

Congress of the United States
Washington, DC 20510

June 17, 2024

The Honorable Robert Conrad
Director
Administrative Office of United States Courts
One Columbus Circle NE
Washington, DC 20544

Dear Director Conrad:

We write to request an update on financial disclosure omissions by Justice Thomas that were referred to the Judicial Conference’s Committee on Financial Disclosure. In his disclosure for 2023, Justice Thomas retroactively reported gifts of food and lodging that Harlan and Kathy Crow provided in 2019, some related to a trip to Indonesia. These omissions were publicly reported more than a year ago. The Senate Judiciary Committee has recently reported additional omissions disclosed by Harlan Crow.

We brought Justice Thomas’s financial disclosure omissions to the Judicial Conference’s attention in April 2023, and asked that the Judicial Conference refer the matter to the Attorney General to determine whether the omissions were willful. We have continued to update the Conference as evidence of additional undisclosed gifts emerged. We attach our current list of publicly reported but not yet disclosed gifts and income as an appendix to this letter.

The new information provided to the Senate Judiciary Committee includes gifts by Harlan Crow of undisclosed private jet and yacht travel from 2017, 2019 and 2021 (including on dates inconsistent with Justice Thomas’s recent amended disclosure).¹ The plain text of the Ethics in Government Act has long been understood to require gifts of travel to be disclosed because transportation is not listed in the “personal hospitality” definition and therefore can never be considered “statutory” personal hospitality.² The Conference’s March 23, 2023 letter to Senator Whitehouse expressly referred to the Conference’s recent personal hospitality guidance as a “clarification,” and we urge you to clarify that is indeed what you meant, as Justice Thomas has declared it a ‘new rule,’ allowing him to avoid amending past misfilings.

The Judicial Conference’s September 2023 meeting report suggested that the Committee on Financial Disclosure had been looking into these matters. Your office’s letter dated February 12, 2024 stated that “[a]ctions and recommendations taken by [the Committee on Financial Disclosure] will be reported to the Conference,” and that the report published after each Judicial Conference session “details actions taken.” We look forward to the report of the Conference’s

¹ Harlan Crow Travel Information, Senate Judiciary Committee, <https://www.judiciary.senate.gov/imo/media/doc/2024-06-13%20REDACTED%20Crow%20Materials%20for%20distribution.pdf>.

² 5 U.S.C. § 13104(2)(A) (“[E]xcept that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported.”).

March 2024 meeting, to know whether the Committee or Conference has acted to address these issues.

Congress created the Judicial Conference by statute, funds the Judicial Conference through appropriations, and enacted the ethics laws the Judicial Conference administers, and so has an obvious interest in overseeing these matters. Please advise us when the Conference might publish its report on its March 2024 proceedings, and please provide as much information as possible about the Conference's and the Committee on Financial Disclosure's activities related to Justice Thomas's disclosures, including whatever you can provide related to the "willfulness" and "clarification" determinations.

Specifically, your answers to the following questions would help inform our understanding of these matters, and the potential need for a legislative response.

1. Has the Committee on Financial Disclosure concluded its review of the various financial disclosure omissions by Justice Thomas that were referred to the Committee? If so, what were the findings and results of that review?
2. Has the Judicial Conference taken any actions with respect to the Committee on Financial Disclosure's review of financial disclosure omissions by Justice Thomas? If so, what were they?
3. Did the Committee on Financial Disclosure request that Justice Thomas amend his 2019 financial disclosure form to include the newly reported gifts from Harlan and Kathy Crow? Was the Committee made aware of the gifts just disclosed by Mr. Crow to the Senate Judiciary Committee? Can you explain why those gifts were not disclosed in Justice Thomas's recent amended filing?
4. Please describe the Committee on Financial Disclosure's fact-finding process with respect to undisclosed gifts potentially covered by the Judicial Conference's disclosure guidance.
5. Has the Committee on Financial Disclosure made any determination on the "clarification" question, or otherwise requested that Justice Thomas fully update past financial disclosures to include omitted gifts and income?
6. What is the status of the determination regarding reasonable cause to believe any of Justice Thomas's various omissions were willful?
7. Was Justice Thomas advised that amending his disclosures for 2019 would end the inquiry into whether reasonable cause exists to believe any omissions were willful, and was he advised in 2012 that amending his disclosures then would end that inquiry into his disclosure omissions? Is the Conference allowing retroactive amendments to obviate making that "reasonable cause" determination?

