

JONES DAY

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July 9, 2007

GEORGE T. MANNING
PARTNER - IN - CHARGE

404-561-8400

The Honorable John Conyers, Jr.
Chairman
U.S. House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Lamar S. Smith
Ranking Member
U.S. House of Representatives
Committee on the Judiciary
2142 Rayburn House Office Building
Washington, D.C. 20515

Re: Congressional Inquiry Into U.S. Attorneys Matters

Dear Sirs:

I write in response to the subpoena issued to Harriet Miers by the House Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, on June 13, 2007 (the "Committee"). As I have advised your staff member Elliot Mincberg, we have been informed that the Executive Privilege has been asserted over all documents and testimony that would be responsive to the subpoena. In addition, we have been directed that Ms. Miers is "not to produce any documents in response to the subpoena," Letter from Fred F. Fielding to George T. Manning, June 28, 2007 (attached hereto), and not to provide "testimony ... concerning White House consideration, deliberations, or communications, whether internal or external, relating to the possible dismissal or appointment of United States Attorneys," Letter from Fred F. Fielding to George T. Manning, July 9, 2007 (attached hereto). Ms. Miers is thus subject to conflicting commands, with Congress demanding the production of information that the Counsel to the President has informed her she is prohibited from disclosing.

Ms. Miers is, of course, respectful of her obligations to respond appropriately to the subpoena issued and served upon her. In these circumstances, however, as I am sure you know, Ms. Miers has no choice other than to comply with direction given her by Counsel to the President in his letters mentioned above. This is particularly so because, as the members of the Committee are aware, the assertion of the privilege in this circumstance is supported by the thorough and reasoned opinion of the Solicitor General of the United States. See Letter from Paul D. Clement, Solicitor General, to the President, June 27, 2007 (attached hereto).

Accordingly, and with all due respect, I must inform you that in light of the President's assertion of Executive Privilege, Ms. Miers cannot provide the documents and testimony that the Committee seeks.

Kind regards,


George T. Manning

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Enclosures

cc: Mr. Fred F. Fielding, Esq.