Ranking Member of the Committee, pursuant to House Rule XI, clause 3(j) and Committee Rule 16(a), determined that the letter submitted by Representative Rice met the Committee's requirements for what constitutes a complaint.

On March 26, 2019, the Committee sent a request for information to Representative Gaetz pursuant to Committee Rules 16(c) and 18(a), to investigate allegations that Representative Gaetz sought to threaten, intimidate, harass, or otherwise improperly influence Mr. Cohen, in connection with Mr. Cohen's testimony before a congressional committee. On April 17, 2019, Representative Gaetz responded to the Committee's request for information in part, but declined to answer certain questions. On May 13, 2019, the Committee requested an interview with Representative Gaetz, but Representative Gaetz declined the Committee's interview request "[d]ue to pending matters before the Florida bar."³ The Committee explained to Representative Gaetz that its ability to resolve the complaint would be hindered without his testimony, and if it was unable to dispose of the complaint by the rule-based deadline of June 24, 2019, House and Committee Rules would require the Committee to establish an ISC to review the complaint. Representative Gaetz still declined to provide testimony and, on June 25, 2019, an ISC was formed pursuant to House Rule XI, clause 3(b)(2), and Committee Rule 16(d).

The ISC met a total of six times in the instant matter. In total, the ISC reviewed over 160 pages of materials and obtained additional information from the Florida Bar. The ISC also interviewed Representative Gaetz.⁴

The ISC carefully considered all of the evidence presented, including Representative Gaetz's submissions, oral remarks, and testimony in resolving the matter. On January 28, 2020, the ISC unanimously voted to issue the following report to the Committee, pursuant to Committee Rule 19(g).

III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT

An individual violates the federal witness tampering statute if that individual "knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so . . . with

² *Id.*

³ Representative Gaetz told the ISC that he believed the Florida bar review deserved his "full and complete attention," and he was concerned that "engaging too directly with the Ethics Committee on these matters through an interview could negatively impact the results of that bar investigation." ISC Interview of Representative Gaetz.

⁴ Representative Gaetz's delayed cooperation served to extend the investigation longer than necessary. The ISC attempted to unsuccessfully set up an interview with Representative Gaetz when it was first impaneled, and at the conclusion of the Florida Bar inquiry, the ISC contacted Representative Gaetz and scheduled an interview, with questioning to be led by the Committee's professional non-partisan staff, consistent with the Committee's longstanding practice. Representative Gaetz appeared on the scheduled date but declined to answer questions from Committee staff, and his interview was postponed until he agreed to answer questions from staff.

intent to influence, delay, or prevent the testimony of any person in an official proceeding,” or “intentionally harasses another person and thereby hinders, delays, prevents or dissuades any person from attending or testifying in an official proceeding[.]”⁵

An individual violates the obstruction of Congress statute if the individual:

corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress[.]⁶

House Rule XXIII, clause 1 states that “[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House.”

IV. FACTS

Representative Gaetz has served as Representative for the First District of Florida since January 3, 2017. He is currently a Member of the Committee on Armed Services and the Committee on the Judiciary.

On February 26, 2019, Representative Gaetz drafted and posted a tweet on the social media platform Twitter from his unofficial Twitter account, @mattgaetz.⁷ The post stated:

Hey @MichaelCohen212 – Do your wife & father-in-law know about your girlfriends? Maybe tonight would be a good time for that chat. I wonder if she’ll remain faithful when you’re in prison. She’s about to learn a lot...⁸

The username @MichaelCohen212 belongs to Michael Cohen, the former personal attorney to the President. Mr. Cohen was scheduled to testify before the Oversight Committee on February 27, 2019, the day after Representative Gaetz’s tweet. Representative Gaetz did not have a pre-existing relationship with Mr. Cohen prior to sending his tweet.⁹ In fact, Representative Gaetz had never spoken to Mr. Cohen directly or contacted Mr. Cohen via social media prior to his February 26, 2019, tweet.¹⁰

Representative Gaetz testified that, approximately one to three days prior to his tweet, he received information regarding Mr. Cohen from two individuals.¹¹ According to Representative

⁵ See 18 U.S.C. § 1512(b); 18 U.S.C. § 1512(d).

⁶ See 18 U.S.C. § 1505.

⁷ ISC Interview of Representative Gaetz (testifying that he drafted and posted the tweet to the account himself). Representative Gaetz maintains a separate official Twitter account, @RepMattGaetz.

⁸ Exhibit 2.

⁹ ISC Interview of Representative Gaetz.

¹⁰ *Id.*

¹¹ *Id.*

Gaetz, he confirmed with his two sources that the information he received was based on their personal knowledge before sending the aforementioned tweet.¹² Representative Gaetz also explained that the individuals who provided him the information neither instructed nor suggested that he post the information on social media.¹³ He told the ISC he did not seek out the information regarding Mr. Cohen himself, but declined to provide further information about the identity of his two sources or his discussions with those individuals because he had promised them confidentiality.¹⁴

The same day he posted the tweet referencing Mr. Cohen, Representative Gaetz stated in a floor speech: “I think it is entirely appropriate for any Member of this body to challenge the truthfulness, veracity and character of people who have a history of lying and have a future that undoubtedly contains nothing but lies. That is the story of Michael Cohen.”¹⁵

Later that evening, Speaker of the House Nancy Pelosi tweeted, “I encourage all Members to be mindful that comments made on social media or in the press can adversely affect the ability of House Committees to obtain the truthful and complete information necessary to fulfill their duties.”¹⁶ Representative Gaetz responded to Speaker Pelosi’s tweet stating:

Speaker, I want to get the truth too. While it is important to create context around the testimony of liars like Michael Cohen, it was NOT my intent to threaten, as some believe I did. I’m deleting the tweet & I should have chosen words that better showed my intent. I’m sorry.¹⁷

Representative Gaetz removed the tweet from his Twitter account on the same day he posted it. He testified he did so because he was uncomfortable with any perception that he intended to threaten Mr. Cohen or smear his family.¹⁸ Representative Gaetz explained to the ISC that, following news coverage of his tweet and the response from Speaker Pelosi, he came to the conclusion that “the tweet did not conform to my own standard that I maintain for myself and for my conduct.”¹⁹

Mr. Cohen testified before the Oversight Committee on February 27, 2019.²⁰ Representative Gaetz is not a Member of the Oversight Committee.²¹ Representative Gaetz appeared at the Oversight Committee hearing room on the day of Mr. Cohen’s testimony and told

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 165 Cong. Rec. H2220 (daily ed. Feb. 26, 2019) (statement of Representative Gaetz).

¹⁶ Exhibit 3.

¹⁷ Exhibit 4.

¹⁸ ISC Interview of Representative Gaetz.

¹⁹ *Id.*

²⁰ Mr. Cohen had previously postponed his testimony, citing “threats” against his family by the President and his lawyer. See Zachary Basu, *Michael Cohen postpones House testimony, blames Trump ‘threats,’* Axios (Jan. 23, 2019), <https://www.axios.com/michael-cohen-postpones-house-oversight-testimony-781c61ee-57ee-4129-8fd8-80bb61eb39cb.html>.

