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VIA EMAIL DELIVERY

The Honorable Dianne Feinstein
Ranking Minority Member
U.S. Senate Committee on the Judiciary
Washington, D.C. 20510-6275

Re: Roger Stone Document and Interview Request

Dear Ranking Minority Member Feinstein:

On the advice of counsel, Mr. Stone will not produce the documents requested by you in your capacity as Ranking Minority Member of the Judiciary Committee. The requests, as previously stated to staff, are far too overbroad, far too overreaching, far too wide ranging both in their all-embracing list of persons to whom the request could relate with whom Mr. Stone has communicated over the past three years, and the “documents concerning” imprecision of the requests. For the additional reasons set forth below, Mr. Stone respectfully declines to produce any documents and declines the invitation for an interview.

You are aware of the fact that Mr. Stone testified before the House Intelligence Committee. In the coming weeks, the House Intelligence Committee is intending to make public the transcripts of the testimony it has taken. Presumably that will include Mr. Stone’s testimony and you will soon see that he directly and fully answered all of the questions posed to him. Mr. Stone was disappointed that the House Committee did not earlier make public his testimony; indeed the Committee rejected his demand to make it public. Hopefully the release of the transcripts will cure that unfortunate effort to prevent public knowledge of his testimony.

Previously Mr. Stone requested that if any testimony were to be given by Mr. Stone, it be held in public session. The decision by the House Intelligence Committee to proceed in private lent itself to a number of inaccurate leaks and speculation which disserved both my client and the public interest.

Mr. Stone decries secrecy. He will not subject himself to the innuendo of non-public proceedings. Nor will he confirm the existence of, or produce the documents of the request, for the purpose of being used in secret proceedings.

In *Ohio v. Reiner*, 532 U.S. 17, 21 (2001), the Supreme Court emphasized that the Fifth Amendment protects “innocent men ... who otherwise might be ensnared by ambiguous

circumstances.” I hardly need to say that the gossip and innuendo which surrounds Mr. Stone in the press, in Congress and, according to news reports, in the Special Counsel’s offices, provides him with a reasonable basis to protect himself from the “ambiguous circumstances” which some have embraced.

The production of documents that may be responsive to the unreasonably broad scope of the imprecise, fishing expedition, request would unquestionably be a testimonial act protected by the U.S. Constitution. The United States Supreme Court has held that the production of documents is subject to Fifth Amendment protection. In *Watkins v. United States*, 354 U.S. 178, 187-188 (1957), Chief Justice Warren made the pointed argument that, “the constitutional rights of witnesses will be respected by the Congress as they are in a court of justice...Witnesses cannot be compelled to give evidence against themselves.” When the Constitutional rights issue was later applied to documents that were the subject of a broad subpoena by an independent counsel, the Court in *United States v. Hubbell*, 530 U.S. 27 (2000), held that the Constitutional right not to be compelled to give testimony against oneself was applicable to the production of documents that would be testimonial in nature. Whether the documents requested by the Senate Committee exist or not, they are subject to a Fifth Amendment claim.

This reply in response to the request by you, is written with the utmost respect for the Committee and its staff. Mr. Stone’s invocation of his Fifth Amendment privilege must be understood by all to be the assertion of a Constitutional right by an innocent citizen who denounces secrecy.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'G. Smith', with a stylized flourish at the end.

Grant J. Smith, Esq.

cc: Bruce Rogow, Esq.
Robert Buschel, Esq.
Tara Campion, Esq.