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4 PERMANENT SELECT COMMITTEE ON INTELLIGENCE,

5 joint with the

6 COMMITTEE ON OVERSIGHT AND REFORM

7 and the

8 COMMITTEE ON FOREIGN AFFAIRS,

9 U.S. HOUSE OF REPRESENTATIVES,

10 WASHINGTON, D.C.

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14 DEPOSITION OF: JOHN MICHAEL "MICK" MULVANEY

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19 Friday, November 8, 2019

20 Washington, D.C.

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23 The deposition in the above matter was held in Room HVC-304,

24 Capitol Visitor Center, commencing at 9:07 a.m.

25 Present: Representative Schiff.

1 Appearances:

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4 For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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12 For the COMMITTEE ON OVERSIGHT AND REFORM:

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[REDACTED]

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[REDACTED]

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1 MR. GOLDMAN: This is the deposition of Acting Chief of Staff Mick
2 Mulvaney.

3 It is 9:07 a.m. Mr. Mulvaney was subpoenaed to appear at 9:00
4 a.m. He is not here. At the request of the chairman, we will recess
5 until 11:30.

6 [Recess.]

1 [11:34 a.m.]

2 THE CHAIRMAN: We will now begin today's proceeding. This is the
3 continuation of a deposition of John Michael "Mick" Mulvaney, Acting
4 Chief of Staff to the President.

5 This deposition is being conducted by the House Permanent Select
6 Committee on Intelligence, in coordination with the Committees on
7 Foreign Affairs and Oversight and Reform, pursuant to the impeachment
8 inquiry announced by the Speaker of the House on September 24, 2019,
9 and affirmed by House Resolution 660 on October 31, 2019.

10 On Wednesday, November 5th, 2019, the committees sent a letter
11 to Mr. Mulvaney requesting that he voluntarily appear for a deposition
12 today, November 8, as part of this inquiry.

13 On November 6th, the White House Counsel's Office acknowledged
14 receipt of the deposition request on Mr. Mulvaney's behalf, but neither
15 Mr. Mulvaney nor White House Counsel substantively responded to the
16 request.

17 Because the committees never received any substantive response,
18 on November 7, the Intelligence Committee issued a duly authorized
19 subpoena to Mr. Mulvaney commanding his appearance this morning.

20 Despite his legal obligations to comply, Mr. Mulvaney is not
21 present here today and has therefore defied a duly authorized
22 congressional subpoena.

23 This morning, in an email received at 8:59 a.m., 1 minute before
24 the deposition was supposed to commence, Mr. Mulvaney's personal
25 attorney indicated that, quote, "Mr. Mulvaney will not be attending

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1 the deposition today," unquote, based upon a letter received from White
2 House Counsel and an accompanying opinion from the Department of
3 Justice's Office of Legal Counsel that Mr. Mulvaney is purportedly
4 absolutely immune from compelled congressional testimony.

5 According to the White House Counsel's letter, based upon the OLC
6 opinion, quote, "The President directed Mr. Mulvaney not to appear to
7 the committee's scheduled deposition," unquote.

8 Neither Congress nor the courts recognize a blanket absolute
9 immunity as a basis to defy a congressional subpoena. Mr. Mulvaney
10 and the White House, therefore, have no legitimate legal basis to evade
11 a duly authorized subpoena.

12 The President's direction to Mr. Mulvaney to defy our subpoena
13 can, therefore, only be construed as an effort to delay testimony and
14 obstruct the inquiry, consistent with the White House Counsel's letter
15 dated October 8, 2019.

16 Furthermore, to the extent the White House believes that an issue
17 could be raised in Mr. Mulvaney's deposition that might implicate a
18 valid claim of privilege, the White House could seek to assert that
19 privilege with the committee in advance of the deposition. To date,
20 as has been the case in every other deposition as part of this inquiry,
21 the White House has not done so.

22 As Mr. Mulvaney was informed when the Intelligence Committee
23 served the subpoena on him and the White House Counsel, the committees
24 may consider his noncompliance with the subpoena as evidence in a future
25 contempt proceeding. His failure or refusal to appear, moreover,

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1 shall constitute evidence of obstruction of the House's impeachment
2 inquiry and may be used as an adverse inference against the President.

3 The subpoena remains in full force.

4 The committees reserve all of their rights, including the right
5 to raise this matter at a future Intelligence Committee proceeding at
6 the discretion of the chair of the committee.

7 Mr. Mulvaney's nonappearance today adds to the growing body of
8 evidence of the White House seeking to obstruct the House's impeachment
9 inquiry. It also flies in the face of historical precedent. Even
10 absent impeachment proceedings, congressional committees have deposed
11 senior White House officials, including Chiefs of Staff, such as
12 President Clinton's Chiefs of Staff, Mack McLarty and Erskine Bowles.

13 I am therefore entering into the record for the impeachment
14 inquiry the following documents:

15 Exhibit 1 is the committees' November 5, 2019, letter to
16 Mr. Mulvaney requesting his voluntary appearance at the deposition.

17 Exhibit 2 is the Intelligence Committee's subpoena to
18 Mr. Mulvaney, which was served on Mr. Mulvaney and the White House
19 Counsel on November 7th.