²¹ Representative Gaetz told the ISC that he had attended public Oversight Committee hearings on more than one occasion prior to Mr. Cohen’s testimony. ISC Interview of Representative Gaetz.

reporters he was there to “ask questions.”²² According to Representative Gaetz, he attended the hearing to observe Mr. Cohen’s veracity in person.²³ He also offered suggestions regarding questions to Oversight Committee members.²⁴

In both public and private communications following his initial tweet, Representative Gaetz maintained that his intent was to challenge Mr. Cohen’s truthfulness and not to discourage his testimony. Representative Gaetz informed the Committee, through his written response, that his tweet was intended “to pose a question to Mr. Cohen for his response, public consumption, and to cast him in an untruthful light to the American people,” and that “[t]he purpose of the tweet was never to threaten, intimidate, harass or otherwise improperly influence Mr. Cohen in connection with his testimony before a Congressional Committee.”²⁵ Representative Gaetz also made similar statements to the press.²⁶ Representative Gaetz told the ISC that it “never occurred” to him that his tweet would impact Mr. Cohen’s willingness to testify, or the substance of his testimony.²⁷

On the afternoon of February 27, 2019, the Florida Bar announced that it had opened an investigation into Representative Gaetz.²⁸ Representative Gaetz reached out to an individual who advised him to contact Mr. Cohen and Mr. Cohen’s attorney.²⁹ The individual suggested that Representative Gaetz tell Mr. Cohen and his attorney that he was “upset at what was transpiring,” “would never threaten anyone,” and that, “[i]n retrospect, [the tweet] was poorly written and you wish you didn’t send it.”³⁰ The individual added, “[t]hat’s a CYA.”³¹ Representative Gaetz generally took the advice. The same day, he sent a message to Mr. Cohen and Mr. Cohen’s attorney stating:

Mr. Cohen, this is Congressman Matt Gaetz. I am writing to personally tell you I’m sorry for the tweet that I sent which many believe was threatening to you. It was never ever ever my intent to threaten you in any way. While you don’t know me, that is not who I am and how I operate. I do not wish any harm to you or your family. I was upset at what was transpiring and chose my words poorly. I will work to be better, as I know you said today you will as well. Have a good evening – Matt.³²

²² See Daniel Chaitin & Naomi Lim, *Matt Gaetz shows up to ‘ask questions’ at Michael Cohen hearing after threatening tweet*, Washington Examiner (Feb. 27, 2019), <https://www.washingtonexaminer.com/news/matt-gaetz-shows-up-to-ask-questions-at-michael-cohen-hearing-after-threatening-tweet>.

²³ ISC Interview of Representative Gaetz (noting the value of observing body language and other cues from witnesses when evaluating the evidence they provide).

²⁴ *Id.*; Exhibit 5.

²⁵ Exhibit 5.

²⁶ See Exhibit 6 (Stating “I’m testing the truthfulness of Michael Cohen. That should still be allowed in congress. Let’s find out all the people Cohen lied to;” and “[i]t’s witness testing, not tampering. We still are allowed to test the truthfulness and character of witnesses.”).

²⁷ ISC Interview of Representative Gaetz.

²⁸ Steve Contorno, *Matt Gaetz Under investigation by the Florida Bar for Tweet at Michael Cohen*, Tampa Bay Times (Feb. 27, 2019), <https://www.tampabay.com/florida-politics/buzz/2019/02/27/matt-gaetz-under-investigation-by-the-florida-bar-for-tweet-at-michael-cohen/>.

²⁹ Exhibit 7.

³⁰ *Id.*

³¹ *Id.*

³² Exhibit 8.

Representative Gaetz also sent a copy of the message to the individual who had advised him to send it.³³ Representative Gaetz testified that his message to Mr. Cohen was not an attempt to cover himself but was reflective of his own views.³⁴

Mr. Cohen thanked Representative Gaetz for his message.³⁵ On or around March 3, 2019, Representative Gaetz met with Mr. Cohen's lawyer to discuss the matter further.³⁶

On August 16, 2019, a grievance committee of the Florida Bar found "no probable cause" and dismissed the complaint against Representative Gaetz.³⁷ The grievance committee noted, however, that Representative Gaetz's tweet was "unprofessional, reckless, insensitive, and demonstrated poor judgment."³⁸ The grievance committee concluded that, "[w]hile [Representative Gaetz's] conduct in this instance did not warrant formal discipline, . . . it was not consistent with the high standards of [its] profession, and . . . [his] actions do not reflect favorably on [Representative Gaetz] as a member of The Florida Bar."³⁹

When asked by the ISC if he felt his conduct was consistent with the standards for a Member of Congress, Representative Gaetz explained:

it was not consistent with my own standards, and that really is where the inquiry stops for me. I am not comfortable with the language I used, with the reference that I deployed in this tweet, and that's why, by virtue of inconsistency with my own standards, I deleted it and apologized publicly and privately. . . . And so I stopped my own analysis with the conclusion that I acted improperly regarding my own standards. I am sorry for doing so, and that's why I deleted the tweet and apologized both publicly and privately.⁴⁰

³³ Exhibit 7.

³⁴ ISC Interview of Representative Gaetz.

³⁵ Exhibit 8 ("Congressman Gaetz, I cannot thank you enough for your message. The tweet, sadly, has only made a bad situation worse . . . not only for my wife but for my children as well . . . We all make mistakes especially in this crazy partisan time. Thank you again for your text and I hope that the tweet does not cause you any harm.").

³⁶ ISC Interview of Representative Gaetz.

³⁷ Exhibit 9.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ ISC Interview of Representative Gaetz.

V. ANALYSIS

On June 28, 2019, pursuant to Committee Rule 16(d), the Committee established this ISC and forwarded the full complaint against Representative Gaetz to the ISC for its consideration. The ISC reviewed the information in the complaint and considered whether Representative Gaetz's tweet and related conduct violated the federal witness tampering statute or related rules, laws and standards of conduct, including the obstruction of Congress statute and the Code of Official Conduct.

The ISC did not find sufficient evidence to conclude that Representative Gaetz operated with the requisite intent necessary to violate the applicable witness tampering and obstruction of congress statutes. The ISC did find that Representative Gaetz acted in a manner that did not reflect creditably upon the House of Representatives and thus fell short of the standards of conduct applicable to a Member of Congress.

