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CHAIRMAN WAXMAN AND RANKING MEMBER DAVIS REQUEST JUSTICE DEPARTMENT INVESTIGATION

WASHINGTON, DC — Chairman Henry A. Waxman and Ranking Member Tom Davis sent the following letter to Attorney General Mukasey today. The text of the letter follows:

Dear Mr. Attorney General:

We are writing to ask the Justice Department to investigate whether former professional baseball player Roger Clemens committed perjury and made knowingly false statements during the Oversight and Government Reform Committee's investigation of the use of steroids and performance-enhancing drugs in professional baseball.

We believe that his testimony in a sworn deposition on February 5, 2008, and at a hearing on February 13, 2008, that he never used anabolic steroids or human growth hormone, warrants further investigation. That testimony is directly contradicted by the sworn testimony of Brian McNamee, who testified that he personally injected Mr. Clemens with anabolic steroids and human growth hormone. Mr. Clemens's testimony is also contradicted by the sworn deposition testimony and affidavit submitted to the Committee by Andrew Pettitte, a former teammate of Mr. Clemens, whose testimony and affidavit reported that Mr. Clemens had admitted to him in 1999 or 2000 that he had taken human growth hormone.

Mr. Pettitte's testimony and affidavit further reported on two past conversations with Mr. McNamee that support Mr. Pettitte's recollection of the 1999 or 2000 conversation with Mr. Clemens. Mr. Pettitte's affidavit and testimony state that in a conversation with Mr. McNamee shortly after Mr. Clemens alleged admission to Mr. Pettitte, Mr. McNamee became angry when Mr. Pettitte told him that he knew that Roger Clemens had used human growth hormone because that was supposed to be confidential. According to Mr. Pettitte's deposition, he also had another conversation with Mr. McNamee in 2003 or 2004 in which Mr. McNamee told him that he had obtained steroids for Mr. Clemens. Independently, in his deposition, Mr. McNamee recalled two conversations with Mr. Pettitte, one that could have occurred in 2000 and one in 2004, about Mr.

Clemens's HGH and steroid use that were similar in substance to the two conversations described by Mr. Pettitte.

Other evidence in the record before the Committee may be relevant to an investigation into the truthfulness of Mr. Clemens's assertions. That evidence relates to whether Brian McNamee injected Mr. Clemens with lidocaine in 1998; whether Mr. Clemens received pain injections from trainers on all four of his major league teams; whether he regularly received vitamin B-12 injections from team doctors and trainers; whether he ever talked with Mr. McNamee about human growth hormone; whether he was at Jose Canseco's home in Florida during the period June 8 to June 10, 1998; and whether he ever received notice that Senator George Mitchell asked to meet with him in connection with Senator Mitchell's independent investigation of the illegal use of steroids and other performance-enhancing drugs in Major League Baseball. We also understand that federal law enforcement officials may have access to additional evidence on these matters.

Under 18 U.S.C. § 1621, a witness commits perjury if the witness "willfully" asserts "any material matter which he does not believe to be true" after "having taken an oath" to "testify ... truly." Under 18 U.S.C. § 1001, a witness commits a crime if the witness "knowingly and willfully" makes "any materially false, fictitious, or fraudulent statement or representation" with respect to "any investigation or review, conducted pursuant to the authority of any committee ... of the Congress."

Congress cannot perform its oversight function if witnesses who appear before its committees do not provide truthful testimony. Perjury and false statements before Congress are crimes that undermine the integrity of congressional inquiries. For these reasons, we take evidence that a witness may have intentionally misled the Committee extremely seriously.

We are not in a position to reach a definitive judgment as to whether Mr. Clemens lied to the Committee. Our only conclusion is that significant questions have been raised about Mr. Clemens's truthfulness and that further investigation by the Department of Justice is warranted. We ask that you initiate such an investigation. The record of the Committee's proceedings will be made available to the Department of Justice to assist in the investigation.

Thank you for your assistance.

Sincerely,

Henry A. Waxman
Chairman

Tom Davis
Ranking Minority Member