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May 18, 2026

VIA ELECTRONIC MAIL

The Honorable Jason Smith
Chairman, Committee on Ways and Means
U.S. House of Representatives
1139 Longworth House Office Building
Washington, DC 20515

Re: BreakThrough News — Response to May 4, 2026 Letter

Dear Chairman Smith:

On behalf of our client, BreakThrough News, a nonprofit media and educational organization dedicated to independent, fact-based reporting and commentary on a diverse range of issues affecting the global movements for social justice, we are responding to your May 4, 2026 letter,¹ which the Committee characterizes as a response to our February 23, 2026 correspondence.²

The Committee's new letter shifts its explanation of its basis for inquiry and presents a request for materials that differs from the Committee's February 9, 2026 letter to BreakThrough News.³ The Committee's revisions do not alter the fact that its inquiry into BreakThrough News, initiated in its February 9 letter, openly targets BreakThrough News (and others) based on perceived expression with which the Committee leadership disagrees, including what the Committee has previously referred to as "anti-American" and "Marxist" viewpoints.⁴ Nor does the Committee explain, as raised previously, why it provided Fox News with its letter but failed to present it to BreakThrough News.

Please advise whether the Committee is investigating the receipt by Fox News prior to and in lieu of transmission to BreakThrough as an improper leak. The Supreme Court has been unequivocal that, "Investigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated are indefensible."⁵ As the shameful history of the

¹ Letter from Jason Smith, Chairman, H. Comm. on Ways and Means, to Law Office of Andrew D. Herman and Partnership for Civil Justice Fund (May 4, 2026).

² Letter from the Law Office of Andrew D. Herman and Partnership for Civil Justice Fund to The Hon. Jason Smith, Chairman, H. Comm. on Ways and Means (Feb. 23, 2026).

³ Letter from Jason Smith, Chairman, H. Comm. on Ways and Means, to Karla Reyes, Chair and Director, BreakThrough Bt Media Inc. (Feb. 9, 2026), published by Fox News.

⁴ *Id.*

⁵ *Trump v. Mazars USA, LLP*, 591 U.S. 848, 863 (2020) (quoting *Watkins v. United States*, 354 U.S. 178, 187 (1957)).

House Un-American Activities Committee reminds us, a witch-hunt is not a valid legislative purpose.

While the Committee engaged with the questions raised in our February 23 letter, its responses do not resolve them. Thus, we write in response to the most recent letter to address the analytical framework necessary to assess any valid legislative inquiry. Moreover, as discussed below, the Committee's revised statements introduce a separate concern, distinct from the questions we previously raised, that prevents BreakThrough News from undertaking the pertinency and other legal analyses that the case law requires. We request the Committee address these issues so that BreakThrough News can assess its obligations as a recipient of the Committee's inquiry.

As the Committee's letter notes, the United States Supreme Court has long recognized that the congressional power of inquiry is broad and that Congress need not draw a precise line from each piece of information requested to a specific legislative product.⁶ Investigations may proceed where the matter "may lead to legislation," and courts will not ordinarily second-guess the wisdom of congressional methodology in conducting such inquiries.⁷ However, BreakThrough News's concerns are not about congressional authority or the Committee's general investigative authority or jurisdiction.

The same longstanding precedent recognizes that the broad congressional investigative power attaches only to inquiries that pursue a valid legislative purpose. That requirement, restated most recently in *Trump v. Mazars USA*,⁸ and emanating from *Watkins v. United States*,⁹ *Barenblatt v. United States*,¹⁰ and *McGrain*, presents a threshold condition on every congressional inquiry. As the Court stated in *Watkins*, "there is no congressional power to expose for the sake of exposure," because Congress is not a law enforcement body and may not use its investigative powers to "try" someone "before [a] committee for any crime or wrongdoing."¹¹ *Mazars* synthesizes and restates this requirement in its first factor, confirming that the valid-legislative-purpose threshold operates uniformly across congressional investigations.¹²

This threshold affects our ability to assess the Committee's requests. The same case law establishing the breadth of investigative power also establishes that a subject of a congressional inquiry cannot meaningfully evaluate any document request without a sufficiently clear statement of the operative legislative purpose. As *Watkins* held, the recipient needs an articulation precise enough to permit intelligent evaluation of the "pertinency" of the requested material.¹³ That

⁶*McGrain v. Daugherty*, 273 U.S. 135, 174-75 (1927) ("A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change.").

⁷*Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 509 (1975) ("The wisdom of congressional approach or methodology is not open to judicial veto.").

⁸*Trump v. Mazars USA, LLP*, 591 U.S. 848 (2020).

⁹*Watkins v. United States*, 354 U.S. 178 (1957).

¹⁰*Barenblatt v. United States*, 360 U.S. 109 (1959).

¹¹*Watkins*, 354 U.S. at 200; *McGrain*, 273 U.S. at 179.

¹²*Mazars*, 591 U.S. 848, 851 (2020) ("a congressional subpoena is valid only if it is 'related to, and in furtherance of, a legitimate task of the Congress'") (quoting *Watkins*, 354 U.S. at 187).

¹³*Watkins*, 354 U.S. at 208-9 ("Fundamental fairness demands that no witness be compelled to make such a

obligation is reciprocal: BreakThrough News must assess pertinency, assert applicable privileges, and identify burden concerns, while the Committee is obligated to articulate its purpose with sufficient clarity that those actions can be performed in good faith.