A. THE ISC DID NOT FIND THAT REPRESENTATIVE GAETZ'S ACTIONS CONSTITUTE WITNESS TAMPERING OR OBSTRUCTION OF CONGRESS.

“Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so . . . with intent to influence, delay, or prevent the testimony of any person in an official proceeding” violates 18 U.S.C. § 1512, the federal witness tampering statute.⁴¹ The witness tampering statute also prohibits the lesser offense of intentionally harassing a witness in an attempt to dissuade the witness from testifying.⁴²

For a communication to be considered a threat, intimidation, or “corrupt persuasion,”⁴³ it need not be explicit and overt, if it can be reasonably inferred the witness would be threatened, intimidated, or persuaded to testify untruthfully by the words.⁴⁴ Likewise, “[t]he success of an attempt or possibility thereof is irrelevant; the statute makes the endeavor a crime.”⁴⁵ The witness tampering statute covers both coercive and, in some cases, non-coercive communications.⁴⁶ Under the statute, the obstructive conduct must have “a relationship in time, causation, or logic with the [official] proceedings; in other words, the endeavor must have the natural and probable effect of

⁴¹ See 18 U.S.C. § 1512(b).

⁴² 18 U.S.C. § 1512(d); 18 U.S.C. § 1505. Harassment has been interpreted to mean conduct that would “badger, disturb or pester.” *United States v. Wilson*, 796 F.2d 55, 58-59 (4th Cir. 1986).

⁴³ Several courts have interpreted “corrupt persuasion” to cover any attempt to convince a witness to engage in a course of behavior with respect to an official proceeding that is “motivated by an inappropriate or improper purpose.” See *United States v. Khatami*, 280 F.3d 907, 912 (9th Cir. 2002); *United States v. Thompson*, 76 F.3d 442, 452 (2d Cir. 1996). Compare *United States v. Farrell*, 126 F.3d 484, 489 (3d Cir. 1997) (construing the word “corruptly” to mean “more culpability is required for a statutory violation than that involved in the act of attempting to discourage disclosure in order to hinder an investigation”).

⁴⁴ See *United States v. Freeman*, 208 F.3d 332, 338 (1st Cir. 2000); *United States v. Edlind*, 887 F.3d 166, 174 (4th Cir. 2018), (citing *United States v. Edwards*, 869 F.3d 490, 503 (7th Cir. 2017)); *United States v. Miller*, 562 F. App'x 272, 298 (6th Cir. 2014); *United States v. Johnson*, 903 F.2d 1084, 1087-88 (7th Cir. 1990).

⁴⁵ *United States v. Wilson*, 796 F.2d at 57 (4th Cir. 1986).

⁴⁶ See *United States v. Khatami*, 280 F.3d 907 (9th Cir. 2002) (non-coercive attempts to persuade witnesses to lie to investigators violate witness tampering statute).

interfering with” the official proceeding.⁴⁷ It is well established that a congressional hearing constitutes an “official proceeding” under the witness tampering statute.⁴⁸

An individual violates 18 U.S.C. § 1505, the obstruction of Congress statute, if the individual

corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.⁴⁹

The *intent* to improperly influence witness testimony is an essential element of both the witness tampering statute and the obstruction of Congress statute.⁵⁰ Accordingly, to find a violation of either statute, the actions in question must have been taken with the intent to influence or prevent testimony in the connected official proceeding.⁵¹

The ISC did not find sufficient evidence to conclude that Representative Gaetz engaged in witness tampering or obstruction of Congress as defined by law. To find witness tampering or obstruction of Congress, the ISC must reject Representative Gaetz’s stated reasons for his actions and find that his true intent was to prevent or alter Mr. Cohen’s testimony.⁵² Representative Gaetz’s actions and statements after he posted his tweet, as well as his testimony to the ISC regarding his intent, counsel against a finding that Representative Gaetz intended to influence Mr. Cohen’s testimony and obstruct or tamper with the Oversight Committee’s proceeding.

Representative Gaetz publicly stated that it was not his intent to threaten Mr. Cohen on the same day his tweet was posted, and he has consistently made such assertions in public and private since his tweet was posted.⁵³ Representative Gaetz indicated it “never occurred” to him that his conduct could influence Mr. Cohen’s testimony,⁵⁴ and the ISC found no direct nor circumstantial evidence to the contrary.⁵⁵ Although his words were, as he himself has acknowledged, “inartful,”

⁴⁷ See *United States v. Reich*, 479 F.3d 179, 185 (2d Cir. 2007) (citations and quotations omitted).

⁴⁸ 18 U.S.C. § 1515(a)(1)(B) (“As used in sections 1512 and 1513 of this title and in this section, the term ‘official proceeding’ means . . . a proceeding before the Congress.”); see e.g., *United States v. Ring*, 628 F.Supp.2d 195, 223 (D.D.C. 2009) (“The term ‘official proceeding’ includes proceedings before federal judges, grand juries, and Congress.”).

⁴⁹ See 18 U.S.C. § 1505.

⁵⁰ *United States v. Suarez*, 617 F. App’x 537, 542 (6th Cir. 2015) (holding that “[t]here is no dispute that intent is an essential element of” attempted witness tampering under § 1512); *United States v. Quattrone*, 441 F.3d 153, 174 (2d Cir. 2006) (element of § 1505 requires “a wrongful intent or improper motive to interfere with an agency proceeding”).

⁵¹ 18 U.S.C. § 1512; 18 U.S.C. § 1505.

⁵² See *Suarez*, 617 F. App’x at 542 (finding intent was an essential element of the witness tampering statute).

⁵³ E.g., Exhibit 4; ISC Interview of Representative Gaetz.

⁵⁴ ISC Interview of Representative Gaetz.

⁵⁵ See *United States v. Balzano*, 916 F.2d 1273, 1291 (7th Cir. 1990) (“Although it is difficult to find direct evidence in the record of the defendants’ intent to intimidate and retaliate against [the witness], direct evidence of intent is

Representative Gaetz has consistently maintained that his goal was to impact the public’s view of Mr. Cohen by questioning his character and veracity, not to impact Mr. Cohen’s willingness to testify or the substance of his testimony.⁵⁶

Likewise, the ISC did not find that Representative Gaetz’s attendance during Mr. Cohen’s testimony before the Oversight Committee involved the requisite intent to establish witness tampering or obstruction of Congress. Representative Gaetz provided “information, question suggestions and advice to members of the Oversight Committee, including Mr. Jordan, Mr. Meadows, Mr. Comer, Mr. Massie and others” during the Oversight hearing.⁵⁷ Members of Congress are free to attend open congressional hearings for Committees upon which they do not sit—as are the general public.

B. THE ISC FOUND THAT REPRESENTATIVE GAETZ’S ACTIONS DID NOT REFLECT CREDITABLY UPON THE HOUSE.

A Member need not violate federal law to violate the Rules of the House of Representatives. House Rule XXIII, clause 1 states that “[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House.” Clause 1 is a purposely subjective standard designed to “have a deterrent effect against improper conduct,” and provide “the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress.”⁵⁸ The provision serves “as a safeguard for, the House as a whole.”⁵⁹

The Committee has previously found a Member in violation of House Rule XXIII, clause 1 for “inappropriate communications” with two House staffers that ran the risk of interfering with one of the Committee’s investigations.⁶⁰ In that matter, the Committee noted that the Member’s oral and written statements to her Chief of Staff “could be viewed as an attempt to shape [her staffer’s] testimony to the Committee.”⁶¹ The Member explained that it was not her intention to influence the staffer’s testimony before the Committee, that her intention was instead to “relieve [the staffer’s] anxiety,” and she apologized for acting “impulsively” by communicating with the staffer.⁶² The Committee concluded, “[r]egardless of [the Member’s] intentions, interference with a Committee investigation is a very serious matter, and [the Member]’s actions here were clearly improper and reflected very poor judgment on her part.”⁶³ The Committee went on to find that

usually unavailable. In general, it is necessary to prove intent through circumstantial evidence.”) (quoting *United States v. Johnson*, 903 F.2d 1084, 1087 (7th Cir. 1990)).

