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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 26, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Sessions and Director Wray:

Yesterday, I wrote to you referring Mr. Michael Avenatti and Ms. Julie Swetnick for investigation of potential violations of 18 U.S.C. §§ 371, 1001, and 1505, for materially false statements they made to the Senate Judiciary Committee during the course of the Committee's investigation into allegations against Judge Brett M. Kavanaugh. I write today because of important additional information regarding Mr. Avenatti that has since come to the Committee's attention. In light of this new information, I am now referring Mr. Avenatti for investigation of additional potential violations of those same laws, stemming from a second declaration he submitted to the Committee that also appears to contain materially false statements. As explained below, according to NBC News, the purported declarant of that sworn statement has disavowed its key allegations and claimed that Mr. Avenatti "twisted [her] words."¹

On October 2, 2018, Mr. Avenatti emailed Committee staff, stating:

[A]ttached please find another declaration from another witness who supports a number of allegations of Ms. Swetnick. She knows both Ms. Swetnick and Dr. Ford. The identify [sic] of this witness will be released to the FBI once they contact me to arrange an interview as she does not want her name publicly disclosed at this time.²

The anonymous sworn statement attached to that email contained two key allegations against Judge Kavanaugh, ostensibly based on the "personal knowledge" of the declarant and made "under

¹ Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018), enclosed below and available at <https://www.nbcnews.com/politics/justice-department/new-questions-raised-about-avenatti-claims-regarding-kavanaugh-n924596>.

² Email exchange between the Chief Counsel for Nominations Mike Davis and Michael Avenatti on Oct. 2, 2018, enclosed below.

penalty of perjury.”³ According to the sworn statement, the declarant, whose name was redacted, claimed knowledge of Judge Kavanaugh being “overly aggressive and verbally abusive towards girls ... includ[ing] inappropriate physical contact with girls of a sexual nature” while at house parties in the early 1980s.⁴ The sworn statement also said:

During the years 1981-82, I witnessed firsthand Brett Kavanaugh, together with others, “spike” the “punch” at house parties I attended with Quaaludes and/or grain alcohol. I understood this was being done for the purpose of making girls more likely to engage in sexual acts and less likely to say “No.”⁵

In my previous referral, I noted the existence of this anonymous declaration and that Mr. Avenatti neither provided the identity of the declarant to the Committee nor made her available for an interview with Committee staff. I also noted that, as of then, it did not appear that any media outlet had been able to report any interview with the purported declarant or validate anything in the anonymous declaration.

However, after I sent you my referral, NBC News revealed yesterday evening that its reporters in fact had a series of contacts with the purported declarant between September 30, 2018, and October 5, 2018.⁶ According to that report, the declarant denied the key allegations contained in the sworn statement, both before and after the statement was publicly released. Despite the fact the sworn statement Mr. Avenatti sent to the Committee stated she “witnessed firsthand” Judge Kavanaugh spiking punch, she expressly denied this. As noted in the report:

[L]ess than 48 hours before Avenatti released her sworn statement on Twitter, the same woman told NBC News a different story. Referring to Kavanaugh spiking the punch, “I didn’t ever think it was Brett,” the woman said to reporters in a phone interview arranged by Avenatti on Sept. 30 after repeated requests to speak with other witnesses who might corroborate Swetnick’s claims.⁷

According to the NBC News report, after Mr. Avenatti tweeted the sworn statement on October 2 with the name of the declarant redacted, “Avenatti confirmed to NBC News that it was the same woman interviewed by phone on Sept. 30.”⁸ The woman reportedly denied the allegation yet again after the release of the sworn statement:

[R]eached by phone independently from Avenatti on Oct. 3, the woman said she only “skimmed” the declaration. After reviewing the statement, she wrote in a text on Oct. 4 to NBC News: “It is

³ Anonymous Sworn Statement dated Oct. 2, 2018, enclosed below.

