

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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September 9, 2019

The Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

I am writing regarding the Committee's investigation into your potential conflicts of interest that could jeopardize the public trust placed in you as Secretary of Commerce. Rather than cooperate with this investigation, you have refused for more than eight months to produce many responsive documents, and the documents you have provided have been heavily redacted. Even these limited number of redacted documents you have produced raise troubling new questions about your compliance with federal ethics requirements.

On February 8, 2019, the Committee requested documents related to your potential conflicts of interest.¹ The Department did not produce any documents by the February 22, 2019, due date.

On March 14, 2019, you testified before the Committee regarding the Census and other matters. Prior to the hearing, you sought a postponement, expressing concern that Committee Members might ask you about your "personal finances and ethical obligations."² As an accommodation, the Committee agreed to allow you to respond to such questions for the record and produce documents about your potential conflicts of interest after the hearing.³

¹ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Feb. 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-08.EEC%20to%20Ross%20re%20Conflicts%20of%20Interest.pdf>).

² Letter from Michael Platt, Jr., Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 5, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.03.05%20Letter%20to%20Chairman%20Cummings_0.pdf).

³ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-06.EEC%20to%20Ross-DOC%20re%20Documents%20and%20Testimony.pdf>).

The Committee submitted questions for the record on April 15, 2019—more than four months ago—but you have failed to respond to a single question.⁴ Your actions do not appear to reflect a good faith approach to the accommodations granted to you by the Committee.

With respect to the documents the Committee requested in February, the Department is withholding information that is central to the Committee's investigation into your potential conflicts of interest.

The Department has made only limited productions of materials that were already largely publicly available or that were heavily redacted. The Department redacted communications with Department ethics officials regarding your divestitures, the transfer of assets to trusts, and proposed meetings with foreign governments and entities in which you have financial interests.

The Department's basis for these redactions appears to be exemptions to the Freedom of Information Act (FOIA). However, as you surely know, FOIA provides that the statute may not be used to withhold information from Congress.⁵ Again, these actions raise serious questions about whether the Department is working with the Committee in good faith.

For example, the Department produced an email sent by your staff on April 14, 2017, describing a proposed meeting between you and the Minister of Finance of Cyprus, but this email is highly redacted.⁶ At the time, you had recently resigned as the Vice Chair of Cyprus's largest bank, the Bank of Cyprus. You had been a shareholder in the bank, but you never filed a public transaction report showing when or how you divested your financial interest in the bank.⁷

The Committee needs the unredacted documents to understand the context for the proposed meeting, the guidance you received from agency ethics officials, whether the meeting took place, and what was discussed.

⁴ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Apr. 15, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-04-15.%20EEC%20to%20Secretary%20Ross%20re.%203-14%20Hearing%20QFRs.pdf>).

⁵ 5 U.S.C. § 552 (d) ("This section is not authority to withhold information from Congress.").

⁶ Email from Staff, Office of the Secretary, Department of Commerce, to Staff, Ethics Law and Programs Division, Department of Commerce (Apr. 14, 2017) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-04-14%20Email%20from%20Dana%20Jacob%20to%20Dina%20Beaumont%20about%20proposed%20meeting%20with%20Cyprus%20Finance%20Minister_Redacted.pdf).

⁷ Letter from Secretary Wilbur L. Ross, Jr., Department of Commerce, to David Maggi, Alternate Designated Agency Ethics Official, Department of Commerce (Jan. 15, 2017) (online at [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C4D33DB26307189E852580C8002C7A72/\\$FILE/Ross,%20Wilbur%20L%20finalAmendedEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C4D33DB26307189E852580C8002C7A72/$FILE/Ross,%20Wilbur%20L%20finalAmendedEA.pdf)); Certificate of Divestiture from Secretary Wilbur L. Ross, Jr., Department of Commerce (June 5, 2017) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-06-05%20Certificate%20of%20Divestiture.pdf>).

Your decision to withhold and conceal this information from Congress is inconsistent with the approach taken by other agency heads, who have produced these types of documents to the Committee without redactions.

For example, in March 2019, the Department of the Interior produced unredacted documents regarding ethics guidance provided to then-Deputy Secretary David Bernhardt and his staff. The Department of the Interior also produced an unredacted copy of an email in which an agency ethics official provided advice on whether Deputy Secretary Bernhardt could accept a meeting request.⁸

The Committee is conducting this investigation to obtain information about a range of issues, including your compliance with federal laws and regulations concerning conflicts of interest, your compliance with your ethics agreement, the accuracy of your public financial disclosures, and possible conflicts of interest that may impair your ability to make impartial policy decisions.

The Committee 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. The Committee has broad oversight and legislative jurisdiction over a wide spectrum of government ethics laws throughout the Executive Branch, including the Ethics in Government Act of 1978.⁹

The Committee’s investigation may lead to legislation, including reforms to the Ethics in Government Act. For example, this year the Committee has considered legislation that would enhance the financial disclosure process for executive branch employees and strengthen the

⁸ Email from Staff, Departmental Ethics Office, Department of the Interior, to Staff, Office of the Secretary, Department of the Interior (July 10, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOI%20Ethics%20Email%20Chain%20%28redacted%29.pdf>).

⁹ See, e.g., Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458 (2004) (requiring the Office of Government Ethics to submit to Congress a report evaluating the financial disclosure process for executive branch employees); Office of Government Ethics Authorization Act of 2001, Pub. L. No. 107-119 (2002) (extending the authorization of appropriations for the Office of Government Ethics); Office of Government Ethics Authorization Act of 1996, Pub. L. No. 104-179 (1996) (extending the authorization of appropriations for the Office of Government Ethics); Ethics Reform Act of 1989, Pub. L. No. 101-194 (1989) (imposing lobbying restrictions on employees of executive and legislative branches, including the president and other senior personnel of the executive branch, and amending certain financial disclosure requirements in the Ethics in Government Act of 1978); Office of Government Ethics Reauthorization Act of 1988, Pub. L. No. 100-598 (1988) (establishing the Office of Government Ethics as an independent agency within the executive branch with increased oversight of executive agencies, extending appropriations for the agency, and requiring an annual report to Congress by the agency); Ethics in Government Act Amendments of 1982, Pub. L. No. 97-409 (1983) (renaming the “special prosecutor” in the Ethics in Government Act of 1978 “independent counsel” and revising the coverage of executive-branch officials who may be subject to the “special prosecutor” provisions in that Act); Ethics in Government Act, Pub. L. No. 95-521 (1978) (imposing financial disclosure requirements on executive branch personnel, establishing the Office of Government Ethics within the Office of Personnel Management, and providing for a special prosecutor, appointed by the Attorney General, to investigate allegations of criminal violations in the executive branch).

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authority of the Office of Government Ethics to investigate violations of financial disclosure and other ethics requirements.¹⁰

For all of these reasons, please produce by September 19, 2019, all documents responsive to the Committee's request without redactions. Otherwise, the Committee will have no choice but to consider alternative steps to secure compliance. If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,



Elijah E. Cummings
Chairman

cc: The Honorable Jim Jordan, Ranking Member

¹⁰ H.R. 745, the Executive Branch Comprehensive Ethics Enforcement Act of 2019, was also included in H.R. 1, which passed the House of Representatives on March 8, 2019.