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March 25, 2017

Michael E. Horowitz, Inspector General  
Department of Justice  
950 Pennsylvania Avenue, N.W., Suite 4760  
Washington, D.C. 20530

Robin C. Ashton, Counsel  
Office of Professional Responsibility  
950 Pennsylvania Avenue, N.W., Suite 3266  
Washington, DC 20530.

Re: *Cynthia Berkowitz, M.D., et.al. v. Jefferson B. Sessions, III*

Dear Inspector General Horowitz and Counsel Ashton:

Enclosed please find a complaint against Attorney General Jefferson B. Sessions, III.

This complaint falls under the jurisdiction of the Inspector General's office because it concerns criminal and serious administrative misconduct on the part of a Department employee. According to your office, "The OIG has jurisdiction over all complaints of misconduct against Department of Justice employees."

The complaint also falls under the jurisdiction of the Office of Professional Responsibility because it concerns misconduct by a Department attorney that relates to the exercise of the attorney's authority to investigate, litigate or provide legal advice.

Attorney General Sessions was required to report the crimes and misconduct described in our complaint to your offices under 28 C.F.R. § 45.11 and § 45.12, and under other regulations, statutes, guidelines, policies and practices governing the Department of Justice.

Thank you for your time and consideration of these matters.

Very truly yours,



J. Whitfield Larrabee

cc: Raymond Hulser, Esq.  
Chief, Public Integrity Section  
Department of Justice, Criminal Division  
Bond Building, 12th Floor  
1400 New York Avenue, N.W.  
Washington, D.C. 20005

UNITED STATES DEPARTMENT OF JUSTICE

CYNTHIA BERKOWITZ, M.D., BECCA SMITH, )  
NATALIA CADE, TYLER CARPENTER, )  
MARCIA CHAPMAN, CATHERINE L. )  
CARPENTER, REV. VICTOR H. CARPENTER, )  
NANCY MARGOLIN, JODY J. LEADER, Ph.D., )  
BENJAMIN T. DAVIS, M.D., TANYA GURIAN, )  
LISA CARBONE, CHANDLEE DICKEY, M.D., )  
J. WHITFIELD LARRABEE, ANNE COPELAND )  
CAROL GOODSPEED SMITH, VERA FLIGHT )  
NATHANIEL LARRABEE, ANNE GILMORE, )  
LAUREN CRAIG REDMOND, KEITH GROVE, )  
LOUISE (A.K.A. GENE) THOMPSON-GROVE )  
AND PAUL MCLEAN, )  
Complainants )  
v. )  
JEFFERSON B. SESSIONS, III, )  
Defendant )  
\_\_\_\_\_ )

COMPLAINT

INTRODUCTION

1. This is a complaint against Jefferson B. Sessions, III (“Sessions”), the Attorney General of the United States. The complaint is based upon evidence that Sessions committed perjury in his confirmation hearing before the Senate Judiciary Committee, submitted false statements to the Senate Judiciary Committee, and engaged in obstruction of justice. Sessions committed these offenses when he was a nominee for the office of Attorney General and during the course of his service as Attorney General.
2. The criminal conduct described in this complaint relates to testimony and false statements about communications between Sessions and the Russian ambassador that were made by Sessions to the Senate Judiciary Committee. It also concerns Sessions’ acts of concealing his crimes, covering up his crimes, impeding the investigation his crimes, interfering with the prosecution of his crimes, conspiring to commit crimes and otherwise interfering with or impeding the proper administration of the Department of Justice.

3. During the course of the Presidential campaign in 2016, the Russian government acted to covertly undermine and subvert the United States' democratic elections. It is of vital importance to the integrity of our democracy that the Department of Justice investigate and properly respond to evidence described in this complaint because it relates to these subversive activities and to the proper functioning of our democracy.
4. A thorough investigation and proper response to the evidence of criminal conduct that is set forth in this complaint is necessary to ensure that our democratically enacted laws are applied to those who hold positions of power in our government just as they are applied to the subjects of our government. Applying the laws equally and without favor to Sessions is important in order to maintain respect for the law, to restore integrity to the Department of Justice and to ensure that government officials properly perform their responsibilities solely in the service of the people. No one in these United States, including Sessions, is above the law.

