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COMMITTEE ON THE JUDICIARY

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July 5, 2005

Gregory A. White  
United States Attorney  
Northern District of Ohio  
U.S. Department of Justice  
801 West Superior Avenue, Suite 400  
Cleveland, OH 44113-1852

Dear Mr. White:

I write to you because of my very serious concerns regarding the manner in which your office has handled the investigation into alleged federal campaign finance violations involving the 2004 Bush-Cheney campaign and other Republican candidates. In particular, I am concerned that your office delayed investigating this very serious matter until after the 2004 presidential election and as a result prejudiced the government's ability to pursue justice in the case.

It is my understanding that on October 13, 2004, the U.S. Attorney's Office for the Northern District of Ohio was provided evidence from Lucas County grand jury proceedings suggesting extensive federal campaign finance violations took place involving Thomas Noe, the leading Bush-Cheney official in the region for the 2004 campaign.<sup>1</sup> On the same day, it was reported that your office shared this information with the Justice Department's Public Integrity Section; and that later that day, the Section e-mailed to the U.S. Attorney's Office authorization to investigate the matter.<sup>2</sup> Two days later, on October 15, it was reported that the local prosecutors gave their evidence to the FBI.<sup>3</sup>

It has been further reported by the *Toledo Blade* that you began your investigation into the case around early March 2005.<sup>4</sup> Subsequent news reports stated that federal grand jury

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<sup>1</sup>James Drew & Steve Eder, *Allegations Arose Before '04 Election*, TOLEDO BLADE, June 19, 2005, at A1.

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

<sup>4</sup>Mike Wilkinson & James Drew, *Noe faces federal probe for Bush contributions*,

proceedings occurred on June 1, 2005, well after the presidential election and approximately seven-and-one-half months after the Department was notified of the potential violations.<sup>5</sup>

If this series of events is accurate, the delay may have violated federal guidelines as well as bar rules of professional conduct requiring impartiality and promptness in criminal investigations. First, federal law directs that each United States Attorney "shall prosecute for all offenses against the United States."<sup>6</sup> The U.S. Attorneys' Manual reiterates this requirement and further explains that "their professional abilities and the need for their impartiality in administering justice directly affect the public's perception of federal law enforcement."<sup>7</sup> While I am well aware that the principle of prosecutorial discretion grants your office latitude in determining which cases warrant prosecution, that doctrine in no way permits political considerations – including the fact of a high profile and closely contested election -- to intrude on the prosecutorial process.

Second, federal law binds government attorneys, including Department prosecutors, to the bar rules of the state in which they practice.<sup>8</sup> As a result, your Office would be bound to the Ohio Rules of Court Code of Professional Responsibility. That Code provides that, "having undertaken representation, a lawyer should use proper care to safeguard the interests of his client."<sup>9</sup> The American Bar Association Model Rules of Professional Conduct state that "a lawyer shall act with reasonable diligence and promptness in representing a client."<sup>10</sup>

Taken together, these rules provide that U.S. Attorneys must investigate crimes, behave impartially, avoid turning away investigations in order to help defendants, and act with due diligence in representing the interests of the United States. Given that considerable evidence had already been collected by the Lucas County grand jury investigation, it is troubling that your office delayed this investigation by four-and-one-half months. In addition, a full seven-and-one-half months passed before federal grand jury proceedings began on June 1. Postponing the case for so long may have jeopardized the success of any investigation as the recollections of witnesses are likely to have diminished over time and evidence may have disappeared.

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TOLEDO BLADE, April 28, 2005, at A1

<sup>5</sup>Mike Wilkinson, *Ohio GOP leaders vow to return funds given by coin dealer*, TOLEDO BLADE, June 2, 2005, at A1.

<sup>6</sup>28 U.S.C. § 547.

<sup>7</sup>U.S. DEP'T OF JUSTICE, U.S. ATTORNEYS' MANUAL § 3-2.140.

<sup>8</sup>28 U.S.C. § 530B.

<sup>9</sup>OHIO RULES OF COURT, CODE OF PROFESSIONAL RESPONSIBILITY, Ethical Consideration 6-4.


<sup>10</sup>AMERICAN BAR ASS'N, MODEL RULES OF PROFESSIONAL CONDUCT 1.3

In order to better understand the circumstances leading up to the investigation, I ask that you answer the following questions:

1. When did the U.S. Attorney's Office for the Northern District of Ohio first learn of campaign finance violations alleged to have been committed by Mr. Noe? From whom and in what manner did such notification occur? What evidence did the Office obtain?
2. At any time after receiving information about these potential offenses, did the U.S. Attorney's Office and other officials in the Bush administration (i.e., the White House, Justice Department, Treasury Department) communicate with each other about this case or Mr. Noe? Between whom did such communications occur? On what date and in what manner did these take place? What were the contents of such communications?
3. What was the reason for the at least four and one-half month delay in pursuing this important case? Please inform me of any change in your office's workload requirements that may be applicable to this decision, along with supporting material.

We would appreciate your prompt attention to this request. Understanding the sensitive nature of the case, we would be happy to meet you to discuss these matters confidentially. Please reply through Perry Apelbaum or Ted Kalo of the Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax: 202-225-4423).

Sincerely,



John Conyers, Jr.  
Ranking Member

cc: William E. Moschella  
Hon. F. James Sensenbrenner, Jr.