Thank you for your attention to these matters.

Sincerely,



SHELDON WHITEHOUSE
Chairman, Senate Judiciary Subcommittee
on Federal Courts, Oversight, Agency Action,
and Federal Rights



HENRY C. "HANK" JOHNSON, JR.
Ranking Member, House Judiciary
Subcommittee on Courts, Intellectual
Property, and the Internet

APPENDIX

Likely Undisclosed Gifts and Income from Harlan Crow and Affiliated Companies

YEAR	DESCRIPTION
2003	Yacht trip to Russia and the Baltics
2003	Helicopter ride to Yusupov Palace, St. Petersburg, Russia
2006	Tuition for grandnephew at Randolph-Macon Academy
2007	Tuition for grandnephew at Randolph-Macon Academy
2007	Yacht cruise around Greek islands
2008	Tuition for grandnephew at Hidden Lake Academy
2008	Roundtrip flight on private plane from Washington, D.C. to Savannah, GA
2008	Yacht trip between Savannah, GA and Charleston, SC
2009	Tuition for grandnephew at Hidden Lake Academy
2010	Roundtrip flight on private plane from Washington, D.C. to Savannah, GA
2016	Roundtrip private plane flight from Washington, D.C. to New Haven, CT
2017	Roundtrip flight on private plane from Washington, D.C. to Keese Mill, NY
2017	Meals and lodging at Camp Topridge
2017	Flight on private plane from St. Louis, MO to Kalispell, MT, and return flight to Dallas, TX
2018	Roundtrip flight on private plane from Washington, D.C. to Dallas, TX
2018	Roundtrip flight on private plane from Washington, D.C. to Dallas, TX
2018	Roundtrip private plane flight from Washington, D.C. to Keese Mill, NY
2018	Meals and lodging at Camp Topridge
2019	Roundtrip flight on private plane from Washington, D.C. to Savannah, GA
2019	Roundtrip flight on private plane to Indonesia and related yacht travel
2019	Roundtrip flight on private plane to Santa Rosa, CA
2021	Roundtrip flight on private plane from Washington, D.C. to NY
2021	Roundtrip flight on private plane from Washington, D.C. to San Jose, CA

Likely Undisclosed Gifts and Income from Other Donors

YEAR	DESCRIPTION	DONOR
2003	Flight on private plane from South Florida to Tampa, FL	Wayne Huizenga or an affiliated company
2004	Flights from Washington, D.C. to Ft. Lauderdale, FL	Miami Dolphins, Ltd. (Wayne Huizenga)
2004	Flights from Washington, D.C. to Ft. Lauderdale, FL	Miami Dolphins, Ltd. (Wayne Huizenga)
2008	Balance of loan for Prevost Marathon Le Mirage XL RV	Anthony Welters
2010	Roundtrip flight on plane from Washington, D.C. to Port of Spain, Trinidad	Anthony Welters
2015	Meals and lodging at ranch outside Jackson Hole, WY	David Sokol or an affiliated company
2016	Flight on private plane from Jackson Hole, WY to Washington, D.C.	Paul Anthony Novelty
2018	Flight on private plane from Ft. Lauderdale, FL to Washington, D.C.	Paul Anthony Novelty
2019	Private plane flight from Washington, D.C. to NE to WY to Washington, D.C.	David Sokol or an affiliated company
2019	Meals and lodging at ranch outside Jackson Hole, WY	David Sokol or affiliated company
2019	Tickets to University of Nebraska football game	David Sokol
2019	Tickets to University of Nebraska volleyball game	David Sokol

Sources

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