

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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August 28, 2024

Mr. Michael Nellis  
Founder and Chief Executive Officer  
Authentic Campaigns Inc.  
4422 N. Ravenswood Ave., #101  
Chicago, IL 60640

Dear Mr. Nellis:

On August 1, 2024, the Committee on the Judiciary wrote to Loren Merchan, the President of Authentic Campaigns, requesting information and documents to advance the Committee's oversight of the Manhattan District Attorney's political prosecution of President Donald J. Trump.<sup>1</sup> You responded on August 13, 2024, declining to comply voluntarily with the Committee's oversight or provide any requested documents.<sup>2</sup> On August 16, 2024, the Committee wrote again to address your articulated concerns and to reiterate its August 1 requests.<sup>3</sup> On August 23, 2024, you again declined to comply with the Committee's oversight and requests.<sup>4</sup> As such, the Committee is left with no choice but to resort to compulsory process.

As we made clear in our August 1 and August 16 letters, the Committee is continuing to conduct oversight of politically motivated prosecutions by state and local officials.<sup>5</sup> Popularly elected prosecutors, such as Manhattan District Attorney Alvin Bragg, have engaged in an unprecedented abuse of authority by prosecuting a former President of the United States and current nominee for that office. Of relevance to the Committee's oversight is the impartiality of Judge Juan Merchan, the presiding trial judge, due to his refusal to recuse himself from the case in light of his apparent conflicts of interest and biases.<sup>6</sup> One such conflict is Ms. Merchan's—daughter of Judge Merchan and President of Authentic Campaigns—work on behalf of President Trump's political adversaries and the possible financial benefit that Ms. Merchan and Authentic Campaigns received from the prosecution and conviction of President Trump.

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<sup>1</sup> See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024).

<sup>2</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).

<sup>3</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Michael Nellis (Aug. 16, 2024).

<sup>4</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).

<sup>5</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Michael Nellis (Aug. 16, 2024).

<sup>6</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024).

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Public reporting makes clear that both you and Ms. Merchan have been closely involved in the presidential campaigns of both President Biden and Vice President Harris. Ms. Merchan previously served in then-presidential candidate Harris’s campaign in 2019 while remaining employed at Authentic Campaigns.<sup>7</sup> During Ms. Merchan’s employment with the Harris campaign, Authentic Campaigns received over \$7 million in compensation for its services.<sup>8</sup> You also worked for then-presidential candidate Harris and it appears you continue to do so.<sup>9</sup> Authentic Campaigns conducted work for the 2020 Biden-Harris campaign and, according to public records, was paid just over \$2 million in a one-month period for its work.<sup>10</sup>

In your August 13 response to the Committee, you indicated that responsive records existed for at least two of the Committee’s requests but later, in your August 23 response, you suggest that records only exist for a single request. Regarding this request, you attempt to evade oversight by arguing that the Committee’s request for records related to Authentic Campaigns’ work performed as it relates “to the indictment, prosecution, or conviction of President Donald J. Trump”<sup>11</sup> is “irrelevant to any investigation.”<sup>12</sup> You also argue that “any content relating to the trial was an extremely small amount . . . .”<sup>13</sup> Such a determination is not yours to make, and in any event, the Committee has explained the relevancy of these records to its oversight and the quantity of responsive documents—even if small—does not create an exception to the Committee’s request. Neither does your assertion that “Ms. Merchan had no involvement in any such content . . . .”<sup>14</sup> The Committee’s investigation is not limited to Ms. Merchan. Rather, as has been explained, the Committee is investigating “whether Authentic Campaigns services President Trump’s political adversaries.”<sup>15</sup> As such, your rationales for refusing to provide responsive documents are unpersuasive.

In response to the Committee’s other request, you first argued in your August 13 response that “[a]ny communication” that Ms. Merchan may have had with her father, Judge Merchan, regarding the trial would have been “in her personal capacity . . . and entirely unrelated

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<sup>7</sup> Mia Cathell (@MiaCathell), TWITTER (Apr. 4, 2023, 3:13 PM), <https://x.com/MiaCathell/status/1643331072069976068>.

<sup>8</sup> Vendor/Recipient Profile: Authentic Campaigns for the 2020 Election Cycle, OPEN SECRETS (last visited July 31, 2024); Mia Cathell (@MiaCathell), Twitter (Apr. 4, 2023, 3:13 PM), <https://x.com/MiaCathell/status/1643331072069976068>.

<sup>9</sup> Mike Nellis (@MikeNellis), TWITTER (Aug. 2, 2024), <https://x.com/MikeNellis/status/1819563112741458390> (“I worked for @KamalaHarris for a long time. . . . The VP was the first person to call me when my son was born in the middle of her presidential campaign (I still have the VM). . . .”); Craig Wall, *Online fundraisers for Vice President Kamala Harris’s presidential campaign raise over \$200 million*, ABC 7 (July 30, 2024) (“Chicagoan Mike Nellis, a former Harris campaign senior advisor, helped organize the [White Dudes for Harris] event, which raised \$4 million.”).

<sup>10</sup> Biden/Harris 2020 Campaign: A Conversational AI Case Study, Authentic (last visited July 31, 2024); Vendor/Recipient Profile: Authentic Campaigns for the 2020 Election Cycle, Open Secrets (last visited Aug. 23, 2024) (The first payment from Biden for President was made on October 8, 2020 and the last payment was made on November 3, 2020.).

<sup>11</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024).

<sup>12</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).

<sup>13</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024); Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).

<sup>14</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).