#### PARTIES

5. The Complainants include 23 residents of California, Maine, Massachusetts, Oregon and Vermont. They are citizens, taxpayers and voters who are dedicated to upholding the principles of liberal democracy, equality, and justice embodied in the Constitution of the United States.
6. The Defendant, Jefferson B. Sessions, III, is a resident of Alabama.

#### FACTS

7. While serving as a United States Senator, Sessions was a surrogate for Donald J. Trump ("Trump") in his election campaign. Sessions led the Trump campaign's National

Security Advisory Committee. The campaign was active beginning in 2015 or earlier and concluding with the election on November 8, 2016.

8. In April of 2016, Sessions attended meeting and reception at the Mayflower Hotel in Washington, D.C., with Trump and roughly two dozen guests. Russian Ambassador Sergei Kislyak (“Kislyak”) attended this event. Trump delivered a foreign policy speech in the hotel’s ballroom, where he called for improved U.S.-Russia relations. Kislyak was seated in the front row. It is likely that Sessions communicated with Kislyak at this event.
9. On or about July 18, 2016, after an event at the Republican National Convention, Sessions communicated and conversed with Kislyak.
10. On July 25, 2016, the Federal Bureau of Investigation (“FBI”) announced that it was beginning an investigation of hacking in reference to emails that were stolen from the Democratic National Committee and its chairman by Russian hackers. These emails were posted to the internet via Wikileaks and resulted in ongoing negative media reports about the Clinton campaign. Operating under the jurisdiction of the Department of Justice, the FBI is the domestic intelligence and security service of the United States.
11. In July or August of 2016, the FBI began investigating links between the Trump campaign and Russian officials.
12. On September 5, 2016, President Obama met with Russian President Vladimir Putin and warned him to stop engaging in hacking and told him that there were going to be serious consequences if he did not.

13. On September 8, 2016, Sessions and two of Sessions' senior aids met with Kislyak in Sessions' Senate office. In the course of this meeting, Sessions communicated and conversed with the Russian ambassador.
14. On October 7, 2016, the Obama administration publicly accused the Russian government of interfering with the United States election process. This event received such extensive coverage in the news media that it very likely came to the attention of Sessions who was immersed in politics in Washington, D.C..
15. On November 18, 2016, Trump announced his selection of Sessions to be his nominee for Attorney General of the United States. The Attorney General is the head of the Department of Justice and has oversight of the FBI.
16. On January 6, 2017, the United States government released a report expressing the conclusion of the FBI, CIA and NSA that Russia engaged in a campaign of cyberattacks, propaganda, and mis-information in order to aid Trump to win the presidential election. This report gained a great deal of coverage in the news media such that it very likely came to the attention of Sessions.
17. Prior to January 10, 2017, the FBI and US government intelligence agencies concluded that Russian operatives were behind the hacking of the computers of Democratic National Committee and of the email account of John Podesta, chairman of Hillary Clinton's presidential campaign. These events received widespread media coverage and likely came to the attention of Sessions.
18. On January 10, 2017, Sessions gave sworn testimony before the Senate Judiciary Committee in a hearing concerning his confirmation as Attorney General. Sessions was

not testifying as a United States Senator, and his testimony was not made in furtherance of his duties as a Senator. Rather, Sessions was testifying in his capacity as the nominee for the position of Attorney General. Article I, Section 6, Clause 1 of the United States Constitution, protecting the speech and debate of Senators from questioning in any other place, did not extend to the testimony given, and statements made, by Sessions in his capacity as a nominee.