⁵⁶ See ISC Interview of Representative Gaetz.

⁵⁷ Exhibit 5.

⁵⁸ See *Ethics Manual* at 13 (citing 114 Cong. Rec. 8778 (Apr. 3, 1968)).

⁵⁹ Comm. on Standards of Official Conduct, *Inquiry into the Operation of the Bank of the Sergeant-At-Arms of the House of Representatives*, H. Rept. 102-452, 102d Cong. 2d Sess. 22 (March 10, 1992) (citing H. Rept. 90-1176, 90th Cong. 2d Sess. 17 (1968)).

⁶⁰ See generally Comm. on Ethics, *In the Matter of Allegations Relating to Representative Judy Chu*, H. Rept. 113-665, 113th Cong. 2d Sess. (2014) (hereinafter *Chu*).

⁶¹ See *Chu* at 8 (Representative Chu suggested comments for her Chief of Staff to “point that out” to a staffer involved in issues under investigation by the Committee).

⁶² *Id.* at 9.

⁶³ *Id.* at 11.

the Member violated House Rule XXIII, clause 1 “by not acting in a manner that ‘reflect[ed] creditably on the House,’” and issued a reproof for her actions.⁶⁴

The Committee has also previously acknowledged that a Member’s failure “to exercise reasonable judgment and restraint, [in] making public statements that risk[] impugning the reputation of the House,” could support a finding of a violation of clause 1.⁶⁵ In the *Medicare Prescription Act* matter, the Committee noted that “[w]hile some highly charged language or exaggeration can be excused,” one Member “went too far by making statements that erode public confidence in the integrity of this lawmaking institution.”⁶⁶

Regardless of his intentions, Representative Gaetz similarly failed to “exercise reasonable judgment and restraint [in] making public statements,”⁶⁷ and Representative Gaetz’s statements ran the risk of interfering with a Congressional investigation.⁶⁸ Representative Gaetz’s post was perceived by some as a threat even if he did not intend for it to be. Indeed, Representative Gaetz acknowledged that some people believed that he had threatened Mr. Cohen and that he was uncomfortable with the perception that he had threatened Mr. Cohen.⁶⁹ This perception risked disrupting the Oversight Committee’s work. Furthermore, the implication that damaging information may be revealed that could affect Mr. Cohen’s family came at a time when Mr. Cohen had previously postponed his testimony before Congress because of threats to his family.⁷⁰

Of course, not all engagement by Members of Congress with a witness or potential witness in an official proceeding is impermissible. Conduct intended to “encourage, induce, or cause the other person to testify truthfully” is not prohibited.⁷¹ Even witness “coaching” to assist a witness in presenting evidence in the “best light,” is not unlawful, provided that it does not involve coaching a witness to provide false or misleading testimony.⁷² Furthermore, all parties to an official proceeding have “a legitimate interest in discussing the case with the witnesses, testing their recollections and helping them articulate the events in terms favorable to his case.”⁷³

⁶⁴ *Id.*

⁶⁵ Comm. on Standards of Official Conduct, *Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003*, H. Rept. 108-722, 108th Cong. 2d Sess. 2 (2004) (hereinafter *Medicare Prescription Act*).

⁶⁶ *Id.* at 39.

⁶⁷ *Id.* at 2.

⁶⁸ See *Chu* at 9-11.

⁶⁹ See Exhibit 4 (Rep. Gaetz tweeting a message to Speaker Pelosi that “it was NOT my intent to threaten, as some believe I did.”); ISC Interview of Representative Gaetz (“After watching some of the news coverage and the response from Speaker Pelosi, I reflected on the poor words that I chose and the involvement of someone’s family . . . and I was not comfortable with any perception that I was trying to threaten Mr. Cohen or that I was trying to smear his family.”).

⁷⁰ See Zachary Basu, *Michael Cohen postpones House testimony, blames Trump “threats,”* Axios (Jan. 23, 2019), <https://www.axios.com/michael-cohen-postpones-house-oversight-testimony-781c61ee-57ee-4129-8fd8-80bb61eb39cb.html>.

⁷¹ 18 U.S.C. § 1512(e).

⁷² *United States v. Poppers*, 635 F.Supp. 1034, 1037 (N.D. Ill 1986) (hereinafter *Poppers*).

⁷³ *United States v. Howard*, 793 F.3d 1113, 1114 (9th Cir. 2015) (Kozinski, J. concurring, “[m]erely talking to a potential witness, even about the subject of his likely testimony, is not illegal. The government does this again and again with every potential witness, as long and as often as it wishes.”).

However, a Member's suggestions that someone may reveal personally damaging information the day before a witness is scheduled to testify before Congress does not serve to "encourage" or "induce" a witness to testify⁷⁴ but runs the risk of disrupting the testimony.

The Florida Bar grievance committee found Representative Gaetz's tweet directed to Mr. Cohen to be "unprofessional, reckless, insensitive, and [that it] demonstrated poor judgment."⁷⁵ The grievance committee went on to state that "in light of the public nature of [Representative Gaetz's] comments, [his] actions do not reflect favorably on [Representative Gaetz] as a member of The Florida Bar."⁷⁶ Likewise, Representative Gaetz himself stated that he was "not comfortable with the language I used," that the tweet was inconsistent with his own standards, and that he "acted improperly regarding [his] own standards."⁷⁷

While it would be a poor use of resources for the Committee or its investigative subcommittees to investigate every ill-conceived post on Members' personal social media accounts, the requirement that Members conduct themselves at all time in a manner that reflects creditably on the House extends to their electronic communications.⁷⁸ Even in a fleeting tweet, the wrong words can risk interference with a congressional proceeding. Members of the House should be safeguarding the work of the House of Representatives, not engaging in activity that may improperly interfere with it.

The ISC joins Representative Gaetz and the Florida Bar grievance committee in finding that Representative Gaetz's tweet to Mr. Cohen did not meet the standards by which Members of Congress should govern themselves. Representative Gaetz's tweet did not reflect creditably upon the House and therefore stands in violation of House Rule XXIII, clause 1.

VI. CONCLUSION

While Representative Gaetz's conduct did not violate the federal witness tampering and obstruction of congress laws, he risked interfering with the work of the House when he made statements that were reasonably perceived as threats to a witness, the day before that witness was scheduled to testify in a congressional hearing. The ISC determined that Representative Gaetz acted in a manner that was inconsistent with the standards set for Members of Congress and his actions did not reflect creditably upon the House.