20 Exhibit 3 is the correspondence received from Mr. Mulvaney's
21 personal counsel at 8:59 a.m. this morning, including the letter from
22 White House Counsel and accompanying OLC opinion.

23 [Majority Exhibit No. 1
24 was marked for identification.]

25 [Majority Exhibit No. 2

1 was marked for identification.]

2 [Majority Exhibit No. 3

3 was marked for identification.]

4 THE CHAIRMAN: Mr. Mulvaney's role in facilitating the White
5 House's obstruction of the impeachment inquiry does not occur in a
6 vacuum. Over the past several weeks, we have gathered extensive
7 evidence of the President's abuse of power related to pressuring
8 Ukraine to pursue investigations that would benefit the President
9 personally and politically and jeopardize national security in doing
10 so.

11 Some of that evidence has revealed that Mr. Mulvaney was a
12 percipient witness to misconduct by the President and may have had a
13 role in certain actions under investigation. The evidence shows that
14 Mr. Mulvaney may have coordinated with U.S. Ambassador to the European
15 Union Gordon Sondland, Rudy Giuliani, and others to carry out President
16 Trump's scheme to condition a White House meeting with President
17 Zelensky on the Ukrainians' pursuit of investigations of the Bidens,
18 Burisma Holdings, and purported Ukrainian interference in the 2016 U.S.
19 Presidential election.

20 In addition, evidence suggests that Mr. Mulvaney may have played
21 a central role in President Trump's attempt to coerce Ukraine into
22 launching his desired political investigations by withholding nearly
23 \$400 million in vital security assistance from Ukraine that had been
24 appropriated by Congress.

25 At a White House press briefing on October 17, 2019, Mr. Mulvaney

1 admitted publicly that President Trump ordered the hold on Ukraine
2 security assistance to further the President's own personal political
3 interests rather than the national interest.

4 Specifically, in discussing the reasons President Trump ordered
5 the hold, Mr. Mulvaney stated, quote, "Did [President Trump]" -- in
6 brackets -- "also mention to me in passing" -- [sic] -- "in pass the
7 corruption related to the DNC server? Absolutely. No question about
8 that. But that's it, and that's why we held up the money."

9 Shortly thereafter, Mr. Mulvaney engaged in the following
10 colloquy with a reporter:

11 So the demand for an investigation into the Democrats was part
12 of the reason that he ordered to withhold funding to Ukraine?

13 Answer: The lookback to what happened in 2016 --

14 Question: The investigation into Democrats.

15 Answer: -- certainly was part of the thing he was worried about
16 in corruption with that nation. And that is absolutely appropriate.

17 And withholding the funding?

18 Yeah. Which ultimately then flowed. By the way, there was a
19 report that we were worried that the money wouldn't -- that if we didn't
20 pay out the money, it would be illegal, okay? It would be unlawful.
21 That is one of those things that has the little shred of truth in it
22 that makes it look a lot worse than it really is.

23 Question: But to be clear, what you described is a quid pro quo.
24 It is: Funding will not flow unless the investigation into the
25 Democratic server happens as well.

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1 Answer: We do that all the time with foreign policy. And I have
2 news for everybody: Get over it. There's going to be political
3 influence in foreign policy.

4 Because Mr. Mulvaney has refused to testify today, I am entering
5 into the record Mr. Mulvaney's own admissions at the October 17 press
6 conference as exhibit 4.

7 [Majority Exhibit No. 4
8 was marked for identification.]

9 THE CHAIRMAN: Based on the record of evidence gathered to date,
10 we can only infer that Mr. Mulvaney's refusal to testify is intended
11 to prevent the committees from learning additional evidence of
12 President Trump's misconduct and that Mr. Mulvaney's testimony would
13 corroborate and confirm other witnesses' accounts of such misconduct.
14 If the White House had evidence to contest those facts, they would allow
15 Mr. Mulvaney to be deposed.

16 Instead, the President and the White House are hiding and trying
17 to conceal the truth from the American people. Given the extensive
18 evidence the committees have already uncovered, the only result of the
19 stonewalling is to buttress the case for obstruction of this inquiry.

20 And, with that, in the absence of any Republican Members, I yield
21 to the minority counsel.

22 MR. CASTOR: I'd just like to state that Mr. Mulvaney got the
23 subpoena last night, I think, at 6:30. He subsequently hired personal
24 counsel.

25 He's a Chief of Staff to the President of the United States. You

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1 know, these things aren't always able to come together as quickly as,
2 you know, 6:30 at night to 9:00 in the morning. So this is probably
3 one of those instances when more time might be productive.

4 And I'd also note that the statement that you mentioned on October
5 17th was followed up with a subsequent statement by Mr. Mulvaney
6 clarifying his remarks.

7 THE CHAIRMAN: I thank the counsel.

8 I would just note that the explanation you've offered for
9 Mr. Mulvaney's absence is not the explanation Mr. Mulvaney offered.
10 He didn't ask for more time, didn't say he needed more time to find
11 counsel. He said, instead, he was relying on instructions from the
12 White House and an OLC opinion that he attached.

13 And, with that, this will conclude the deposition proceedings,
14 and we are adjourned.

15 [Whereupon, at 11:42 a.m., the deposition was concluded.]

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