19. Sessions responded to questioning by Senator Al Franken (“Franken”) at this hearing.
20. Franken asked Sessions, “CNN just published a story alleging that the intelligence community provided documents to the president-elect last week that included information that quote, ‘Russian operatives claimed to have compromising personal and financial information about Mr. Trump.’ These documents also allegedly say quote, ‘There was a continuing exchange of information during the campaign between Trump's surrogates and intermediaries for the Russian government.’ Now, again, I'm telling you this as it's coming out, so you know. But if it's true, it's obviously extremely serious and if there is any evidence that anyone affiliated with the Trump campaign communicated with the Russian government in the course of this campaign, what will you do?”(emphasis added).
21. Sessions testified in response, “Senator Franken, I am not aware of any of those activities. I have been called a surrogate at a time or two in that campaign, and I did not have communications with the Russians, and I am unable to comment on it.” (emphasis added).
22. Sessions’ claim that he did not have communications with the Russians was false, incorrect and misleading because he in fact had communications with Kislyak, the Russian ambassador, on at least two occasions during the election campaign.

23. Sessions' false, misleading and incorrect testimony concerned events that were recent, controversial and memorable. His testimony related to events that were within his own personal knowledge and experience. It is very likely that Sessions thoroughly prepared for and rehearsed his testimony before he appeared in the Senate to respond to questions. The circumstances under which Sessions falsely testified establish that he knowingly and wilfully deceived the Senate Judiciary Committee, by making a statement that he knew and did not believe to be true, on a material matter under the committee's consideration.
24. In testifying falsely about his communications with the Russians, Sessions misled the Senate Judiciary Committee and concealed material facts from it.
25. After giving false, deceitful, dishonest, fraudulent and misleading testimony to the Senate Judiciary Committee, Sessions participated in a cover-up of his criminal conduct in an effort to obstruct and impede the proper administration of the Department of Justice.
26. On March 1, 2017, the Washington Post disclosed that Sessions communicated with Kislyak on two occasions in 2016 and that he denied communicating with the Russians in his testimony before the Senate Judiciary Committee.
27. On March 1, 2017, Sessions' spokeswoman, Sarah Isgur Flores ("Flores") responded to the Washington Post report. Referring to Sessions' testimony before the Senate Judiciary Committee, Flores stated: "there was absolutely nothing misleading about his answer." Flores is the Director of Public Affairs at the Department of Justice and is under Sessions' supervision. Flores made this statement on behalf of Sessions, at his direction and with his approval. In using Flores to cover up his false testimony and criminal actions, Sessions improperly and corruptly used resources of the Department.

28. Because Sessions' testimony denying that he had communications with the Russians was false and misleading, it was corrupt and dishonest for him to allow Flores to speak on his behalf and to assert that "there was absolutely nothing misleading about his answer."
29. On March 1, 2017, in response to the Washington Post report, Sessions issued a statement through Flores: "I have never met with any Russian officials to discuss issues of the campaign. I have no idea what this allegation is about. It is false." This message was also disseminated by Flores on Sessions' behalf via twitter.
30. Sessions' assertion, that the Washington Post report was false, was a corrupt, dishonest and misleading statement. The Washington Post never reported that Sessions and Kislyak discussed issues of the campaign. By inducing Flores, an employee of the Department of Justice and a subordinate of Sessions, to issue a false and dishonest statement, Sessions acted contrary to his duties as the head of the Department. In doing so, Sessions intentionally impeded and obstructed the proper administration of the Justice Department.
31. On March 6, 2017, Sessions submitted a letter to the Senate Judiciary Committee supplementing his testimony on January 10, 2017. Letter from Sessions to Charles E. Grassley, Chairman of the Senate Judiciary Committee, attached hereto as Exhibit "A." Sessions remained under oath when he submitted this supplemental testimony.
32. When Sessions submitted the March 6 letter, he was not a United States Senator, having resigned from the Senate on February 9, 2017 in order to assume his responsibilities as Attorney General. Article I, Section 6, Clause 1 of the United States Constitution, the Speech or Debate Clause, only applies to members of the House and Senate.

