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The Hon. Jeff Sessions
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

May 10, 2018

Julie E. Adams
Secretary of the Senate
232 Hart Senate Office Building
Washington, D.C. 20510-7116

Karen L. Haas
Clerk of the House of Representatives
U.S. Capitol, Room H154
Washington, DC 20515-6601

**RE: Absence of registration by Michael D. Cohen as a foreign agent under FARA,
and as a lobbyist under LDA**

Public Citizen submits a request for an investigation into:

- Whether Michael D. Cohen, personal attorney for President Donald J. Trump, and founder and CEO of a limited liability company named Essential Consultants, LLC, is in noncompliance with the Foreign Agents Registration Act of 1938 (FARA) and/or the Lobbying Disclosure Act of 1995 (LDA); and
- Whether the curious financial arrangement between Cohen's Essential Consultants LLC, Trump and businesses with major stakes pending before the Trump administration transgressed into willful and knowing violations of other influence peddling laws.

The public record thus far strongly suggests that Cohen made specific solicitations to companies who had business pending before the Trump administration, proposing that he could best assist in the pursuit of their interests, which could well constitute lobbying activity. The public record also raises serious questions about the comingling of funds between Cohen's firm and Trump and whether paying clients expected official favors in return for enlisting the services of Essential Consultants, which warrant further scrutiny.

Michael Cohen and his limited liability company, Essential Consultants LLC, established shortly before the 2016 general election, received payments of at least \$2.35 million from corporate

clients with business pending before the Trump administration.¹ Some of the most notable paying clients to Cohen's firm include Novartis, AT&T, and Korean Aerospace Industries, among others.

Novartis, a major foreign pharmaceutical company based in Basel, Switzerland, has major research operations across the globe and needs approval from the Federal Drug Administration (FDA) to sell its drugs in the United States. Novartis Investment SARL, a Luxembourg subsidiary of Novartis, entered into a one-year contract with Essential Consultants in February 2017 seeking assistance on American healthcare policy matters and, in particular, Trump administration efforts to roll-back the Affordable Care Act.²

Novartis paid Cohen up to \$1.2 million for his work in monthly installments.³ These payments remained undisclosed until news leaks resulting from the Stormy Daniels litigation revealed the unusual payments. Novartis also hires outside lobbying firms to pursue similar policy objectives, which are disclosed on LDA reports, amounting to about an eighth of what the company paid Cohen over the last year.⁴

Cohen reportedly solicited Novartis as a client. "He reached out to us," said a Novartis representative. "With a new administration coming in, basically, all the traditional contacts disappeared and they were all new players. We were trying to find an inroad into the Trump administration. Cohen promised access to not just Trump, but also the circle around him. It was almost as if we were hiring a lobbyist."⁵

AT&T also became a client of Essential Consultants LLC, paying up to \$600,000 for Cohen's services.⁶ AT&T is currently seeking an \$85 billion merger with Time Warner, a merger that is being blocked so far by a lawsuit from the U.S. Department of Justice. The merger arrangement was announced just weeks before the 2016 election. The Trump administration is litigating to block the merger. In addition to the previously secret payment by AT&T to Cohen's firm, the company has also retained regular lobbying services disclosed on LDA reports – again, paying

¹ Michael Kranish, Rosalind Helderman, Carolyn Johnson and Josh Dawsey, "Cohen's clients paid for insights on Trump," *Washington Post* (May 10, 2018), available at: https://www.washingtonpost.com/politics/mueller-questioned-payment-to-trump-lawyer-michael-cohen/2018/05/09/6ad3a7d6-538d-11e8-a551-5b648abe29ef_story.html?noredirect=on&utm_term=.d1e5aebd16e4

² Lachlan Markay, Asawin Suebsaeng and Sam Stein, "To 'cash in' on Trump's presidency, Michael Cohen sold clients on secrecy and access," *Daily Beast* (May 9, 2018), available at: <https://www.thedailybeast.com/to-cash-in-on-trumps-presidency-michael-cohen-sold-clients-on-secrecy-and-access>