<sup>15</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Michael Nellis (Aug. 16, 2024).

to Authentic or its clients.”<sup>16</sup> You then asserted on August 23 that Authentic Campaigns has no responsive documents or communications at all.<sup>17</sup> This shifting representation raises significant doubt about the accuracy of your assertions. Your first statement on August 13 about the nature of Ms. Merchan’s communications with Judge Merchan suggests at least some knowledge about those records such that you could attest that they were all made “in her personal capacity.”<sup>18</sup> Notably, in this initial response, you did not assert that Authentic Campaigns possessed no responsive records. Your subsequent, blanket assertion on August 23 that no records exist—made without explaining your basis for this statement—viewed in light of your August 13 response, suggests that you may be artificially narrowing the Committee’s request to only records of a non-personal nature. The Committee’s request makes no such distinction. If Ms. Merchan used Authentic Campaign accounts, devices, or other electronic communication systems to communicate with Judge Merchan about President Trump’s trial, even if the communications were made “in her personal capacity,” those records are responsive to the Committee’s request.

In your August 23 response, you also argue that the Committee does not have a “valid legislative purpose” and that the Committee does not have “any legitimate reason” to conduct its inquiry.<sup>19</sup> As we have explained twice, the Supreme Court has recognized that Congress has a “broad and indispensable” power to conduct oversight, which “encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them.”<sup>20</sup> Early last year, a federal district court judge denied District Attorney Alvin Bragg’s attempt to block the enforcement of the Committee’s subpoena in this very investigation. Judge Mary Kay Vyskocil held that the Committee’s subpoena “was issued with a ‘valid legislative purpose’ in connection with the ‘broad’ and ‘indispensable’ congressional power to ‘conduct investigations.’”<sup>21</sup> As Judge Vyskocil explained:

Jordan and the Committee have identified several valid legislative purposes underlying the subpoena. . . . [The Committee] identif[ies] the possibility of legislative reforms to insulate current and former presidents from state prosecutions, such as by removing criminal actions filed against them from state to federal court. Congress, of course, has authority to consider, and to investigate, this potential legislative reform. And Congress also has authority to investigate legislative reforms to prevent local prosecutions that could potentially interfere with federal elections.<sup>22</sup>

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<sup>16</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).

<sup>17</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).

<sup>18</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).

<sup>19</sup> Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).

<sup>20</sup> *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citation marks omitted).

<sup>21</sup> Opinion and Order Denying Temporary Restraining Order, *Bragg v. Jordan*, 1:23-cv-3032 (MKV) (SDNY Apr. 19, 2023).

<sup>22</sup> *Id.* (internal citations omitted).

We have explained the proposed legislative reforms that the Committee and the House have been examining. Judge Merchan's conflicts of interest and biases in the case against President Trump, the Republican nominee in the upcoming 2024 presidential election, implicate serious federal interests.<sup>23</sup> Congress has a specific and manifestly important interest in preventing politically motivated prosecutions of current and former presidents, especially in venues in which real or perceived biases exist. Among other things, if state or local prosecutors are able to engage in politically motivated prosecutions of Presidents of the United States (current or former) for personal acts, this could have a profound effect on how presidents choose to exercise their powers while in office. The requested material will inform the House's consideration of whether to move forward with legislation, informed by the Committee's oversight, which, if adopted, would remedy politically motivated local prosecutions by allowing a current or former president to remove the case to a more neutral forum in federal court.<sup>24</sup> If such a mechanism were in place at the time of DA Bragg's prosecution, Judge Merchan would not have presided over President Trump's trial.

The Committee is charged by the House of Representatives with upholding fundamental American civil liberties and with promoting fairness and consistency in our nation's criminal justice system. Rule X of the Rules of the House of Representatives authorizes the Committee to conduct oversight of criminal justice matters and matters involving civil liberties to inform potential legislation.<sup>25</sup> The records requested from Authentic Campaigns are relevant to the Committee's oversight work. These documents will allow the Committee to better understand and assess the apparent conflicts of interest and bias in the prosecution of a former president by a local elected prosecutor in a local tribunal before a clearly conflicted judge.

Accordingly, in light of Authentic Campaigns' failure to comply with our earlier voluntary requests, please find attached a subpoena compelling the production of the requested documents. As an accommodation, the Committee has limited the scope of this subpoena to two of its initial requests made on August 1. To ensure accuracy and completeness in the Committee's investigation, and based upon the noted inconsistencies in your previous responses, we direct your attention to instruction 19 in the enclosed subpoena schedule requiring a certification about your efforts to identify and produce responsive material. If Authentic Campaigns indeed has no responsive records for the other requests made by the Committee on August 1, as you have asserted, the Committee requests a sworn certification under the penalty of perjury<sup>26</sup> that Authentic Campaigns made a reasonable, diligent, and good faith search for responsive documents and was unable to locate any responsive documents. We also ask that you detail with specificity the steps that you took to conduct this search, including the email account(s), text message(s), and other means of communications that you reviewed. Finally, we

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<sup>23</sup> See H. COMM. ON THE JUDICIARY, 118TH CONG., LAWFARE: HOW THE MANHATTAN DISTRICT ATTORNEY'S OFFICE AND A NEW YORK STATE JUDGE VIOLATED THE CONSTITUTIONAL AND LEGAL RIGHTS OF PRESIDENT DONALD J. TRUMP (2024).

<sup>24</sup> H.R. 2553, 118th Cong. (2023).

<sup>25</sup> Rules of the U.S. House of Representatives, R. X(1)(5) (2023).

<sup>26</sup> See 18 U.S.C. § 1621.

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request that Authentic Campaigns also certify under the penalty of perjury that the attestations contained in your August 13 and 23 letters are completely true and accurate.

If you have any questions about this matter, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is stylized and cursive. Below the signature, the name "Jim Jordan" and the title "Chairman" are printed in a standard black font.

Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure