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November 4, 2019

VIA EMAIL

The Honorable Eliot L. Engel
The Honorable Adam B. Schiff
The Honorable Carolyn B. Maloney
United States House of Representatives
Washington DC, USA

Re: Subpoena for Deposition of John A. Eisenberg

Dear Chairmen Engel and Schiff and Acting Chairwoman Maloney,

This firm represents John A. Eisenberg. As you are aware, Mr. Eisenberg is Assistant to the President, Deputy Counsel for National Security Affairs, and Legal Advisor to the National Security Council. In those roles, he serves as a senior advisor to the President.

We are in receipt of the subpoena from the United States House of Representatives commanding that Mr. Eisenberg appear for testimony by deposition this morning at 9:00 AM EST. The subpoena was first emailed to Mr. Eisenberg on Friday evening, November 1, 2019, giving him not even a single business day to prepare for testimony. This is insufficient and unreasonable notice and imposes an undue burden on Mr. Eisenberg, especially in light of his legal and national security responsibilities in the White House.

Even if Mr. Eisenberg had been afforded a reasonable amount of time to prepare, the President has instructed Mr. Eisenberg not to appear at the deposition. Enclosed with this letter is the President's instruction as relayed by Pat A. Cipollone, Counsel to the President, in a letter dated November 3, 2019. We also enclose a letter, also dated November 3, 2019, from Steven A. Engel, Assistant Attorney General for the Office of Legal Counsel at the Department of Justice, to Mr. Cipollone advising that Mr. Eisenberg is "absolutely immune from compelled congressional testimony in his capacity as a senior advisor to the President." Under these circumstances, Mr. Eisenberg has no other option that is consistent with his legal and ethical obligations except to follow the direction of his client and employer, the President of the United States. Accordingly, Mr. Eisenberg will not be appearing for a deposition at this time.

In closing, we note that the relevant legal and constitutional questions underlying the congressional demand for Mr. Eisenberg's testimony are currently pending in the United States District Court for the District of Columbia in *Charles M. Kupperman v. United States House of*

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Representatives et al., Civil Action No. 19-3224 (J. Leon). Mr. Eisenberg, as a lawyer and officer of the court, will abide by whatever final decision the federal judiciary reaches on the dispute between the Executive and Congress.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. A. Burck', with a long horizontal flourish extending to the right.

William A. Burck

cc: Derek Shaffer (Quinn Emanuel Urquhart & Sullivan LLP, counsel to Mr. Eisenberg)