This assessment becomes even more vital where the Committee's inquiry is rooted in a naked attack on First Amendment viewpoints with which it expresses disagreement coupled with pejorative, false, and smearing allegations also untethered from any valid inquiry. In order to separate what is an unvarnished attack on First Amendment protected expression, including intrusion into reporters' privileges and efforts to chill editorial expression, from whatever valid legislative purpose may remain, clarity is essential.

It also follows that a legislative inquiry conducted for the purpose of generating content in Fox News articles, including the Committee's leaking information to Fox News for the sake of negative exposure of the entity being inquired of, is far from any valid purpose.

The Committee's statement of legislative purpose has changed materially between the letters sent on February 9 and May 4. The February 9 letter, in a winding and smearing presentation, stated that the Committee sought "to understand why, and if, BreakThrough News deserves their tax-exempt status," and devoted several pages to attacking BreakThrough News and its leadership and alleged political viewpoints and associations which are protected under the First Amendment. It asked whether BreakThrough News "would qualify as 'agent[s] of a foreign principal' as defined by [FARA]," if it received donations from a U.S. citizen whose viewpoints the Committee also disagrees with, citing the Department of Justice's 2022 indictment of a Russian citizen who was the deputy chairman of the Russian State Duma, as "precedent" for "FARA charges in cases with similar facts."¹⁴ The May 4 letter articulates a new and different formulation. The Committee is now "considering whether legislative reform is necessary to ensure that tax-exempt status is neither extended nor maintained in circumstances that raise significant concerns regarding foreign influence or control," and is examining "whether existing legal standards governing tax-exempt status of organizations adequately account for foreign influence and control."¹⁵ BreakThrough News responds on the understanding that the May 4 articulation reflects the Committee's current statement of its legislative purpose.

The Committee's response to BreakThrough News's February 23 letter addresses the Committee's February 9 requests. However, the specific document requests in the new letter have *not* been recalibrated to match this new focus with regard to legislative charge and jurisdiction. The February 9 letter requests purport to reflect the Committee's focus on whether BreakThrough News specifically "deserves" its tax-exempt status, asking for the organization's compliance and operational records.¹⁶ An inquiry into whether existing legal standards adequately address foreign influence in tax-exempt organizations generally would ordinarily produce starkly different requests; *e.g.*, an inquiry presented to multiple organizations, including across the political spectrum, focusing on regulatory gaps and IRS administrative materials. The May 4 requests, however,

determination [of pertinency] with so little guidance.").

¹⁴ February 9 Letter at 2-4, 7.

¹⁵ May 4 Letter at 1, 3.

¹⁶ Feb. 9 Letter at 8-9.

remain directed at BreakThrough News's internal materials and continue to demand "all" communications with a specifically named U.S. citizen.¹⁷ In fact, the Committee has expanded its request for donor identification.¹⁸

The Supreme Court has cautioned that, in evaluating whether a congressional inquiry serves a valid legislative purpose, "courts should be attentive to the nature of the evidence offered by Congress to establish that a subpoena advances a valid legislative purpose. The more detailed and substantial, the better."¹⁹ Where, as here, the operative purpose has been recast while the requests have not, BreakThrough News respectfully suggests that the Committee's articulated rationale and its actual evidentiary demands have diverged in a manner that longstanding precedent, culminating in the *Mazars* framework, has been designed to surface. Without explanation of how the requests as written are pertinent to the May 4 articulation, BreakThrough News cannot perform the pertinency analysis that the case law requires.²⁰

In light of the foregoing, we request that the Committee explain how each category of documents in the May 4 letter is pertinent to the legislative purpose as articulated in that letter. The pertinency of these categories to a generalized legislative inquiry into the adequacy of existing tax-exempt law is not self-evident on the current record. We also request that the Committee define its use of the facially vague words "connected" and "involve" in order to permit us to understand the scope of the related requests.

This letter is submitted without prejudice to, and BreakThrough News fully reserves, all constitutional and common law objections to the Committee's requests, including but not limited to those grounded in the First Amendment associational privacy doctrine of *NAACP v. Alabama*,²¹ *Americans for Prosperity Foundation v. Bonta*,²² and the Supreme Court's recent unanimous decision in *First Choice Women's Resource Centers, Inc. v. Davenport*,²³ as well as the freedom of speech, association, and the press protected by the First Amendment,²⁴ the pertinency requirement of *Watkins*, and the valid-legislative-purpose threshold reaffirmed in *Mazars*. In order for BreakThrough News to engage substantively with the Committee on requests that may be pertinent to a legitimate legislative purpose within the Committee's jurisdiction and consistent with applicable constitutional protections, these clarifications are necessary.

¹⁷ May 4 Letter at 4-5.

¹⁸ *Id.*

¹⁹ *Mazars*, 591 U.S. at 870.

²⁰ The subject of a congressional inquiry is "entitled to have knowledge of the subject to which the interrogation is deemed pertinent. That knowledge must be available with the same degree of explicitness and clarity that the Due Process Clause requires in the expression of any element of a criminal offense." *Watkins*, 354 U.S. at 208-9.

²¹ 357 U.S. 449 (1958).

²² 594 U.S. 595 (2021).

²³ 605 U.S. ___, No. 24-781 (Apr. 29, 2026).

²⁴ See *Branzburg v. Hayes*, 408 U.S. 665 (1972).

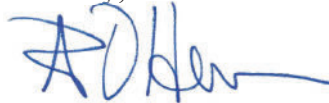
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Sincerely,



Mara Verheyden-Hilliard
Partnership for Civil Justice Fund

Sincerely,



Andrew D. Herman
Law Firm of Andrew D. Herman, PLLC