

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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June 4, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Gowdy:

We are writing to request that you issue a subpoena to obtain documents that are currently being withheld by the Environmental Protection Agency (EPA) relating to Administrator Scott Pruitt's multiple abuses of authority in using agency staff for his own personal purposes.

On April 12, 2018, we sent a letter to Administrator Pruitt explaining that Kevin Chmielewski, who had served as Deputy Chief of Staff for Operations at EPA, had blown the whistle on these abuses. For example, we wrote:

Mr. Chmielewski said that you had EPA's Director of Scheduling and Advance Millan Hupp act as your personal real estate representative, spending weeks improperly using federal government resources and time to contact rental and seller's agents, and touring numerous properties in which you might wish to reside.¹

To investigate these allegations, we requested all "documents and communications referring or relating to Millan Hupp's assistance with the Administrator's rental or purchase of real estate, including but not limited to contacts with any rental or seller's agents, travel to and from rental properties, and documents showing the time spent on this project."

EPA issued a statement condemning Mr. Chmielewski as being part of "a group of disgruntled employees who have either been dismissed or reassigned."²

¹ Letter from Senator Thomas R. Carper, Senator Sheldon Whitehouse, Representative Elijah E. Cummings, Representative Gerald E. Connolly, and Representative Donald S. Beyer Jr., to Administrator Scott Pruitt, Environmental Protection Agency (Apr. 12, 2018) (online at <https://edit-democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/4.12.2018%20Letter%20to%20Pruitt.pdf>).

² *Former Pruitt Aide to Talk to Congressional Investigators This Week*, CNN (Apr. 10, 2018) (online at www.cnn.com/2018/04/10/politics/epa-pruitt-chmielewski/index.html).

On May 18, 2018, Republican and Democratic Committee staff conducted a transcribed interview with Ms. Hupp, the Director of Scheduling and Advance for Administrator Pruitt. During her interview with Committee staff, Ms. Hupp not only confirmed the previous allegations against Administrator Pruitt, but revealed significant new details about the extent to which he utilized her for personal tasks, including using his credit card to book personal flights and even attempting to obtain an "old mattress" from the Managing Director of the Trump Hotel in Washington, D.C.

If Ms. Hupp's statements to the Committee are accurate, Administrator Pruitt crossed a very clear line and must be held accountable. Federal ethics laws prohibit Administrator Pruitt from using his official position for personal gain and from requesting and accepting services from a subordinate employee that are not part of that employee's official duties. Your previous document requests to the EPA have not included a request for information on this topic. We ask that you issue a subpoena for the documents from our April 12, 2018 request that EPA is withholding or allow Committee Members to debate and vote on a subpoena motion at our next business meeting.

Ms. Hupp's Interview Statements to the Committee

During her interview, Ms. Hupp stated that Administrator Pruitt asked her to help him find a new residence during the summer of 2017, but that he did not pay her for these services:

Q: You said in the last hour that you helped Mr. Pruitt find residence number two. Is that correct?

A: That's correct.

Q: What did you do to help find him this residence?

A: I helped him search for available properties.

Q: Would you email leasing companies?

A: I sent a couple emails to realtors, yes.

Q: Do you remember when you did this?

A: It was sometime over the summer, if you're referring to the timeframe.

Q: Did you do it during work hours?

A: I do recall sending a couple emails over work hours, yes.

Q: Did you use your work email address?

A: I did not.

Q: Did you use your work phone?

A: I did not.

Q: Did you use your work computer?

A: To send emails?

Q: Yes.

A: I did not.

Q: How many hours or days were spent looking for housing for the Administrator?

A: I do not know.

Q: Was it just several hours once? Was it several hours several times?

A: It was over the course of a couple months.

- Q: How many realtors did you work with?
A: I recall working with two realtors.
Q: Did you visit any properties on behalf of the Administrator?
A: I did.
Q: Did you do this during work hours?
A: There were a couple properties that I left during work to go visit, yes.
Q: Did you take leave when you left?
A: I did not.
Q: Why not?
A: They were generally during lunch hour. I never took lunch, so I felt that leaving for an hour was appropriate.
Q: So you would go tour the property and return to work?
A: I would.
Q: Did the Administrator ask you to do this?
A: To do what specifically?
Q: To look for housing for him.
A: He asked for my help in seeking housing, yes.
Q: Do you remember what he said?
A: I—no, not specifically.
Q: Did he verbally ask you to do this? Did he send an email?
A: He verbally asked me.
Q: Do you remember when he verbally asked you?
A: It was sometime over the summer.
Q: When he asked you to do this, did he specify when you should be helping him look for housing? Did he specify during work hours, outside of work hours?
A: He did not.
Q: Did the Administrator pay you for helping him look for housing?
A: He did not.