33. Sessions claimed in the March 6 letter that his response to Franken, denying any communications with the Russians during the campaign, “was correct.” In making this statement, Sessions willfully, deliberately and fraudulently claimed that his prior false testimony was correct. In doing so, Sessions made an additional material false statement to the Senate Judiciary Committee concealing and covering up the false and perjurious testimony that he made to the committee on January 10, 2017.
34. As the head of the Department of Justice on March 1, 2017, when his criminal conduct was first disclosed in the Washington Post, Sessions had a duty to report his conduct to the Public Integrity Section of the Department of Justice, the Department of Justice Office Professional Responsibility, and the Office of Inspector General of the Department of Justice. In failing to report allegations of criminal and professional misconduct, Sessions violated 28 C.F.R. § 45.11, § 45.12, and other applicable regulations.
35. By submitting a false statement to the Senate, lying about his testimony, engaging in a cover up, involving an employee of the Department of Justice in the cover up, violating the regulations of the Department of Justice and failing to properly initiate an investigation of himself, Sessions intentionally impeded and obstructed the proper administration of the Justice Department.

COUNT 1

VIOLATION OF 18 U.S.C. § 1621 - PERJURY

36. The allegations in the preceding paragraphs are incorporated by reference as if fully set forth.

37. 18 United States Code § 1621 provides:

“Whoever—

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

38. There is probable cause to charge Sessions with perjury by reason of his violation of 18 U.S.C. § 1621.

COUNT 2

VIOLATION OF 18 U.S.C. § 1001

MAKING FALSE STATEMENTS, CONCEALING & COVER UP

39. The allegations in the preceding paragraphs are incorporated by reference as if fully set forth.

40. 18 United States Code § 1001 provides in relevant part:

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

41. There is probable cause to charge Sessions with willfully and knowingly making false statements, concealing and cover up in violation of 18 U.S.C. § 1001.

COUNT 3

VIOLATION OF 18 U.S.C. § 1511 - OBSTRUCTION OF JUSTICE

42. The allegations in the preceding paragraphs are incorporated by reference as if fully set forth.

43. 18 United States Code § 1519 provides:

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under Title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

44. There is probable cause to charge Sessions with willfully and knowingly concealing, covering up and making false entries in documents with the intent to impede, influence and obstruct the proper administration of matters within the jurisdiction of the Justice Department in violation of 18 U.S.C. § 1519.

WHEREFORE, the Complainants demand:

- A. appointment of Special Counsel by the Deputy Attorney General in accordance with 28 C.F.R. § 600.1 - 600.10.
- B. a full, fair and impartial investigation of this complaint by the Public Integrity Section, Department of Justice, Criminal Division;

- C. a full, fair and impartial investigation of this complaint by the Office of the Inspector General of the Department of Justice;
- D. a full, fair and impartial investigation of this complaint by the Office of Professional Responsibility of the Department of Justice.
- E. a complete and thorough presentation of all relevant evidence to a federal grand jury;
- F. indictments against Sessions based on his violations of federal laws, including but not limited to indictments for violations of 18 U.S.C. §§ 1001, 1519 and 1621.
- G. such other relief as is just, equitable or proper.

Respectfully submitted,  
Complainants,  
by their attorney,



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jw.larrabee@verizon.net  
(617) 566-3670

CERTIFICATE OF SERVICE

I, J. Whitfield Larrabee, hereby certify that on March 25, 2017, I mailed an original of by express mail to: 1) Raymond Hulser, Esq. Chief, Public Integrity Section, Department of Justice, Criminal Division, Bond Building, 12th Floor, 1400 New York Avenue, N.W., Washington, D.C. 20005, 2) Michael E. Horowitz, Inspector General, Department of Justice, 950 Pennsylvania Avenue, N.W., Suite 4760, Washington, D.C. 20530, and 3) Robin C. Ashton, Counsel, Office of Professional Responsibility, 950 Pennsylvania Avenue, N.W., Suite 3266 Washington, DC 20530. The complaint will be delivered on or before 10:30 a.m. Monday, March 27, 2017.



