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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

GABRIELLE D'ADAMO SINGER, STAFF DIRECTOR
DAVID M. WEINBERG, MINORITY STAFF DIRECTOR

August 19, 2020

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Chairman Johnson,

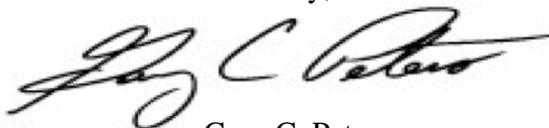
Your attempt to depose Jonathan Winer is in direct and clear violation of Senate Homeland Security and Governmental Affairs Committee rules. The subpoena for his personal appearance for a deposition is therefore unenforceable. In fact, none of the Committee's subpoenas for depositions are currently enforceable.

Committee Rule 5(K)(1) requires "Notices for the taking of depositions shall be authorized and issued by the Chairman, with the approval of the Ranking Minority Member of the Committee." The Ranking Member has 72 hours to disapprove of the deposition notice. If the Ranking Member disapproves, the notice can only be authorized by a majority vote of the Committee. A deposition notice must "specify a time and place for examination, and the name of the Committee Member or Members or staff officer or officers who will take the deposition." This notice is required because it communicates to the witness that the staff and members taking the deposition have the full authority of the Committee to do so. No such notice has been made or can be made without authorization. The deposition notice sent to Mr. Winer's counsel is unauthorized. Should you consider that deposition notice to Mr. Winer to constitute notice to me of your intent to notice Mr. Winer's deposition, I disapprove.

A deposition notice is *not* the same thing as the subpoena itself, which is separately governed by Rule 5(C). On this matter the rules are unambiguous. Rule 5(K)(1) distinguishes between the notice and the subpoena: "The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena." Without *both* a duly authorized subpoena *and* a duly authorized deposition notice, the subpoena is unenforceable.

The Senate Homeland Security and Governmental Affairs Committee is the only standing committee of the Senate with independent staff deposition authority. The Committee rules are designed to ensure this power— which belongs to the Committee and not the Chairman — is used responsibly. You claim you seek to find out whether others broke the rules governing their conduct in pursuit of an investigation; and yet in pursuit of your investigation you propose to break the rules governing our conduct.

Sincerely,



Gary C. Peters
Ranking Member