³ Ed Silverman, "Novartis paid nearly \$400,000 to a shell company controlled by Trump's attorney," *STAT* (May 8, 2018), available at: <https://www.statnews.com/pharmalot/2018/05/08/novartis-paid-400000-trump-attorney/>. See also Dan Mangan, "Novartis paid Trump lawyer Michael Cohen \$1.2 million for advice on Obamacare – work he was unable to do," *CNBC News* (May 8, 2018), available at: <https://www.cnbc.com/2018/05/09/novartis-paid-trumps-lawyer-michael-cohen-more-than-1-million-for-work-he-was-unable-to-do-company-says.html>

⁴ Markay et al., op. cit.

⁵ Silverman, op. cit.

⁶ Marguerite Reardon, "AT&T may have paid Trump lawyer up to \$600,000," *C/NET News* (May 9, 2018), available at: <https://www.cnet.com/news/at-t-may-have-paid-trump-lawyer-up-to-600000/>

the reported lobbying firm, Sextons Creek, run by Vice President Pence's former chief of staff, about a fifth of what AT&T paid Cohen.⁷

Korean Aerospace Industries is yet another corporate client of Cohen with business pending before the Trump administration. The South Korean defense company paid Essential Consultants \$150,000. The company, partnered with Lockheed Martin, is negotiating an Air Force contract valued at about \$16 billion.⁸ It claims to have sought accounting services from Cohen.

Ever since the election of Trump, Cohen has talked with friends and associates about his plans to “cash in” on his intimate connections to the President and his administration. It has long been an open secret in Trump political circles that Cohen has been courting corporate clients on the grounds of his access to Trump.⁹ Such solicitations comprise suggestions, if not promises, of access to Trump and his administration for influence-peddling purposes, not simply “political intelligence” from Cohen alone.

Cohen's solicitations and client base would appear to cross the threshold of lobbying activity and, depending on the sources of the payments, require Cohen to register either as a “foreign agent” under FARA or a “lobbyist” under LDA, or both.

An “agent of a foreign principal” or “foreign agent” under FARA is anyone who, on behalf of a “foreign principal,” engages in political activities, acts in a public relations capacity, solicits or dispenses anything of value within the United States, or provides representation before any agency or official of the U.S. government. A foreign principal includes foreign governments, foreign parties and foreign business interests. Foreign businesses may opt to register and disclose under LDA, but since Novartis Investment SARL failed to report its payments to Cohen under LDA, these reports – if they pass the lobbying threshold – must be reported by Cohen under FARA.

The threshold for registration and disclosure under LDA has three components: (i) the person made more than one lobbying contact with a covered official; (ii) the person spent 20 percent or more of their time allocated to a single client on lobbying activities; and (iii) the person received compensation in excess of \$2,500 or made expenditures in excess of \$10,000 during a quarterly period.

There are reasonable indications that Michael Cohen crossed these thresholds for registration as a foreign agent under FARA and/or a lobbyist under LDA. He has actively solicited clients based on his access to Trump and administration officials; received exorbitant payments from foreign and domestic clients with business pending before the administration; and he has also provided ample yet unspecified services to his clients in exchange for those payments.

⁷ Markay et al., op. cit.

⁸ Amanda Macias, “South Korean defense company that paid Trump lawyer Cohen \$150,000 is poised to win part of a \$16 billion Pentagon deal,” CNBC News (May 8, 2018), available at: <https://www.cnbc.com/2018/05/09/south-korean-firm-that-paid-trump-lawyer-cohen-poised-to-win-pentagon-deal.html>

⁹ Markay et al., op. cit.

Public Citizen requests that the Department of Justice, the Secretary of the Senate and the Clerk of the House investigate the activities of Michael Cohen and determine whether he is in compliance with FARA and/or LDA.

Public Citizen also requests that the Department of Justice look closely at the contractual arrangements Cohen made with his corporate clients, the flow of money between Cohen's Essential Consultants LLC and Trump, and interview the corporate clients as to their expectations for services rendered in exchange for their payments, to investigate whether other influence-peddling laws may have been violated.

Sincerely,

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