Ms. Hupp informed Committee staff that she looked for long-term rental housing for Administrator Pruitt for several hours per week over the course of several months, personally visiting more than ten locations:

- Q: All in all, about how many hours do you think you spent assisting him trying to find a new place to live?
A: I have no idea.
Q: Is it fair to say it was more than 10 hours?
A: Yes.
Q: Is it fair to say it was more than 20?
A: It was over the span of a couple months.
Q: And was it a couple hours a week or was it more than that?
A: It was more than that.
Q: So if it was—now we're going to test my math again—was it 5 hours a week maybe?
A: I don't know. I would be speculating if I gave you a number.

- Q: It was more than a couple hours a week and it was over the span of more than 1 month?
- A: Yes.
- Q: And in that, did you search for rental opportunities, is that what you did, on the internet? I'm sorry, that was my internet sign.
- A: I did some searching, yes.
- Q: Where did you look?
- A: I don't remember.
- Q: Were you looking on temporary rental opportunities, like craigslist kind of options, or just with particular buildings?
- A: I was looking at rental opportunities. They weren't temporary. They were—I was looking at rental opportunities.
- Q: And when you found them, you would then communicate with whoever was the renter, the landlord?
- A: Yes.
- Q: And then sometimes you would go visit the places?
- A: Yes.
- Q: Do you recall how many places you maybe visited?
- A: I do not.
- Q: And was it five?
- A: It was more than five.
- Q: More than five. Ten?
- A: I don't know. Probably more than ten.
- Q: Twenty?
- A: I don't know.
- Q: How come it took so long?
- A: I don't know.
- Q: When you found rental options, did you find a good option before the one that the Administrator picked?
- A: What do you mean?
- Q: Well, so when you found options, did you then discuss them with the Administrator?
- A: Yes.
- Q: Did you guys consider renting another option before the one that he ended up picking?
- A: I don't remember if he and his wife considered—seriously considered other options before this one.

Ms. Hupp explained to Committee staff that after months of searching, Administrator Pruitt and his wife selected an apartment at 13th and U Streets in Washington, D.C., only to leave the apartment shortly thereafter:

- Q: What was the concern with the apartment at 13th and U?
- A: My understanding was simply that they were not comfortable in the area. That's the extent of my knowledge as to why they left.

- Q: And how was that communicated to you?
A: General discussions.
Q: With who?
A: With the Administrator.
Q: Did he ask you to help him to get out of that lease?
A: He did not.
Q: Did you help him get the lease? What was your involvement in that?
A: Which lease?
Q: This is the 13th and U apartment.
A: That was during the timeframe when I was helping him to find an apartment, yes.
Q: So what did you do for that particular apartment?
A: As I recall, I connected him with the realtor that helped him to find that location.
Q: Did you tour that location?
A: I do not recall touring that location.
Q: And then were you—were you involved in the lease process, or did he do that with a realtor on his own?
A: The Pruitts did that with the realtor.

Ms. Hupp informed Committee staff that she also helped Administrator Pruitt with other personal tasks, including contacting the Managing Director of the Trump International Hotel in Washington, D.C. to obtain an old mattress:

- Q: And the email is dated September 14th, 2017, it's a Thursday at 12:01 p.m., from you to him. You say: "I'm following up on a voicemail I left you just a bit ago. I work for EPA Administrator Pruitt and was hopeful you could give me a quick call when you have a couple minutes."
It appears he responded that evening at 11:04 p.m. And the subject line of your email was: "Inquiry on behalf of EPA Administrator Scott Pruitt." And it appears that he's the managing director for—from his subject line—from his, I'm sorry, signature line—Trump International Hotel, Washington, D.C., which is the post office.
Q: Do you recall why you would have reached out to him?
A: I do not recall sending this email, but I do recall there being discussions about the possibility of securing an old mattress from the Trump Hotel.
Q: Discussions with who?
A: With the Administrator.
Q: And can you describe the content of those discussions?
A: I don't recall specifically other than he had expressed interest in securing a mattress.
Q: Did he say what the mattress was for?
A: It was around the same time that he was moving.
Q: Did he indicate that he wanted to use the mattress to sleep on, I assume?
A: I don't recall specifically.