⁴ *Id.*

⁵ *Id.*

⁶ Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018)

⁷ *Id.*

⁸ *Id.*

incorrect that I saw Brett spike the punch. I didn't see anyone spike the punch...**I was very clear with Michael Avenatti from day one.**"⁹

The declarant similarly disavowed the other allegation that Judge Kavanaugh was aggressive and abusive towards girls, once again both before and after the statement attributed to her was released. As reported by NBC News, "[w]hen asked in the [September 30] phone interview if she ever witnessed Kavanaugh act inappropriately towards girls, the woman replied 'no.'"¹⁰ After the sworn statement was released, "[w]hen pressed about abusive behavior towards girls, she wrote in a text: 'I would not ever allow anyone to be abusive in my presence. Male or female.'"¹¹

Despite the fact Mr. Avenatti had already confirmed to NBC News that the woman they spoke to on September 30 was the declarant:

[W]hen questioned on Oct. 3 about the discrepancies between what she said in the phone interview and the serious allegations in the sworn declaration, Avenatti said he was "disgusted" with NBC News. At one point, in an apparent effort to thwart the reporting process, he added in the phone call, "How about this, on background, it's not the same woman. What are you going to do with that?"¹²

Mr. Avenatti then reportedly backtracked on this attempted tactic, instead claiming to NBC that he confirmed with her again that the allegations were true, and she must have been "confused" by the reporter's question.¹³ The report says that five minutes later, the reporters received a "formally-worded text" from the woman's phone number backing Mr. Avenatti.¹⁴

But when reached by phone minutes later, the woman again insisted that she never saw Kavanaugh spike punch or act inappropriately toward women. She said she's "been consistent in what [she's] told Michael." In a subsequent text on Oct. 5, she wrote, "I will definitely talk to you again and no longer Avenatti. I do not like that **he twisted my words.**"¹⁵

Simply put, the sworn statement Mr. Avenatti provided the Committee on October 2 appears to be an outright fraud. According to NBC News, the purported declarant denied - both before and after the sworn statement was released - the key allegations Mr. Avenatti attributed to her. She stated she was clear and consistent "from day one" with Mr. Avenatti that those claims

⁹ *Id.* (emphasis added).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* (emphasis added).

were not true. And she said Mr. Avenatti “twisted [her] words.” When reporters pressed him on these discrepancies, Mr. Avenatti attempted to deceive them in an apparent effort to thwart the truth coming out.

Accordingly, in light of the seriousness of these facts, and the threat these types of actions pose to the Committee’s ability to perform its constitutional duties, I hope you will give this referral, as well as my prior one related to Mr. Avenatti, the utmost consideration. Thank you for your prompt attention to this matter. If you have any questions, please contact a professional investigative counsel in the Committee’s Oversight and Investigations Unit at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Enclosures:

1. Email exchange between the Chief Counsel for Nominations Mike Davis and Michael Avenatti on Oct. 2, 2018
2. Anonymous Sworn Statement dated Oct. 2, 2018
3. Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018).

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

[REDACTED]

From: Michael J. Avenatti [Email Redacted]
Sent: Tuesday, October 02, 2018 4:39 PM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick
Attachments: Declaration.pdf

Importance: High

Mr. Davis:

On repeated occasions, you have failed to respond to my correspondence relating to the nomination of Brett Kavanaugh and the ability of my client Ms. Swetnick to sit down with the FBI and share facts and witnesses regarding what she witnessed. This is entirely unprofessional and demonstrates a complete lack of good faith on your part and those that you report to. I once again ask that you immediately respond and take all steps to arrange an FBI interview.

Further, attached please find another declaration from another witness who supports a number of allegations of Ms. Swetnick. She knows both Ms. Swetnick and Dr. Ford. The identify of this witness will be released to the FBI once they contact me to arrange an interview as she does not want her name publicly disclosed at this time.

Time is of the essence. Please respond.

Michael

From: Michael J. Avenatti
Sent: Friday, September 28, 2018 2:13 PM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

Please respond. Time is of the essence.

Regards,

Michael

From: Michael J. Avenatti
Sent: Friday, September 28, 2018 11:03 AM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

We are STILL awaiting a response to my email. It has now been over 30 hours and you have failed to respond. We have heard nothing from the Committee.

In light of Senator Flake's comments moments ago, please let us know when we can meet with the FBI and provide the facts and evidence supporting my client's sworn declaration. Time is of the essence.