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J. Whitfield Larrabee

"A"



**The Attorney General**  
Washington, D.C.

March 6, 2017

Hon. Charles E. Grassley  
Chairman  
Senate Judiciary Committee  
226 Dirksen Senate Office Building  
Washington, D.C. 20510

Hon. Dianne Feinstein  
Ranking Member  
Senate Judiciary Committee  
152 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

I write to supplement my January 10, 2017, testimony before the Committee.

During my confirmation hearing, Senator Franken asked the following question:

OK. CNN has just published a story and I'm telling you this about a news story that's just been published. I'm not expecting you to know whether or not it's true or not. But CNN just published a story alleging that the intelligence community provided documents to the president-elect last week that included information that quote, "Russian operatives claimed to have compromising personal and financial information about Mr. Trump." These documents also allegedly say quote, "There was a *continuing exchange of information* during the campaign between Trump's surrogates and intermediaries for the Russian government." [Emphasis added]

Now, again, I'm telling you this as it's coming out, so you know. But, if it's true, it's obviously extremely serious and if there is any

evidence that anyone affiliated with the Trump campaign communicated with the Russian government in the course of this campaign, what will you do?

I responded: "Senator Franken, I'm not aware of any of those activities. I have been called a surrogate at a time or two in that campaign and I didn't have -- did not have communications with the Russians, and I'm unable to comment on it."

My answer was correct. As I noted in my public statement on March 2, 2017, I was surprised by the allegations in the question, which I had not heard before. I answered the question, which asked about a "continuing exchange of information during the campaign between Trump's surrogates and intermediaries for the Russian government," honestly. I did not mention communications I had had with the Russian Ambassador over the years because the question did not ask about them.

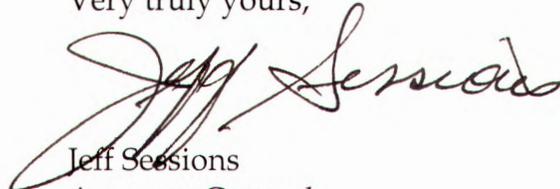
As I discussed publicly on March 2, 2017, I spoke briefly to the Russian Ambassador at the Republican National Convention in Cleveland, Ohio, in July 2016. This was at the conclusion of a speech I had made, when I also met and spoke with other ambassadors. In September 2016, I met with the Russian Ambassador at my Senate office in the presence of members of my professional Senate staff. I do not recall any discussions with the Russian Ambassador, or any other representative of the Russian government, regarding the political campaign on these occasions or any other occasion.

The Judiciary Committee received a letter dated March 3, 2017, from Committee Democrats that asks other questions. The letter asks why I did not supplement the record to note any contact with the Russian Ambassador before its disclosure. Having considered my answer responsive, and no one having suggested otherwise, there was no need for a supplemented answer.

I also promptly made a decision on recusal. I said during the course of my confirmation hearing that if a question arose as to whether I should recuse myself from a particular matter, I would consult with the appropriate ethics officials at the Department in order to make a decision. Within a week of becoming Attorney General, I held the first meeting concerning recusal. And, on February 27, 2017, my staff scheduled a meeting for March 2, 2017. On that date, I met with the relevant officials, and later that day announced my recusal from certain matters. This process and schedule were established before I was made aware of any concern about the accuracy of my testimony before the Committee.

The March 3, 2017, letter also asked why I had not recused myself from “Russian contacts with the Trump transition team and administration.” I understand the scope of the recusal as described in the Department’s press release would include any such matters. This should not be taken as any evidence of the existence of any such investigation or its scope. Suffice it to say that the scope of my recusal is consistent with the applicable regulations, which I have considered and to which I have adhered.

Very truly yours,



Jeff Sessions  
Attorney General

JS:ph