- Q: Okay. So can you just break down for us how that would have occurred, because it sounds like an odd conversation. Maybe you could just explain for us what it sounded like.
- A: As I remember, the Administrator had spoken with someone at the Trump Hotel who had indicated that there could be a mattress that he could purchase, an old mattress that he could purchase. But that's the extent of the conversation that I can—that I can remember.
- Q: Do you know why he'd want to purchase an old mattress from the Trump Hotel?
- A: I do not.
- Q: Do you know who he spoke with at the Trump Hotel?
- A: I do not.
- Q: Do you remember what came of that conversation?
- A: I do not.
- Q: Do you know whether he ever ended up purchasing an old mattress from the Trump Hotel?
- A: I do not.
- Q: Do you remember whether you ever connected with somebody from the Trump Hotel to have that conversation about it?
- A: I do not remember.
- Q: Okay. So you don't recall if you ever actually connected or there was a mattress or there wasn't a mattress or any of the details around that?
- A: I do not recall ever connecting with someone on this topic, and I do not recall whatever came of the inquiry into the mattress.
- Q: Did you end up having to find Mr. Pruitt a mattress from some other location?
- A: I did not.
- Q: Were you involved in assisting him with furnishing his residence, any of his residences?
- A: I was not.
- Q: Except for this one inquiry about finding an old mattress.
- A: Yes. This is the only one that I can recall.
- Q: Which I assume was not for use at the EPA?
- A: Not to my knowledge.

Ms. Hupp informed Committee staff during the interview that she had Administrator Pruitt's personal credit card and booked personal travel for him:

- Q: Are there other things that you do or have done for him personally?
- A: I have helped him book travel before.
- Q: Personal travel?
- A: Yes.
- Q: To where?
- A: I assisted him in booking travel to his trip to the Rose Bowl.
- Q: And why did you end up doing that?
- A: He requested help.
- Q: And did you do that during work time, during personal time?

- A: It was during personal time.
- Q: So afterhours?
- A: I was at home on vacation for Christmas.
- Q: And did you use your sort of work email or you used personal?
- A: I used my work email to share details with the security team.
- Q: But you were home, were you using a personal computer to search for flights, I take it?
- A: I was. And he actually sent me specific flight information. I did not do the searching for him.
- Q: So he needed your help making the reservation?
- A: Yes.
- Q: I don't really understand. If he had searched for the flight, why does he need help making the reservation?
- A: I don't know.
- Q: Is it like an online system or—
- A: I don't know. He just sent me the flight details and asked me to book for him.
- Q: Okay. Did you call or do it online?
- A: I did it online.
- Q: And it was his personal travel, so did he give you his personal credit card?
- A: He did.
- Q: And you used his personal credit card to do that, I take it?
- A: As necessary, yes.
- Q: Oh, you have his personal credit card already?
- A: Yes, I do have it.
- Q: And you used it to purchase things for him personally, I take it?
- A: I have used it to purchase flights for him, yes.
- Q: Personal flights?
- A: Yes.

Ms. Hupp informed Committee staff that she did these personal tasks for Administrator Pruitt because of her personal friendship with him:

- Q: Would you consider Administrator Pruitt a family friend?
- A: I would consider him a friend of mine, yes.
- Q: When did that relationship develop?
- A: What do you mean?
- Q: So it sounds like you started working for him for the PAC. Was he your supervisor at the PAC?
- A: He was my principal.
- Q: And how did you develop—how, when did you develop a personal friendship with him, as opposed to professional?
- A: Well, we worked very closely together and spent a lot of time together. I traveled with him, so naturally a friendship developed.
- Q: And as personal friends, what is that—I'm just trying to get a sense of what that means to you. Do you guys have social dinners, you meet up socially?

- A: We have in the past, yes.
Q: With his family or just with him?
A: Usually just with him.
Q: But not related to work?
A: That's correct.