For the reasons discussed above, the ISC found that Representative Gaetz violated House Rule XXIII, clause 1, and recommends that the Committee adopt this report and admonish Representative Gaetz for his conduct.

⁷⁴ 18 U.S.C. § 1512(e).

⁷⁵ Exhibit 9.

⁷⁶ *Id.* (Statement from the Florida Bar "[w]hile your conduct in this instance did not warrant formal discipline, the grievance committee believes it was not consistent with the high standards of our profession, and in light of the public nature of your comments, your actions do not reflect favorably on you as a member of The Florida Bar.").

⁷⁷ See ISC Interview of Representative Gaetz.

⁷⁸ See Comm. on Ethics Memorandum for all Members, Officers and Employees, *Intentional Use of Audio-Visual Distortions & Deep Fakes* (Jan. 28, 2020).

APPENDIX A

to

**Investigative
Subcommittee
Report**

EXHIBIT 1

KATHLEEN M. RICE
4TH DISTRICT, NEW YORK

WASHINGTON OFFICE:
2435 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5516

DISTRICT OFFICE:
229 7TH STREET, SUITE 300
GARDEN CITY, NY 11530
(516) 739-3008

WWW.KATHLEENRICE.HOUSE.GOV



Congress of the United States
House of Representatives
Washington, DC 20515-3204

COMMITTEE ON
HOMELAND SECURITY
SUBCOMMITTEES:
CHAIR, SUBCOMMITTEE ON BORDER
SECURITY, FACILITATION, AND OPERATIONS
CYBERSECURITY, INFRASTRUCTURE
PROTECTION, AND INNOVATION

COMMITTEE ON
VETERANS' AFFAIRS
SUBCOMMITTEES:
OVERSIGHT AND INVESTIGATIONS
ECONOMIC OPPORTUNITY

March 12, 2019

The Honorable Theodore Deutch
Chairman
House Committee on Ethics
1015 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kenny Marchant
Ranking Member
House Committee on Ethics
1015 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Deutch and Ranking Member Marchant,

I respectfully request that the House Committee on Ethics immediately open an investigation into a recent statement made by Rep. Matt Gaetz (FL-01).

On Tuesday, February 26th, Rep. Gaetz tweeted from his non-official account "Hey @MichaelCohen212 - Do your wife & father-in-law know about your girlfriends? Maybe tonight would be a good time for that chat. I wonder if she'll remain faithful when you're in prison. She's about to learn a lot..." Please find a screenshot of the tweet enclosed.

Mr. Cohen was scheduled to testify as a witness at a public hearing in front of the House Committee on Oversight and Government Reform on Wednesday, February 27th at 10:00 am, less than 12 hours after the tweet was sent.

I am requesting this investigation pursuant to 18 U.S. Code § 1512, which clearly defines witness tampering and intimidation. According to the Department of Justice (DOJ), this statute applies to proceedings before Congress.

After the House Committee on Ethics thoroughly investigates this matter, I urge you to make any and all appropriate referrals to DOJ.

Sincerely,

Kathleen M. Rice
Member of Congress

360 Stewart Ave
Apartment 3F
Garden City, NY 11530

District of Columbia: SS
Subscribed and Sworn to before me
this 13 day of March, 2019
Kevin Kelley
Kevin Kelley, Notary Public, D.C.
My commission expires January 14, 2020

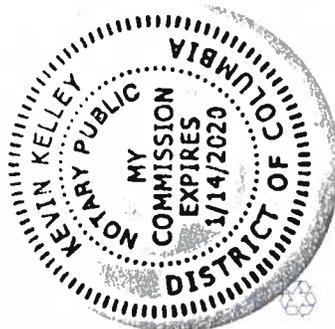


EXHIBIT 2



Tweet



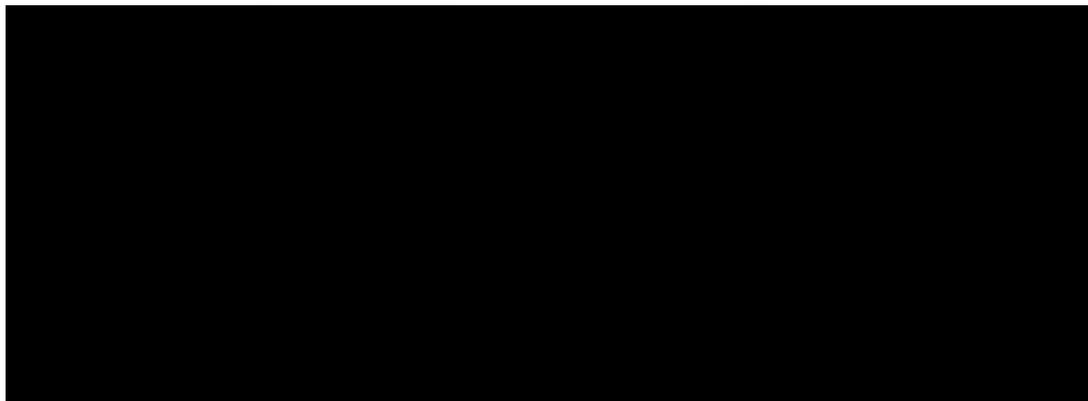
Matt Gaetz ✓

@mattgaetz

Hey @MichaelCohen212 - Do your wife & father-in-law know about your girlfriends? Maybe tonight would be a good time for that chat. I wonder if she'll remain faithful when you're in prison. She's about to learn a lot...

4:12 PM · 2/26/19 · [Twitter for iPhone](#)

6,633 Retweets **14.2K** Likes



Tweet your reply



EXHIBIT 3



Nancy Pelosi ✓
@SpeakerPelosi

Follow



I encourage all Members to be mindful that comments made on social media or in the press can adversely affect the ability of House Committees to obtain the truthful and complete information necessary to fulfill their duties. goo.gl/jVGQD6

“I ENCOURAGE ALL MEMBERS TO BE MINDFUL THAT COMMENTS MADE ON SOCIAL MEDIA OR IN THE PRESS CAN ADVERSELY AFFECT THE ABILITY OF HOUSE COMMITTEES TO OBTAIN THE TRUTHFUL AND COMPLETE INFORMATION NECESSARY TO FULFILL THEIR DUTIES.

“AS A RESULT, SUCH STATEMENTS CAN BE CONSTRUED AS NOT REFLECTING CREDITABLY ON THE HOUSE, AND THE COMMITTEE ON ETHICS SHOULD VIGILANTLY MONITOR THESE TYPES OF STATEMENTS, WHICH MAY NOT BE PROTECTED BY THE SPEECH OR DEBATE CLAUSE.”



