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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

August 7, 2008

Mr. Robert Kelner  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004

Dear Mr. Kelner:

As you know, an important ruling was issued recently in the Committee's civil case seeking enforcement of a subpoena issued to White House Chief of Staff Josh Bolten for documents relevant to the Committee's investigation of the alleged politicization of the Department of Justice. This ruling also impacts the subpoena issued to your client, the Republican National Committee, on July 13, 2007, and I am writing to request, as you have indicated earlier, that you comply with that ruling with respect to documents that have been withheld despite the subpoena.

In the ruling, United States District Judge John Bates ordered the White House to produce all non-privileged documents that had been subpoenaed and also to provide "a specific description of any documents withheld from production on the basis of executive privilege consistent with the terms of the Memorandum Opinion." Order at ¶ 4. The Opinion explains that the description must include a "list" of the relevant documents and as well as a "more detailed" description of their "nature and scope" than that contained in Acting Attorney General Clement's June 27, 2007, letter. Memorandum Opinion at 92-93.

In our past correspondence, your client has declined to produce or itemize the subpoenaed documents relying on the very Executive Privilege claim that was considered by Judge Bates, and you have previously indicated that the RNC would adhere to the terms of a court resolution of the dispute between the Committee and Executive.<sup>1</sup> Accordingly, I expect you will provide any non-privileged documents that your client possesses and an appropriate list and description of any subpoenaed documents that you continue to withhold.

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<sup>1</sup>See, e.g., Letters from Robert Kelner to Chairman John Conyers, Jr., of July 31, 2007, and August 10, 2007.

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In addition, I would also like to request that you identify and produce any emails transmitted to or from White House staff through RNC computer servers that mention former Governor of Alabama Don Siegelman. Because there has been no White House claim of privilege regarding Siegelman documents – to the contrary, the White House has permitted Karl Rove to provide written statements to the Committee’s Ranking Member on this very subject – I would assume that you will be able to produce these documents directly and that no listing or privilege log will be required. To the extent that your client does elect to withhold any of these documents from the Committee, I would appreciate a comparable listing so that the Committee can evaluate any claims of privilege that you believe apply.

Now that Judge Bates has clarified the legal issues, I am hopeful that we can resume constructive discussions and reach a mutually agreeable resolution to this matter without need for further formal proceedings in the Congress or the Courts. I understand that my staff has already contacted you informally about these matters and I urge such discussions to continue. As always, I can assure you that I stand ready to consider any fair compromise that gets the Committee the information it needs.

Thank you very much for your attention to this matter. Please direct your response and any questions to the Judiciary Committee office by Friday, August 15, 2008, at 2138 Rayburn House Office Building, Washington, DC, 20515, Tel: 202-225-3951, Fax: 202-225-7686.

Sincerely,

A handwritten signature in cursive script that reads "John Conyers, Jr." The signature is written in black ink and is positioned above the typed name and title.

John Conyers, Jr.  
Chairman

cc: Hon. Linda Sánchez  
Hon. Lamar Smith  
Hon. Chris Cannon