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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

October 5, 2023

Leonard Leo
Chairman
CRC Advisors
2850 Eisenhower Ave., Ste. 100
Alexandria, VA 22314

Dear Mr. Leo:

This letter follows up on the Senate Judiciary Committee's July 11, 2023, request for information in your possession that is relevant to the Committee's ongoing legislative efforts to address the judicial ethics crisis overshadowing the Supreme Court.

Since that letter, investigative reporting has continued to expose serious shortcomings in the ethical standards that apply to Supreme Court justices. This additional reporting, along with recent actions by Justice Alito,¹ have further demonstrated your unique involvement in much of the conduct that has contributed to the Court's ethical crisis.

In your letter dated July 25, 2023, you declined to provide the information the Committee requested to inform its legislative efforts in these areas. As justification, you claimed this inquiry lacks a valid legislative purpose and that it constitutes political retaliation against you. There is simply no merit to your arguments that the Committee's requests are outside of its Article I oversight authority or that they violate separation-of-powers principles. Your position is at odds with basic separation-of-powers principles favoring checks and balances and rejecting the "archaic view of the separation of powers as requiring three air-tight departments of government."² Your argument is especially unreasonable in the government ethics context, given that the Judicial Conference is a creation of Congress, a number of longstanding judicial ethics-related laws have been passed by Congress, and the Supreme Court has adhered to those laws without complaint in multiple instances.

Furthermore, your claim that this inquiry is political retaliation against you personally is frivolous and mischaracterizes the focus of the Committee's investigation. As support for this assertion, you cite a list of conduct by other justices you claim has "been ignored." But all the conduct you cite was properly disclosed, whereas the Committee's investigation focuses on the problem of undisclosed conduct. Specifically, the Committee has been examining how the current ethical framework governing federal judges fails to capture the full scope of previously undisclosed gifts, transportation, and lodging made available to Supreme Court justices by parties with business before the Court.

¹ See Letter from Senate Judiciary Committee Members to the Honorable John G. Roberts, Jr., Chief Justice, U.S. Supreme Court (Aug. 3, 2023).

² *Nixon v. Administrator of General Services*, 433 U.S. 425, 443 (1977) (internal quotation marks omitted).

As undisclosed gifts by wealthy benefactors continue to be revealed, one commonality in these reports is your connection to the undisclosed gifts from these benefactors. In addition to your involvement in the undisclosed transportation and lodging provided by Harlan Crow to Justice Thomas and facilitating the undisclosed transportation and lodging provided by Paul Singer and Robin Arkley II to Justice Alito, you have also directed tens of thousands of dollars in payments to Justice Thomas's wife Ginni Thomas under the guise of consulting payments through nonprofits with business before the Court.³ Additionally, you arranged for and accompanied Justice Thomas as he attended private events for major donors to a political advocacy network that frequently appears before the Court.⁴

As parties with matters before the Court continue to take advantage of access to justices made possible by both disclosed and undisclosed transportation, lodging, and other gifts, the Committee must have a comprehensive understanding of the types of gifts provided and how this access is used in order to ensure that legislation is appropriately tailored to address this ethical crisis. As an apparent enabler of this access, you are uniquely situated to provide the Committee with the information we need.

Because you do not have a proper basis to withhold information from Congress, we request that you provide the Committee with all of the information requested in our July 11 letter by October 19, 2023.

Sincerely,



Richard J. Durbin
United States Senator



Sheldon Whitehouse
United States Senator



Amy Klobuchar
United States Senator



Richard Blumenthal
United States Senator

³ Heidi Przybyla, *What Ginni Thomas and Leonard Leo wrought: How a justice's wife and key activist started a movement*, POLITICO (Sep. 10, 2023); Emma Brown, Shawn Boburg, & Jonathan O'Connell, *Judicial activist directed fees to Clarence Thomas's wife, urged 'no mention of Ginni'*, WASH. POST (May 4, 2023).

⁴ Joshua Kaplan, Justin Elliott, & Alex Mierjeski, *Clarence Thomas Secretly Participated in Koch Network Donor Events*, PROPUBLICA (Sept. 22, 2023).



Peter Welch
United States Senator



Alex Padilla
United States Senator



Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator



Christopher A. Coons
United States Senator



Jon Ossoff
United States Senator

cc: The Honorable Lindsey O. Graham
Ranking Member, Senate Committee on the Judiciary