

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Sixteenth Congress

March 18, 2019

Alan Futerfas, Esq.
The Law Offices of Alan S. Futerfas
565 Fifth Avenue, 7th Floor
New York, NY 10017

Dear Mr. Futerfas:

I write in response to your February 25, 2019 letter to me regarding Barry Berke's role as a consultant to the Judiciary Committee. I take strong exception to your assertions that Mr. Berke is ethically conflicted from representing or advising the Committee on matters pertaining to the Trump Organization, and that Mr. Berke's role provides a basis for withholding documents from Congress.

First, to the extent you have raised these concerns as an objection to the Committee's request for documents, such an objection is unfounded. Your letter cites no authority, judicial or otherwise, for the proposition that an alleged conflict of interest provides a basis to refuse to produce records to a Committee of Congress, and the Committee is aware of none. Consequently, the Committee rejects any attempt to invoke these issues as a basis for declining to respond to its valid request for documents and information from the Trump Organization.

Second, the Kramer Levin law firm has addressed each of the issues raised by your letter, including on February 25, 2019, via a public statement, and again on March 1, 2019, via letter to this Committee (both of which are attached for your reference). Specifically, Kramer Levin has made clear that (i) the firm is not performing any legal work for the Trump Organization, and (ii) the Trump Organization is not currently a client of the firm.

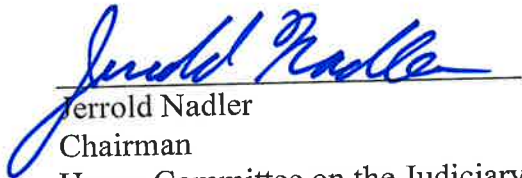
With respect to claims about Kramer Levin's prior representation of the Trump Organization, the firm has explained that "for the past several years the firm has performed only sporadic minor work for certain Trump-affiliated entities." Kramer Levin has also made clear that it does not "believe that any of the work that the firm has done in the past for Trump-affiliated clients relates to any of the work Mr. Berke will be performing on behalf of the Committee and, in any event, appropriate screens have been in place since before Mr. Berke began his engagement with the Judiciary Committee." As to the specific Trump real estate development projects that are listed on the first page of your letter, Kramer Levin has indicated, and I understand, that those prior representations concluded long ago and are not related to the work of the Committee.

Third, Mr. Berke did not personally perform any work on the matters you have identified there and has been appropriately screened by Kramer Levin from any matters related to the Trump Organization since before he began his engagement with the Committee. Furthermore, as you know, Mr. Berke has taken a leave of absence from Kramer Levin to focus on his work for the Committee. As a result, Mr. Berke possesses no relevant confidential information that would give rise to a conflict of interest and neither Kramer Levin's duty of loyalty nor the duty of confidentiality – or any other ethical restriction – is violated by Mr. Berke's work for the Committee.

Similarly, to the extent that you have raised Mr. Berke's employment by the Judiciary Committee as a basis to refuse to respond to other Committees' legitimate requests for documents and testimony, please be advised that Mr. Berke has had absolutely no role in the investigations of any other House Committee. Regardless, that would not provide a legitimate basis to refuse to produce responsive documents in any event.

For all the above stated reasons, it is the position of the Judiciary Committee that no conflict of interest exists as to Mr. Berke. Accordingly, there is no limitation, ethical or otherwise, on Mr. Berke's work for the Committee along the lines described in this letter.

Sincerely,


Jerrold Nadler
Chairman
House Committee on the Judiciary

cc: Honorable Doug Collins, Ranking Member, House Committee on the Judiciary

Enclosures