NANCY PELOSI
SPEAKER OF THE HOUSE

3:59 PM - 26 Feb 2019

13,951 Retweets 53,215 Likes



6.2K 14K 53K

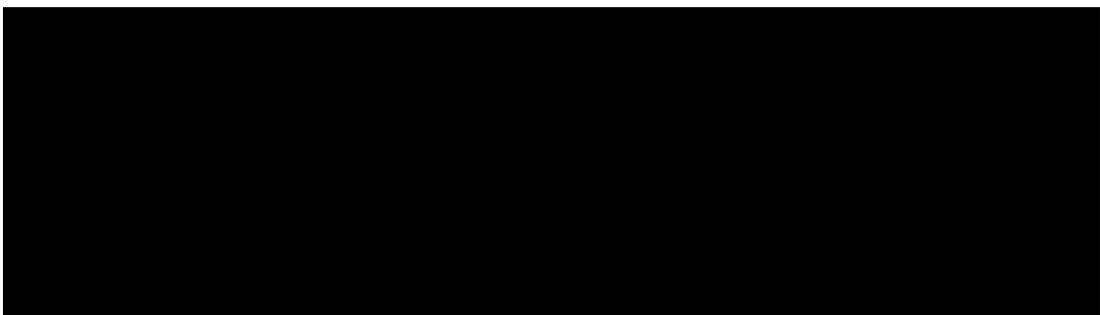


EXHIBIT 4

← **Tweet**



Matt Gaetz ✓
@mattgaetz

Speaker, I want to get the truth too. While it is important 2 create context around the testimony of liars like Michael Cohen, it was NOT my intent to threaten, as some believe I did. I'm deleting the tweet & I should have chosen words that better showed my intent. I'm sorry.



Nancy Pelosi ✓ @SpeakerPelosi · Feb 26, 2019

I encourage all Members to be mindful that comments made on social media or in the press can adversely affect the ability of House Committees to obtain the truthful and complete information necessary to fulfill their duties. goo.gl/jVGQD6

"I ENCOURAGE ALL MEMBERS TO BE MINDFUL THAT COMMENTS MADE ON SOCIAL MEDIA OR IN THE PRESS CAN ADVERSELY AFFECT THE ABILITY OF HOUSE COMMITTEES TO OBTAIN THE TRUTHFUL AND COMPLETE INFORMATION NECESSARY TO FULFILL THEIR DUTIES.

"AS A RESULT, SUCH STATEMENTS CAN BE CONSTRUED AS NOT REFLECTING CREDITABLY ON THE HOUSE, AND THE COMMITTEE ON ETHICS SHOULD VIGILANTLY MONITOR THESE TYPES OF STATEMENTS, WHICH MAY NOT BE PROTECTED BY THE SPEECH OR DEBATE CLAUSE."



NANCY PELOSI
SPEAKER OF THE HOUSE

11:52 PM · Feb 26, 2019 · [Twitter for iPhone](#)

2.9K Retweets **8K** Likes



EXHIBIT 5

Attached are the requests for the U.S. House of Representatives Committee on Ethics. Additionally, my responses to the inquiries specifically requested in the letter sent on March 26, 2019, from Chairman Theodore Deutch and Ranking Member Kenny Marchant are directly below.

Sincerely,



Congressman Matt Gaetz (FL-01)

GAETZ RESPONSES TO MARCH 26TH LETTER

Inquiry 1:

“Inform the Committee of the meaning and purpose of the February 26, 2019, Twitter post by user @mattgaetz stating, “Hey @MichaelCohen212 – do your wife & father in-law know about your girlfriends? Maybe tonight would be a good time for that chat. I wonder if she'll remain faithful when you're in prison. She's about to learn a lot.” Your response should include an explanation of any basis for stating Mr. Cohen's wife was “about to learn a lot.””

GAETZ RESPONSE:

The purpose/meaning of the tweet was to pose a question to Mr. Cohen for his response, public consumption, and to cast him in an untruthful light to the American people.

The purpose of the tweet was never to threaten, intimidate, harass or otherwise improperly influence Mr. Cohen in connection with his testimony before a Congressional Committee, a point I emphasized on Twitter the same day my initial tweet was sent.

To explain my basis for stating that Mr. Cohen's wife was “about to learn a lot,” would require me to reveal confidential discussions with multiple individuals who knew Mr. Cohen well and informed me that Mr. Cohen's wife and father-in-law had signed financial instruments for loans for the purchase of a building in which young women lived who were sexually involved with Mr. Cohen. If I reveal confidential sources, my ongoing oversight and investigative work in Congress will be impaired. Thus, I decline to reveal the sources that provided the basis for my tweet at this time.

Inquiry 2:

“Inform the Committee of the meaning and purpose of your appearance in the hearing room of the House Committee on Oversight and Reform on February 27, 2019, prior to and/or during the testimony of Mr. Cohen.”

GAETZ RESPONSE:

The principal purpose of my presence in the Oversight Committee was the representation of Florida's First Congressional District. As a member of Congress, it is my prerogative to attend any open committee hearing of the Congress on behalf of my constituents.

Specifically, as a former litigator, I find the observations of a witness in person can inform on non-verbal communications and signals, particularly when veracity is at issue.

Additionally, during the hearing I provided information, question suggestions and advice to members of the Oversight Committee, including Mr. Jordan, Mr. Meadows, Mr. Comer, Mr. Massie and others.

Inquiry 3:

Inform the Committee whether you have taken any actions, including, but not limited to, creating the post described in

paragraph (1), with the intent of influencing, delaying, or preventing the testimony of Mr. Cohen before any government entity, including, but not limited to, the House Committee on Oversight and Reform.

GAETZ RESPONSE:

I have not.

Inquiry 4:

“For the period January 1, 2017, to present, all documents and related communications between you, or anyone acting on your behalf, and Mr. Cohen, any of his representatives, or any of his family members, relating to Mr. Cohen's testimony or production of documents to any government entity, including, but not limited to, the House Committee on Oversight and Reform. This request includes, but is not limited to, all correspondence between you and Mr. Cohen, and all correspondence between you and any other individual regarding your communications with Mr. Cohen.”

GAETZ RESPONSE:

I refuse to provide responsive documents which are subject to the attorney-client privilege at this time.

Responsive documents are attached.

Inquiry 5:

For the period January 1, 2017, to present, all documents related to any investigation into the post described in paragraph (1) and/or any allegations that you attempted to delay, prevent, or influence Mr. Cohen's testimony before any government entity, including, but not limited to, any investigation by the Florida Bar.

GAETZ RESPONSE:

I refuse to provide responsive documents which are subject to the attorney-client privilege at this time.

Responsive documents are attached.

Inquiry 6:

“For the period January 1, 2017, to present, all documents related to accusations, claims or rumors that Mr. Cohen engaged in extramarital relationships.”

GAETZ RESPONSE:

I am not in the possession, custody or control of documents responsive to this request.

EXHIBIT 6

594



+1 [Redacted] >

*Michael Tokes
conversation on
Feb 27th*

Hi Matt this is Michael Tokes ([Twitter.com/MikeTokes](https://twitter.com/MikeTokes)) conservative activist and founder of New Right US. This is my cell #. We're about to get all the influencers to do a tweet defending you since you are trending, can you give us a statement to work with?

2 questions:
What do you think of the left's baseless smear campaign against you right now?
Anything to say or clarify?

Is there anything new we can expect to be released about Michael Cohen?

If you can answer perfect, if you cannot, no worries too.
Thank you!



