



GOVERNMENT  
ACCOUNTABILITY  
PROJECT

June 22, 2020

By Email

Bradley Weinsheimer  
Associate Deputy Attorney General  
U.S. Department of Justice  
Washington D.C.  
bradley.weinsheimer@usdoj.gov

Re: Congressional Subpoena Ordering John Elias to Give Testimony and Produce Documents at the June 24, 2020 Hearing of the House Judiciary Committee

Dear Mr. Weinsheimer:

I am writing to reply to your June 18, 2020 letter to me. Under ordinary circumstances, the Justice Department maintains the confidentiality of its operations, and that is necessary for the Department to do its work effectively. However, when serious government misconduct occurs, whistleblower protections empower its employees to speak out.

1. Mr. Elias is a whistleblower. He has lawfully reported abuses of authority and other wrongdoing by Antitrust Division and Department of Justice political leadership, disclosing significant government misconduct adversely and improperly affecting specific industries and companies. Months before the House Judiciary Committee's June 24 hearing was ever contemplated, Mr. Elias filed complaints and expressed concerns to the Department of Justice Office of Inspector General, the U.S. Office of Special Counsel and the Congress – all protected disclosures. The government faces substantial legal risk if it makes personnel decisions adversely affecting employees who make protected disclosures.
2. Mr. Elias is being compelled by subpoena. In the absence of a valid judicial order saying otherwise, we are advising him to comply.
3. The letter's blanket invocation of executive branch privileges and other authorities fails to acknowledge Congress's ability to compel information in this context. Its reference to the deliberative process privilege is just one example of the letter's overreach. That qualified privileged "disappears altogether when there is any reason to believe government misconduct occurred." *In re sealed Case*, 121 F. 3d 729, 746 (D.C. Cir. 1997). "[W]here there is reason to believe the documents sought may shed light on

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government misconduct, 'the privilege is routinely denied,' on the grounds that shielding internal government deliberations in this context does not serve "the public's interest in honest, effective government.'" *Id.* at 738 (citations omitted). Here, Mr. Elias has already lawfully disclosed significant government misconduct within the Antitrust Division.

Mr. Elias has been committed to exposing the abuses of which he has knowledge in a lawful manner. He maintains that commitment.

Very truly yours,

/s/

David Z. Seide

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