Regards,

Michael

From: Michael J. Avenatti
Sent: Thursday, September 27, 2018 3:05 PM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

I sent the below e-mail nine (9) hours ago and have yet to receive any response. As you know, time is of the essence.

As stated below, my client Julie Swetnick is prepared to come to Washington, D.C. to testify under oath before the Committee. I also believe that at least one, if not two, other witness(es) are likewise prepared to come to Washington, D.C. to testify as to the accuracy of the statements in my client's declaration.

Please confirm that my client and the supporting witness(es) will be permitted to testify under oath before the Committee ASAP. Under no circumstances should a vote be taken on the nominee without first hearing from my client and the supporting witness(es).

Please get back to me as soon as possible.

Thank you.

Michael

From: Michael J. Avenatti
Sent: Thursday, September 27, 2018 5:58 AM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

As you know, I represent Ms. Julie Swetnick, a woman that has provided a detailed declaration under **penalty of perjury** relating to the claimed abhorrent conduct of Brett Kavanaugh, including sexual assault.

You and the Committee leadership first learned of these allegations on Sunday and yet have done basically nothing to investigate them. In fact, after I emailed you in detail on Monday morning, you failed to even respond for days. Simply put, you blew us off all day Monday and Tuesday. It was not until yesterday that you finally responded and you only did so then because the press started contacting you for comment.

Your conduct does not evidence any desire to get to the truth or to fulfill your duties to the American people (who pay your salary). To the contrary, you and the leadership seem intent on

confirming Brett Kavanaugh as quickly as possible so as to avoid any real investigation into the facts and circumstances surrounding the allegations made by my client and many other women. To be clear, my client Ms. Swetnick demands the following:

FBI Investigation. The Committee and Senator Grassley must immediately refer this matter to the FBI for a complete and fair investigation. My client is prepared to meet with the FBI today to disclose how she was victimized and what she observed. She is also prepared to disclose multiple additional corroborating witnesses with knowledge of the conduct of Brett Kavanaugh and Mark Judge, as well as additional evidence.

In my experience, women that are fabricating stories do not offer to immediately meet with FBI agents to discuss their allegations. The FBI is used to investigate the many of the most serious allegations and crimes in America every day (i.e. 9/11 and the Oklahoma City bombing). *Why are you and Senator Grassley refusing to refer this matter to the FBI for investigation or request that they intervene?*

Sworn Testimony Before the Committee. Ms. Swetnick demands the opportunity to present sworn testimony before the Committee as to what she witnessed and how she was victimized. She is prepared to be questioned as to her allegations for as long as it takes to get to the truth. Please confirm that she will be allowed to testify and contact me so that we may agree on the logistics.

Polygraph Examination. My client is prepared to undergo a polygraph examination in further substantiation of her claims provided that Mr. Kavanaugh likewise agrees to undergo an examination. As you know, while the results of such an examination are generally not admissible in a court of law, they are routinely used in the federal government for the granting of security clearances and the like at the highest levels, including at our intelligence agencies. There is no reason why they cannot be used in this circumstance. Please confirm that both polygraph examinations will proceed.

Mark Judge. I am still awaiting an answer as to if the Committee has requested that Mark Judge appear to testify and if not, why not. As detailed in my client's sworn declaration, Mr. Judge has detailed knowledge of the conduct of Mr. Kavanaugh and witnessed it firsthand. This is likewise true as it relates to other allegations from other women. Thus, there is no excuse for the Committee refusing to make a demand that he testify. Indeed, seeing as Mr. Judge is one of Mr. Kavanaugh's closest friends from the time period at issue, one would think that Mr. Kavanaugh would want him to testify unless he is hiding something. Please confirm that Mr. Judge is being asked to provide sworn testimony.

Knowledge by the Committee. Press reports have stated that certain members of the Committee were aware of allegations similar to those set forth in my client's declaration well before Sunday. Is this accurate? If so, please provide the details of this knowledge and explain why it was not investigated sooner.

Please respond to the above as quickly as possible as time is of the essence. Once again, this process must be a search for the truth as opposed to a partisan attempt to ram a Supreme Court nominee through at all costs, including at the expense of women who claim to be victims of sexual assault.