Text Message



594



+1 [redacted]

Michael Tokes continued

2 questions:

What do you think of the left's baseless smear campaign against you right now? Anything to say or clarify?

Is there anything new we can expect to be released about Michael Cohen?

If you can answer perfect, if you cannot, no worries too. Thank you!

I'm testing the truthfulness of Michael Cohen. That should still be allowed in congress. Let's find out all the people Cohen lied to

Perfect, thank you. Coordinating now 💪



Text Message



594



Alex >

Alex Leary from Wall Street Journal on Feb 26th

Hey, Rep Gaetz. WSJ may include your tweet in Cohen coverage. We'd like to give you an opportunity to respond. Why send that tweet? And can you respond to the criticism that this is tantamount to witness tampering, intimidation. Thanks. -- Alex

It's witness testing, not tampering. We still are allowed to test the truthfulness and character of witnesses.



Thanks.

Separately do you have any information as to your tweet that may be of interest to us?

Stay tuned



iMessage



AT&T

6:44 PM

78%

596



Random Reporter

Conversation on

+1 [REDACTED]

Feb 27th

Congressman Gaetz, I'm checking out the reports that the Florida bar has opened an investigation, presumably regarding your comments on Michael Cohen, and I'd like to speak with you, or get a text response. Thanks!

It seems that the Florida Bar, by its rules, is required to investigate even the most frivolous of complaints.

Thanks, Congressman. Would it be possible to get a phone interview with you, or will you be issuing any kind of statement?

My statement is above

Delivered



iMessage



EXHIBIT 7

< 596



Sean >

Conversation with Sean Hannity on Feb 27th

Fuckers are coming for my law license! You were right. We all spend our time in the barrel.

Run this shit by me!!!

You won't lose the license.

You're the most powerful man in media. I don't think you want the job of reviewing all my tweets. Your caring matters a great deal to me.

Smart to pull it down and say what u said. It will pass. Attention span of people is zero.

Just learn from it.

I took the night off TV.



iMessage



How long should I lay low?

Just a while. Maybe send a note to Michael privately. I can connect u to Lanny. Or give u MC text. Just say you were upset at what was transpiring and meant it as a question, not a statement. And u would never threaten anyone.

In retrospect it was poorly written and you wish u didn't send it.

That's a CYA

Short text

Send me cohens # and I'll send it

K.



iMessage



596

SH

Sean >

Speak at cpac Saturday or no?

Lanny Davis

L >

Micahel Cohen

M >

Send it to both. Send to me first!!

Yes cpac

Be smart at cpac. Never get caught up with crowd.



"Mr. Cohen, this is Matt Gaetz. I am writing to personally tell you I'm sorry for the tweet that I sent which many believe was threatening to you. It was never my intent to threaten you. While you don't know me, that



iMessage



596

SH

Sean >

Send it to both. Send to me first!!

Yes cpac

Be smart at cpac. Never get caught up with crowd.



"Mr. Cohen, this is Matt Gaetz. I am writing to personally tell you I'm sorry for the tweet that I sent which many believe was threatening to you. It was never my intent to threaten you. While you don't know me, that is not how I operate. I do not wish any harm to you or your family. I was upset at what was transpiring and chose my words poorly. I will work to be better, as I know you said today you will as well. Have a good evening. - Matt."



iMessage



596



Sean >

Cohen asked me to post apology and pls ask ppl to leave his family alone. I did. It felt good.

Good

You are amazing. Thank you.

Sun, Mar 3, 3:45 PM

Had a good meeting w Lanny today. I see why you like him.

Sun, Mar 3, 6:05 PM

Ha. Did u tell him we were friends?

Yes.

I said you have graciously mentored me



iMessage



EXHIBIT 8

Conversation between Michael Cohen &

AT&T 6:31 PM 82%
596 M L
2 People >

Lanny Davis, Cohen's Lawyer on Feb. 27th

Mr. Cohen, this is Congressman Matt Gaetz. I am writing to personally tell you I'm sorry for the tweet that I sent which many believe was threatening to you. It was never ever ever my intent to threaten you in any way.

While you don't know me, that is not who I am and how I operate. I do not wish any harm to you or your family. I was upset at what was transpiring and chose my words poorly. I will work to be better, as I know you said today you will as well. Have a good evening. - Matt.

Lanny Davis

L What a hypocrite! Should we do anything to leak this?

Michael Cohen

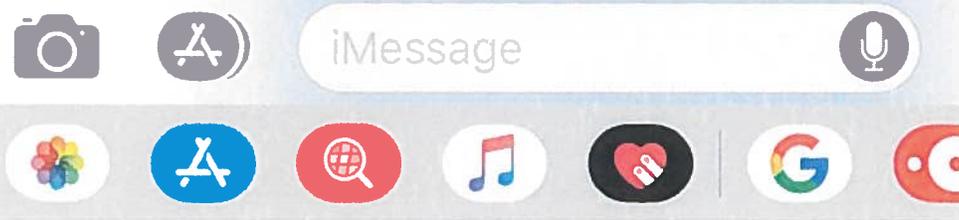
Camera App Store iMessage Microphone

App Store App Store App Store App Store App Store App Store



Michael Cohen

Congressman Gaetz,
I cannot thank you enough for your message. The tweet, sadly, has only made a bad situation worse...not only for my wife but for my children as well.
With your permission, I would like to share your message with my wife and children.
Hopefully, it will bring a little peace to their damaged life.
We all make mistakes especially in this crazy partisan time.
Thank you again for your text and I hope that the tweet does not cause you any harm. If it does, and there is anything I can do to help you correct it, please feel free to reach out and I would be happy to assist.





Of course. And thank you for your response.

Lanny Davis

Dear Congressman Gaetz -

please forgive my excessive anger in my message in response to your gracious text to Michael and his gracious one back.

I wasn't feeling very gracious towards you.

I lived through the brutal and deeply hurtful and dangerous Trump and Giuliani Tweets attacking Michael, his wife and father -in law. Mr. Trump called Michael a "Rat" -knowing how dangerous such a label can be in prison — and Giuliani suggested his father-in-law



iMessage



was associated with organized crime because he is an immigrant from Ukraine.

I would appreciate your posting on Twitter your apology to Michael and your explicit repudiation of President Trump for using his position as POTUS to personally attack anyone's family. Such a Tweet by you would help establish that we all can civilly debate and disagree in politics, but it is never acceptable to attack family. I hope you will consider doing this so the same Twitter audience who read your awful personal attack on Michael, so hurtful to his wife, can read this gracious message you just texted to him and his response.

I do appreciate the spirit of



iMessage



596



2 People >

your text message to Michael. Maybe some good can come out of this. I sure hope so.

Sincerely

L Lanny Davis

That is an excellent suggestion Lanny. Thank you.

Lanny Davis

L Thank you back.

Thu, Feb 28, 11:27 PM

Lanny Davis

So much for the apology, Mr. Gaetz. Or your promise to repudiate President Trump's threat and attacks on Michael's family.

