



PROJECT ON GOVERNMENT OVERSIGHT

Exposing Corruption. Exploring Solutions.

August 23, 2018

Mr. Emory A. Rounds, III
Director
U.S. Office of Government Ethics
1201 New York Ave., N.W., Suite 500
Washington, DC 20005

By Email: ContactOGE@oge.gov

Dear Director Rounds:

The Project On Government Oversight (POGO) shares the Office of Government Ethics' (OGE) vision "to achieve a high level of public confidence in the integrity of executive branch programs and operations." Since 1981, POGO has worked as a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and instances when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

POGO is very concerned about the latest developments in the federal government's case against Michael Cohen and how it relates to President Trump's 2017 financial disclosure report filed in May 2018.¹ Specifically, President Trump refers to a payment made by Mr. Cohen and subsequently reimbursed by the President in 2017. The value of that liability was listed as "100,001 - \$250,000," according to the report.² Recently, however, the government stated in court records that Mr. Cohen received \$420,000 from a "Manhattan-based real estate company" that we know is related to President Trump.³ That payment is extremely concerning because it seems to reimburse Mr. Cohen for the money that was paid out to silence Ms. Stephanie Clifford (aka Stormy Daniels), and includes an additional amount "'grossed up' for tax purposes," payment for "tech services," and a \$60,000 bonus to Mr. Cohen.⁴ If true, the \$420,000 total is greater than that reported by President Trump and could indicate that the President filed a false statement in violation of federal law.⁵

¹ President Donald J. Trump, *2017 Annual Financial Disclosure Report*, May 15, 2018.

[https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/3730CE1E7F315D448525828F005E2C76/\\$FILE/Trump,%20Donald%20J.%20%202018Annual278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/3730CE1E7F315D448525828F005E2C76/$FILE/Trump,%20Donald%20J.%20%202018Annual278.pdf) (Hereinafter Pres. Trump 2018 Report)

² Pres. Trump 2018 Report, p. 45 (see footnotes).

³ U.S. v. Cohen, *Information*, Aug. 21, 2018, p.16. <https://assets.documentcloud.org/documents/4779585/Criminal-information-on-Michael-Cohen.pdf> (Hereinafter *Cohen Information*)

⁴ *Cohen Information*, p. 16.

⁵ 18 U.S.C. § 1001(a) makes it a crime punishable by fine or imprisonment for anyone "in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States," to "knowingly and willfully" falsify, conceal, or cover up by any trick, scheme, or device a material fact; make any materially false, fictitious, or fraudulent statement or representation; or make or use any false writing or document knowing the same

Additionally, according to the government's filing, the payment was not an ordinary advanced payment for services because Mr. Cohen did not have a retainer agreement "and the monthly invoices [Mr. Cohen] submitted were not in connection with any legal services he had provided in 2017."⁶ In fact, this payment should be considered past due because it represented 12 monthly installments of \$35,000 due to Mr. Cohen by President Trump for activities that occurred in 2016.

In light of the government's case against Mr. Cohen, POGO believes that OGE should review whether President Trump underreported the amount of his liabilities in his 2017 financial disclosure report and whether he did so knowingly and willfully, in violation of federal law. The results of the agency's review should supplement the previous referral made by OGE to the Department of Justice (DOJ) on May 16, 2018,⁷ and thereby expand DOJ's investigation of President Trump's financial disclosure report signed on June 14, 2017, which did not list any payments to Mr. Cohen.⁸

We would like to set up a meeting with you to discuss this issue as well as our September 12, 2017 letter to then-Acting Director David Apol urging OGE to require more comprehensive ethics agreements for executive agency appointees.⁹ If you have any questions or would like to discuss these matters further, please contact me or Scott Amey at 202-347-1122.

Sincerely,



Danielle Brian
Executive Director

cc: Senate Committee on the Judiciary
House Judiciary Committee
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Oversight and Government Reform
U.S. Department of Justice, Public Integrity Section

to contain any materially false, fictitious, or fraudulent statement or entry.

<https://www.law.cornell.edu/uscode/text/18/1001>

⁶ *Cohen Information*, p. 17.

⁷ Letter from David J. Apol, OGE Acting Director, to Rod J. Rosenstein, Deputy Attorney General, May 16, 2018.

<https://oge.app.box.com/v/OGELettertoDOJ>

⁸ President Donald J. Trump, 2016 Annual Financial Disclosure Report, June 14, 2017.

[https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/12DAC79CC95F849085258142002703CA/\\$FILE/Trump,%20Donald%20J.%20%20final278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/12DAC79CC95F849085258142002703CA/$FILE/Trump,%20Donald%20J.%20%20final278.pdf)

⁹ *POGO Urges OGE to Require Comprehensive Appointee Ethics Agreements*, September 12, 2017.

<https://www.pogo.org/letter/2017/09/pogo-urges-oge-to-require-comprehensive-appointee-ethics-agreements>