Regards,

Michael

DECLARATION OF [REDACTED]

I, [REDACTED], declare as follows:

1. My name is [REDACTED] and I am a resident of South Florida. I fully understand the seriousness of the statements contained within this declaration. I have personal knowledge of the information stated herein and if called to testify to the same would and could do so.

2. I am a 1983 graduate of a high school in the Washington, D.C. area. I also hold a bachelor of arts degree and master of liberal arts degree. I have known Christine Blasey Ford and Julie Swetnick for decades and I believe they are both honest and truthful.

3. I was first introduced to Brett Kavanaugh and Mark Judge in 1980 at Beach Week in Ocean City, Maryland. Thereafter, I attended at least 20 house parties in the Washington, D.C. area where Brett and Mark were present during the years 1980-82. I knew them both well as we shared many mutual friends and often socialized with the same people.

4. The house parties I attended were a common occurrence in the area and usually occurred on the weekends during the school year. I know of many instances during these house parties where Brett and Mark would drink excessively and be overly aggressive and verbally abusive toward girls. This conduct included inappropriate physical contact with girls of a sexual nature. It also often included Brett drinking to a point where he was incoherent and vomiting, including well before he was 18 years old.

5. I have seen Brett Kavanaugh's recent interview on Fox News regarding his alleged "choir boy" existence during his high school years and lack of sexual activity. This claim is absolutely false and a lie based on what I observed firsthand. It is also laughable.

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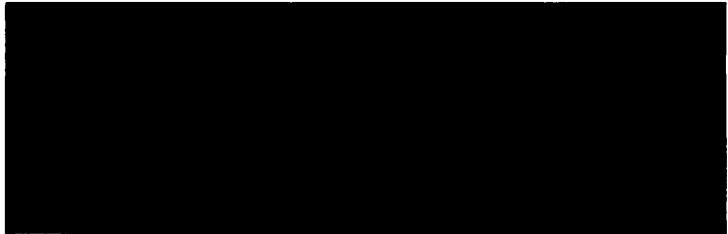
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1 6. During the years 1981-82, I witnessed firsthand Brett Kavanaugh,
2 together with others, "spike" the "punch" at house parties I attended with
3 Quaaludes and/or grain alcohol. I understood this was being done for the
4 purpose of making girls more likely to engage in sexual acts and less likely to say
5 "No."

6 7. I am aware of other witnesses that can attest to the truthfulness of
7 each of the statements above.

8 8. I am aware of other inappropriate conduct by Brett Kavanaugh but do
9 not feel comfortable stating it at this time in this declaration. I am fully, willing,
10 and able to speak with the FBI and tell them everything I know about Brett
11 Kavanaugh and his misconduct if I am contacted.

12 I declare, under penalty of perjury and under the laws of the United States
13 of America, that the foregoing is true and correct. I have executed this
14 declaration on October 2, 2018.



New questions raised about Avenatti claims regarding Kavanaugh

Kate Snow Kate Snow is a national correspondent for NBC News.

6-7 minutes

Breaking News Emails

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Oct. 25, 2018 / 6:53 PM EDT

By Kate Snow and Anna Schechter

When Sen. Chuck Grassley referred attorney Michael Avenatti and his client Julie Swetnick to the Justice Department for [criminal investigation](#) Thursday, he cited Swetnick's interview with NBC News as evidence the two were trying to mislead the Senate Judiciary Committee.

In the NBC News interview that aired on Oct. 1, [Swetnick](#) backtracked on or contradicted parts of her sworn statement where she alleged she witnessed then-Supreme Court nominee Brett Kavanaugh "cause girls to become inebriated and disoriented so they could then be 'gang raped' in a side room or bedroom by a 'train' of boys."

NBC News also found other apparent inconsistencies in a second

sworn statement from another woman whose statement Avenatti provided to the Senate Judiciary Committee in a bid to bolster Swetnick's claims.

In the second statement, the unidentified woman said she witnessed Kavanaugh "spike" the punch at high school parties in order to sexually take advantage of girls. But less than 48 hours before Avenatti released her sworn statement on Twitter, the same woman told NBC News a different story.

Referring to Kavanaugh spiking the punch, "I didn't ever think it was Brett," the woman said to reporters in a phone interview arranged by Avenatti on Sept. 30 after repeated requests to speak with other witnesses who might corroborate Swetnick's claims. As soon as the call began, the woman said she never met Swetnick in high school and never saw her at parties and had only become friends with her when they were both in their 30s.

When asked in the phone interview if she ever witnessed Kavanaugh act inappropriately towards girls, the woman replied, "no." She did describe a culture of heavy drinking in high school that she took part in, and said Kavanaugh and his friend Mark Judge were part of that group.

In a statement Thursday about his referral of Swetnick and Avenatti for a criminal investigation, Grassley said, "When a well-meaning citizen comes forward with information relevant to the committee's work, I take it seriously....But in the heat of partisan moments, some do try to knowingly mislead the committee. That's unfair to my colleagues, the nominees and others providing information who are seeking the truth."

Avenatti responded in a statement to NBC News saying, "Senator

Grassley has just made a major mistake. Let the investigation into Kavanaugh and his lies begin."

Kavanaugh and Judge denied the allegations leveled by Swetnick and other women. Avenatti, asked about the inconsistencies within the second woman's account, said: "It is a sworn declaration that she read and signed and repeatedly stood behind."



Senate Judiciary Committee Chairman Chuck Grassley, R-Iowa, speaks to reporters as he leaves the chamber following a procedural vote to advance the confirmation of Supreme Court nominee Brett Kavanaugh, at the Capitol in Washington on Oct. 5, 2018. J. Scott Applewhite / AP

According to the second woman's declaration that Avenatti provided to the Senate Judiciary Committee, she said: "During the years 1981-82, I witnessed firsthand Brett Kavanaugh, together with others, 'spike' the 'punch' at house parties I attended with Quaaludes and/or grain alcohol. I understood this was being done

for the purpose of making girls more likely to engage in sexual acts and less likely to say 'No.'"

The statement also said that Kavanaugh was "overly aggressive and verbally abusive to girls. This conduct included inappropriate physical contact with girls of a sexual nature."

But reached by phone independently from Avenatti on Oct. 3, the woman said she only "skimmed" the declaration. After reviewing the statement, she wrote in a text on Oct. 4 to NBC News: "It is incorrect that I saw Brett spike the punch. I didn't see anyone spike the punch...I was very clear with Michael Avenatti from day one."

When pressed about abusive behavior towards girls, she wrote in a text: "I would not ever allow anyone to be abusive in my presence. Male or female."



Julie Swetnick Michael Avenatti / via AP

Shortly after tweeting out the woman's allegations on Oct. 2, Avenatti confirmed to NBC News that it was the same woman interviewed by phone on Sept. 30. But when questioned on Oct. 3 about the discrepancies between what she said in the phone interview and the serious allegations in the sworn declaration, Avenatti said he was "disgusted" with NBC News. At one point, in an apparent effort to thwart the reporting process, he added in the phone call, "How about this, on background, it's not the same woman. What are you going to do with that?"

After NBC News received text messages from the woman refuting some of the claims in the declaration, NBC reached out again to Avenatti, who defended the declaration.

"I have no idea what you are talking about," he said in a text. "I have a signed declaration that states otherwise together with multiple audio recordings where she stated exactly what is in the declaration. There were also multiple witnesses to our discussions."

He sent a follow-up message moments later: "I just confirmed with her yet again that everything in the declaration is true and correct," Avenatti said. "She must have been confused by your question."

Roughly five minutes later, the woman sent a formally-worded text backing Avenatti. "Please understand that everything in the declaration is true and you should not contact me anymore regarding this issue," the text read.

But when reached by phone minutes later, the woman again insisted that she never saw Kavanaugh spike punch or act inappropriately toward women. She said she's "been consistent in what she's told Michael."

In a subsequent text on Oct. 5, she wrote, "I will definitely talk to

you again and no longer Avenatti. I do not like that he twisted my words."



Anna Schechter

Anna Schechter is a producer for the investigations unit of NBC News.

Rich Schapiro contributed.