Just read this - posted online.



iMessage



596



2 People >

"Matt Gaetz overheard telling Trump about threatening Michael Cohen tweet: 'I was happy to do it for you.'"

L Very disappointing.

That didn't happen. I was talking to Ron Desantis about an appointment to the airport board. I haven't spoken to the President since he left for Vietnam.



Desantis Personal



Yesterday

8:37 PM Incoming Call

13 minutes



Here is the call log record to prove it.

Lanny Davis



Matt Gaetz overheard telling Trump about threatening Michael Cohen tweet: 'I was happy to do it for you'
washingtonexaminer.com

Mr. Gaetz -

If you are saying you never spoke to Trump as reported here, I hope you repudiate this false quote on Twitter and say what you said you would - repudiate President Trump's attacks on Michael's family.



iMessage



596



2 People >

Lanny

I am 100 percent saying that

This didn't happen. #FakeNews
<https://t.co/IOH1Uf7YwV>



Matt Gaetz
twitter.com

The news report cites me on this call just before 9pm. I've sent you my call record for precisely that time. An incoming call from Governor Desantis.

Micahel Cohen

Congressman,
If as you said yesterday, this is not who you are, I truly hope you publicly repudiate the allegation.
In the open proceeding



iMessage



596



2 People >

yesterday, I stated that too many of the republicans are following the rhetoric of Potus and nothing good will come of it. I hope you don't fall into the trap that I did and suffer similar consequences that I am.

M

Understood

Lanny Davis

Thank you. Please post on Twitter that this call never occurred and this report is false —and then I hope you repudiate Mr. Trump's attacks on Michael Cohen's family on Twitter.

L

Lanny

This call never occurred. This report is false. <https://t.co/v1V1Dc2cbv>



iMessage



596



2 People >

M consequences that I am.

Understood

Lanny Davis

Thank you. Please post on Twitter that this call never occurred and this report is false —and then I hope you repudiate Mr. Trump’s attacks on Michael Cohen’s family on Twitter.

L

Lanny

This call never occurred. This report is false. <https://t.co/x1VJDc3sbv>



Matt Gaetz
twitter.com

Lanny Davis

L

Surely this doesn’t do it. Surely you understand that.



iMessage



EXHIBIT 9

IN THE SUPREME COURT OF FLORIDA
(Before a Grievance Committee)

TO: Mr. Matthew Louis Gaetz II
c/o Mr. Henry Matson Coxe III
Respondent's Counsel
101 E. Adams Street
Jacksonville, FL 32202-3303

IN RE: Matthew Louis Gaetz II; The Florida Bar File No. 2019-00,418 (1B)

NOTICE OF NO PROBABLE CAUSE AND LETTER OF ADVICE

The grievance committee has found no probable cause in the referenced matter against you and the complaint has been dismissed.

The grievance committee wants to make it clear, however, that this finding does not indicate that the committee condones your conduct in this matter. While your conduct in this instance did not warrant formal discipline, the grievance committee believes it was not consistent with the high standards of our profession, and in light of the public nature of your comments, your actions do not reflect favorably on you as a member of The Florida Bar.

The grievance committee considered the following facts:

On February 26, 2019, the day before Michael Cohen was to testify before the House Oversight Committee, you posted the following tweet:

Hey@MichaelCohen212- Do your wife & father-in-law know about your girlfriends? Maybe tonight would be a good time for that chat. I wonder if she'll remain faithful when you're in prison. She's about to learn a lot...

Later that evening, on the House floor, you made comments regarding Mr. Cohen's veracity in numerous matters, which were put into the Congressional Record.

You deleted your original tweet late that night after Speaker of the House Nancy Pelosi posted a tweet inferring that it could harm the House Oversight Committee's ability to "obtain the truthful and complete information necessary to fulfill their duties." You responded to Speaker Pelosi's tweet by tweeting the following:

Speaker, I want to get the truth too. While it is important to create context around the testimony of liars like Michael Cohen, it was NOT my intent to threaten, as some believe I did. I am deleting the tweet & I should have chosen words that better showed my intent. I'm sorry.

On February 27, 2019, you sent a text message to Mr. Cohen and his attorney apologizing for your original tweet. You expressed that it was never your intent to threaten Mr. Cohen "in any way," that you "chose [your] words poorly," and "will work to be better." Mr. Cohen sent a courteous reply thanking you for your text and stating that he "hope[d] that the tweet does not cause you any harm," and that he would be happy to assist you if there were any consequences resulting from your original tweet.

You then posted the following tweet:

I've personally apologized to @MichaelCohen212⁴ referencing his private family in the public square. Regardless of disagreements, family members should be off-limits from attacks from representatives, senators & presidents, including myself. Let's leave the Cohen family alone.

As a member of The Florida Bar, you are governed by the Rules Regulating The Florida Bar, not only when you are engaged in legal representation of a client, but also in all your personal and business affairs outside the practice of law. You should always be mindful that your actions are subject to The Florida Bar's Rules Regulating The Florida Bar at all times.

As a member of The Florida Bar, you are also required to uphold the principles of the Oath of Admission. This Oath includes standards of civility and states, in pertinent part:

To opposing parties and their counsel, I pledge fairness, integrity and civility, not only in court, but also in all written and oral communications.

Your original tweet was posted on the eve of Mr. Cohen's public testimony. The grievance committee believes your original tweet was unprofessional, reckless, insensitive, and demonstrated poor judgment. The grievance committee, however,

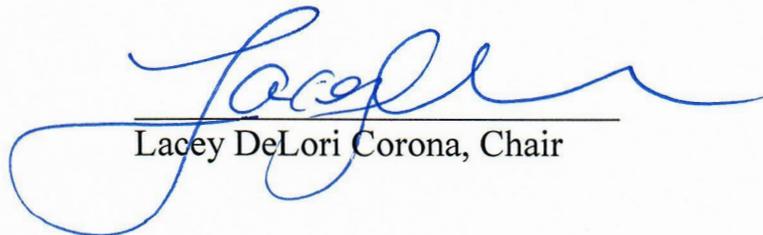
considered all the facts presented, including your prompt withdrawal of the tweet, as well as your public and personal apologies to Mr. Cohen, his attorney, and the Speaker of the House. The grievance committee also considered Mr. Cohen's reply to your apology and his willingness to assist you as a mitigating factor.

The grievance committee hopes this letter will make you more aware of your continuous obligation to uphold the professional standards of a lawyer in The Florida Bar and, in the future, you will adjust your conduct accordingly.

This letter of advice does not constitute a disciplinary record against you for any purpose and is not subject to appeal by you. See Rule Regulating The Florida Bar 3-7.4(k). Pursuant to The Florida Bar's records retention schedule, the computer record and file will be disposed of one year from the date of closing.

Dated this 16th day of August, 2019.

First Judicial Circuit
Grievance Committee "B"



Lacey DeLori Corona, Chair

cc: Olivia Paiva Klein, Bar Counsel
John Kenneth Reed, Investigating Member
Clifford C. Higby, Designated Reviewer