



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

August 11, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan:

Your July 28, 2023, letter asks questions about the Commission's responsiveness to your most recent requests, among other matters. As I have repeatedly stated, we are committed to responding to your legitimate requests for information. This year, the Commission has received 13 letters with 65 specific requests from your Committee, and we have responded with 23 letters, 15 productions, 5,000 pages of documents, and a non-public briefing about an ongoing law enforcement matter, in addition to my testimony before the Committee on July 13, 2023, and upcoming transcribed interviews from five agency career civil servants. The Commission is working on a comprehensive response to your additional requests from July 12, 2023, which we intend to deliver in the coming weeks.

I also write to bring to your attention additional context involving ongoing violations of Rule 1.6 of the DC Bar Rules of Professional Conduct by a former FTC attorney who is a current member of your staff. Prior to departing the FTC to join your staff, this individual had access to a broad range of non-public information related to sensitive law enforcement and other matters. Upon his departure, he received an ethics briefing informing him of his obligations to safeguard non-public information in any future position, including any role with another federal employer.

Unfortunately, on May 8, 2023, this individual appeared to utilize sensitive non-public and confidential information that the rules of professional responsibility plainly prohibit him from using. In addition, he has refused to recuse himself on at least three of the Committee's inquiries, which involve matters that he worked on while at the Commission and about which he obtained non-public information. As you know, Rule 1.6 of the DC Bar Rules of Professional Conduct prohibit a former Commission attorney from using non-public information obtained while an FTC employee in any future position with another employer. This includes identifying topics for Commission document and interview requests, names of Commission employees to be interviewed, or questions to ask those employees.

On May 8, June 12, June 14, and July 26, the Commission informed you or your staff that your staff member worked on certain matters while at the Commission and that there were significant concerns with him participating in these inquiries.

However, despite multiple efforts to communicate the frequency and gravity of these ethical deficiencies, it appears that the former FTC attorney continues to be directed to lead nearly all of the Committee's communication with the Commission—his former client—in lines of inquiry related to his prior Commission work on sensitive law enforcement and other matters.

In fact, your letter of July 28, 2023, lists the former attorney as the contact for transcribed interviews with nearly two dozen FTC career civil servants. In a subsequent communication with the agency dated August 8, 2023, your staff explicitly instructed us to coordinate the interviews with our former employee, rather than with a different, unconflicted member of your staff. In a clear violation of the rules of professional responsibility, this former employee appears to be your choice to serve as the lead interrogator for the forced questioning of his former colleagues on the FTC's career staff.

To reiterate from my previous correspondence, FTC staff are aware that any employee is free to speak to Congress at any time that they want. Your threats to subpoena, deny access to agency representation, and withhold the salaries of hardworking FTC staff seem intended to chill the agency's work to carry out its mission and statutory obligations.

There is much on which we could work together to protect the American public and hold corporate wrongdoers accountable. As I'm sure you know, Ohio is second in the nation for Do Not Call complaints. Last month, in partnership with Ohio Attorney General Dave Yost and dozens of other state and federal partners, we announced more than 180 law enforcement actions against illegal robocallers and Do Not Call violators. As a result of the FTC's ongoing work to stop the scrouge of robocalls, courts have ordered defendants to pay more than \$2 billion and provide refunds to defrauded consumers all across the country.

I look forward to finding opportunities to similarly cooperate with you and your committee on these or other substantive issues that affect the pocketbooks of consumers and bottom lines of honest businesses in the communities you represent.

Sincerely,



Lina M. Khan
Chair, Federal Trade Commission

cc: The Honorable Jerrold Nadler
Ranking Member
House Committee on the Judiciary