Federal Ethics Laws and Regulations

Federal ethics rules prohibit federal employees from using public office for private gain.³ The Director of the Office of Government Ethics, David Apol, sent a letter to EPA's Designated Agency Ethics Official on April 6, 2018, that raised concerns that Administrator Pruitt may have violated those laws.⁴ Mr. Apol wrote:

Nevertheless, reports of the Administrator making frequent official trips to his home state at Government expense to offset the expense of returning home for personal or political reasons do raise concerns about whether the Administrator is using his public office for personal gain in violation of ethics rules. Further, reports that the Administrator's subordinates may have assisted him in finding housing also raise concerns about whether the Administrator misused his position.⁵

Federal law also prohibits supervisors from soliciting gifts from their employees and from accepting gifts from subordinates that are not traditionally given or regularly exchanged for special occasions:

- (a) An employee may not—
- (1) solicit a contribution from another employee for a gift to an official superior;
 - (2) make a donation as a gift or give a gift to an official superior; or
 - (3) accept a gift from an employee receiving less pay than himself.
- (b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.⁶

³ 5 C.F.R. § 2635.702.

⁴ Letter from David J. Apol, Acting Director and General Counsel, Office of Government Ethics, to Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official, Environmental Protection Agency (Apr. 6, 2018) (online at <https://oge.app.box.com/v/LettertoEPADAE0>).

⁵ *Id.*

⁶ 5 U.S.C. § 7351.

In addition, the regulations implementing this statute state:

- (b) Except as provided in this subpart, an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless:
 - (1) The two employees are not in a subordinate-official superior relationship; and
 - (2) there is a personal relationship between the two employees that would justify the gift.⁷

The implementing regulations also have exceptions, but they do not appear to apply in this case:

- (a) General exceptions. On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - (1) Items, other than cash, with an aggregate market value of \$10 or less per occasion;
 - (2) items such as food and refreshments to be shared in the office among several employees;
 - (3) personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;
 - (4) items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; and
 - (5) leave transferred under subpart I of part 630 of this title to an employee who is not an immediate supervisor, unless obtained in violation of § 630.912 of this title.⁸

The regulations define the term gift as follows:

- (b) Gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement

⁷ 5 C.F.R. § 2635.302(b).

⁸ 5 C.F.R. § 2635.304.

after the expense has been incurred.⁹

The regulations also provide that employees must use official time to perform official duties:

- (a) Use of an employee's own time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under 5 U.S.C. 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties. ...
- (b) Use of a subordinate's time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.¹⁰

Request for Subpoena

For the reasons set forth above, we request that you issue a subpoena by June 18, 2018, compelling Administrator Pruitt to produce all of the documents requested in the letter sent to him on April 12, 2018, as well as the following documents relating to Ms. Hupp's interview statements to Committee staff:

- (1) all documents and communications relating to Ms. Hupp's efforts to find Administrator Pruitt a mattress;
- (2) all documents and communications relating to Ms. Hupp's efforts to secure personal travel for Administrator Pruitt;
- (3) all documents and communications relating to EPA employees performing non-work related or personal tasks for Administrator Pruitt, including any discussion of the appropriateness or legality of those actions; and
- (4) any agency policies, communications, or ethical guidance regarding EPA employees performing non-work related or personal tasks for their EPA supervisors, including the Administrator.

If you decide not to issue this subpoena, then we ask that you bring this matter before the Committee at the next regularly scheduled a business meeting so all Committee Members can have the opportunity to debate and vote on a motion to issue the subpoena.

⁹ 5 C.F.R. § 2635.203.

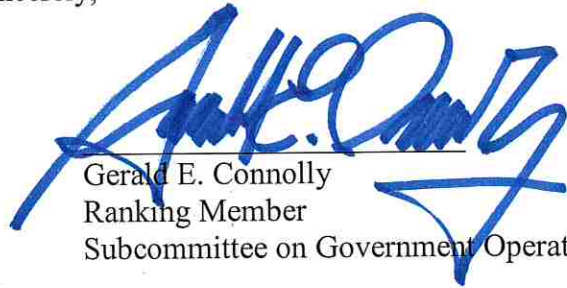
¹⁰ 5 C.F.R. § 2635.705.

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member



Gerald E. Connolly
Ranking Member
Subcommittee on Government Operations

cc: The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations