

CONGRESSIONAL INTEGRITY PROJECT

August 10, 2023

Omar Ashmawy
Chief Counsel and Staff Director
Office of Congressional Ethics
U.S. House of Representatives
P.O. Box 895
Washington, D.C. 20515

Re: Request for Investigation of Representative James Comer

Dear Mr. Ashmawy:

I respectfully request that the Office of Congressional Ethics (“OCE”) immediately investigate Representative James Comer’s statements in connection with Devon Archer’s testimony made before the U.S. House Committee on Oversight and Accountability. Representative Comer’s statements were made in blatant disregard of the Rules of the House of Representatives (“House Rules”).

House Rule 23, the House Code of Official Conduct, requires that Members must “at all times behave in a manner that shall reflect creditably on the House.”¹ Moreover, U.S. House Committee on Ethics guidance confirms that Members who publicize “distortions intended to mislead the public” may be in violation of the House Rules.² Yet, as described in more detail below, Representative Comer evaded his ethical obligations by making inaccurate statements in connection with Devon Archer’s testimony before of the U.S. House Oversight Committee, including falsely stating that he was in attendance during the testimony. Representative Comer’s actions are not only a violation of the public trust, but also a violation of his fundamental duty as a Member of the House of Representatives to uphold the letter and spirit of the House Rules.³

FACTUAL BACKGROUND

James Comer currently serves as a U.S. Representative for the 1st District of Kentucky.⁴ On July 31, 2023, Devon Archer, a former business partner of Hunter Biden, testified before U.S. House Oversight Committee investigators.⁵ Immediately after this testimony, on July 31, 2023,

¹ Rules of the House of Representatives, Rule 23, clause 1.

² Intentional Use of Audio-Visual Distortions & Deep Fakes, U.S. House Com. on Ethics (Jan. 28, 2020), https://ethics.house.gov/sites/ethics.house.gov/files/documents/Deep%20Fakes%20Pink%20Sheet%20Guidance-Final_0.pdf.

³ Rules of the House of Representatives, Rule 23, clause 2.

⁴ *Our District*, CONGRESSMAN JAMES COMER, <https://comer.house.gov/our-district>.

⁵ See Comer Releases Devon Archer’s Transcribed Interview Transcript, U.S. House Committee on Oversight and Accountability (Aug. 3, 2023), <https://oversight.house.gov/release/comer-releases-devon-archers-transcribed-interview-transcript%ef%bf%bc/>.

Representative Comer appeared on a Fox News program arguing that Archer’s testimony made a bribery allegation against President Biden “more credible.”⁶ This allegation asserts that Mykola Zlochevsky, the founder of Burisma, a Ukraine energy company, with whom Hunter Biden and Devon Archer met, had paid Hunter Biden and President Biden to help protect the company from prosecutor Victor Shokin.⁷ During that same Fox News program, Representative Comer alleged that “Hunter Biden was under immense pressure while [Biden and Archer] both served on the Burisma board to call Washington, D.C., immediately and try to get Shokin fired.”⁸ However, in fact, Archer’s testimony confirmed that Shokin was not a cause of that pressure: “There was capital tied up in London, 23 million pounds. There was, you know, a U.S. visa denied and then a Mexico visa denied,” Archer testified. “Shokin wasn’t specifically on my radar as being an individual that was — that was targeting him. But, yes, there was constant pressure.”⁹

Representative Comer’s recounting of Archer’s testimony on Fox News and elsewhere does not match the reality of the transcript. Archer testified that he has no knowledge of any wrongdoing by President Biden¹⁰ and that President Biden discussed “nothing” important with his son’s business associates¹¹. Archer also debunked an allegation repeatedly floated by Representative Comer in the weeks before the hearing that President Biden, while vice president, accepted a \$5 million bribe from a Burisma official. Archer testified that he had never heard such a transaction, and said the claims were most likely false boasting¹².

Then, on August 5, Representative Comer stated on another Fox News program that he was “on the phone” during the July 31 Archer testimony.¹³ However, the transcript released by the Oversight Committee indicated that Representative Comer was not present at the testimony.¹⁴ And, Representative Dan Goldman also publicly confirmed that Representative Comer was neither present nor on the phone during the Archer testimony.¹⁵

LEGAL ANALYSIS

In creating the House Code of Official Conduct, and specifically the requirement that Representatives and employees of the House “behave...in a manner that...reflect creditably on the House,”¹⁶ the

⁶ Philip Bump, *Devon Archer Said the Opposite of What Republicans Claimed*, WASH. POST (Aug. 3, 2023), <https://www.washingtonpost.com/politics/2023/08/03/devon-archer-transcript-biden/>.

⁷ *Id.*

⁸ *Id.*

⁹ See Com. On Oversight and Accountability, U.S. House of Rep., Transcript of Devon Archer, 34 (July 31, 2023), <https://oversight.house.gov/wp-content/uploads/2023/08/Devon-Archer-Transcript.pdf>.

¹⁰ Hunter Biden business associate testifies he has no knowledge of wrongdoing by Joe Biden, NBC (August 3, 2023), <https://www.nbcnews.com/politics/congress/hunter-biden-business-associate-testifies-no-knowledge-wrongdoing-joe-rcna97953>

¹¹ Devon Archer says Joe Biden discussed ‘nothing’ important with Hunter Biden business associates, transcript shows, CNN (August 3, 2023), <https://www.cnn.com/2023/08/03/politics/devon-archer-testimony-transcript/index.html>

¹² Key Witness Doesn’t Back Up G.O.P.’s Biggest Allegations on Bidens, New York Times (August 4, 2023), <https://www.nytimes.com/2023/08/04/us/politics/biden-devon-archer-testimony.html>

¹³ Fox & Friends Weekend, Fox News (Aug. 5, 2023), <https://www.youtube.com/watch?v=wRE1yIJK5-Q>.

¹⁴ See Comer Releases Devon Archer’s Transcribed Interview Transcript, U.S. House Committee on Oversight and Accountability (Aug. 3, 2023), <https://oversight.house.gov/release/comer-releases-devon-archers-transcribed-interview-transcript%ef%bf%bc/>.

¹⁵ @RepDanGoldman, Twitter, <https://twitter.com/RepDanGoldman/status/1688667691584737280>.

¹⁶ See Rules of the House of Representatives, Rule 23, clause 1.

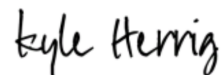
intent was to create a code of conduct “that would have a deterrent effect against improper conduct and at the same time be capable of enforcement if violated.”¹⁷ Members are required to “adhere to the spirit and the letter of the Rules of the House.”¹⁸ Moreover, U.S. House Committee on Ethics guidance confirms that Members who publicize “distortions intended to mislead the public” may be in violation of the House Rules.¹⁹ Although this guidance was issued in connection with audio-visual distortions and “deep fakes,” the guidance clarifies that falsifications intended to deceive the public contravene House Rules.

Notwithstanding these obligations, Representative Comer violated his ethical obligations by making public statements that plainly contradicted public testimony. In particular, Archer’s testimony makes clear: Hunter Biden was under pressure while serving on the Burisma board, but prosecutor Shokin was not the cause of that pressure. This argument only serves one purpose: furthering a bribery allegation not grounded in fact.

Moreover, in an apparent attempt to appear more informed than he was, Representative Comer falsely stated that he was “on the phone” during the Archer testimony. This statement is directly contradicted by the Oversight Committee’s own transcript and another Member of Congress.²⁰ In making these statements, Representative Comer has violated the public trust and distorted the truth in violation of the House Rules and U.S. House Committee on Ethics guidance.²¹ Accordingly, I urge the OCE to immediately commence an investigation into Representative Comer’s actions.

I understand that 18 U.S.C. § 1001 applies to the information I am providing. To the best of my knowledge and ability all evidence submitted was not obtained in violation of any law, rule or regulation.

Sincerely,



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¹⁷ House Ethics Manual, Com. On Standards of Official Conduct, 110th Cong., 2d Sess., 13 (2008) (quoting H.R. Rep. No. 90-1176, 90th Cong., 2d Sess. (1968)),

https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

¹⁸ Rules of the House of Representatives, Rule 23, clause 2.

¹⁹ Intentional Use of Audio-Visual Distortions & Deep Fakes, U.S. House Com. on Ethics (Jan. 28, 2020), https://ethics.house.gov/sites/ethics.house.gov/files/documents/Deep%20Fakes%20Pink%20Sheet%20Guidance-Final_0.pdf.

²⁰ See Com. On Oversight and Accountability, U.S. House of Rep., Transcript of Devon Archer, 34 (July 31, 2023), <https://oversight.house.gov/wp-content/uploads/2023/08/Devon-Archer-Transcript.pdf>; @RepDanGoldman, Twitter, <https://twitter.com/RepDanGoldman/status/1688667691584737280>.

²¹ Rules of the House of Representatives, Rule 23, clause 1; Intentional Use of Audio-Visual Distortions & Deep Fakes, U.S. House Committee on Ethics (Jan. 28, 2020), https://ethics.house.gov/sites/ethics.house.gov/files/documents/Deep%20Fakes%20Pink%20Sheet%20Guidance-Final_0.pdf.