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May 12, 2006

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The Honorable Alberto Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

I write to ask that you appoint a special counsel to investigate whether any White House officials were involved in the New Hampshire phone jamming scheme during the 2002 elections. Justice Department prosecutors have obtained three convictions for conduct stemming from this crime. A special counsel outside of the Department is needed, however, because there are possible connections between the plot and the White House, as well as potential federal election law violations stemming from state Republican Party reporting of Native American tribe donations connected with Jack Abramoff, that have yet to be examined.

In 2002 in New Hampshire, Governor Jeanne Shaheen (D) and U.S. Rep. John Sununu (R) were running against each other in a closely-contested campaign for the U.S. Senate. It has now become clear that, in order to suppress Democratic voter turnout, Republican officials orchestrated a phone-jamming scheme for election day. The scheme involved hiring an Idaho telemarketing company, Mylo Enterprises, to flood Democratic get-out-the-vote phone banks in New Hampshire with phone calls so that potential voters would not be aware of where or when to vote.

While the Department has obtained three convictions and one indictment against political operatives who were involved in the plot,¹ outstanding issues remain. First, it has been

¹William Douglas, *Phone Charges Costing GOP*, PHILA. INQUIRER, May 1, 2006, at A3. James Tobin, the Republican National Committee's New England head in 2002 and the Bush-Cheney campaign regional director in 2004, was convicted of aiding and abetting telephone harassment and of conspiring to commit harassment. *Id.* Chuck McGee, a former New

uncovered that New Hampshire Republican officials, and a national Republican official convicted for his role in the scheme, called the office of Ken Mehlman, then the White House Political Director, twenty-two times in two days leading up to the election.² Mr. Mehlman has denied that his office knew of or was involved in the plot, but the Republican National Committee has avoided efforts at discovery regarding this issue, including testimony from Mr. Mehlman, in a civil suit filed by New Hampshire Democrats against the Republican Party.³ In fact, there are reports that the Justice Department itself has attempted to halt discovery in the civil suit.⁴

Second, the Republican National Committee, which Mr. Mehlman now heads, has paid at least \$2.8 million in legal fees for one of the defendants in the Justice Department prosecution, James Tobin. It is confusing why the Republican Party would pay the fees for an official who acted illegally and allegedly without authorization. Finally, there are new indications that the scandal may be connected to another Department investigation. In the days leading up to the election, the New Hampshire State Republican Committee received donations from Rep. Tom DeLay's political action committee and two Native American tribes connected to Jack Abramoff, the Mississippi Band of Choctaw Indians and the California Agua Caliente Band of Cahuilla Indians.⁵ The contributions from the three groups approximately added up to the \$15,000 cost of the phone jamming plot.⁶

As you are aware, under the Department's regulations, you are required to appoint a special counsel when (1) a "criminal investigation of a person or matter is warranted," (2) the

Hampshire Republican Party Executive Director, pled guilty to devising the plan. *Id.* Allen Raymond, the head of a company that linked Republican campaigns with telemarketers, pled guilty to carrying out the plot. *Id.* Finally, this just past March, Shaun Hansen, a co-owner of Milo Enterprises, was indicted for having his employees place the voter suppression calls. *Id.*

²Thomas B. Edsall & David A. Fahrenthold, *2002 N.H. Scandal Shadows GOP Anew*, WASH. POST, Apr. 14, 2006, at A6.

³*Id.*

⁴Sarah Schweitzer, *Parties Call Foul over N.H. Phone-Jamming Suit*, BOSTON GLOBE, Oct. 23, 2004, at A1.

⁵Cragg Hines, *Delay's Scandals: Maybe not Just for Texas Anymore*, HOUS. CHRON., Apr. 19, 2006, at B9.

⁶*Id.*

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investigation “by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department,” and (3) “it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter.”⁷ There is little doubt that all three factors are met in this case.

First, it is clear that a criminal investigation is warranted. The Department already has begun investigating the scandal and prosecuting individuals who were involved. The fact remains, however, that the Department appears not to be reviewing the extensive contacts between the plotters of the phone jamming and high-level Republican officials.

Second, there would be a conflict of interest for the existing Department prosecutors to investigate this matter. The U.S. Attorney responsible for the region, Thomas P. Colantuono of New Hampshire, was appointed by the President and would be investigating his own superiors. Also, the Election Fraud Unit at Main Justice in Washington, which apparently is leading the New Hampshire investigation, would face similar issues. Additionally, you served as Counsel to the President during the period in question and also should be recused from the matter for potential conflicts of interest. In fact, federal law requires you to issue regulations governing recusal of Department officials having personal, financial, or political conflicts of interest.⁸

Third, it is unquestionable that the public interest would be served by the appointment of an outside special counsel. The right to vote is one of the most important possessed by citizens of this country. The government must make every effort to indicate to its citizenry that it will protect that right no matter the cost. The last two presidential elections and the 2002 New Hampshire Senate campaign showed that, despite the successes of the Voting Rights Act and other measures, there are still those who encourage disenfranchisement. Only the appointment of a special counsel will show that the government will not tolerate these attempts.

I would appreciate your prompt response as to whether you will appoint an outside special counsel to review any potential involvement by Republican officials in Washington in the phone jamming efforts and, if not, the reason for your decision. Please reply through the

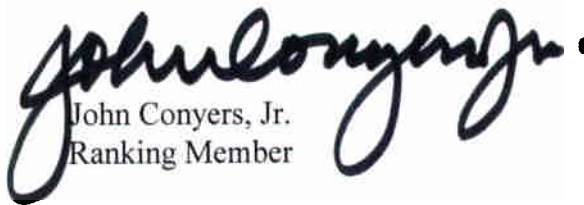
⁷28 C.F.R. § 600.1 (2002).

⁸28 U.S.C. § 528.

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Sincerely,



John Conyers, Jr.
Ranking Member

cc: Honorable William E. Moschella
Honorable F. James Sensenbrenner, Jr.