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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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MEMORANDUM

February 27, 2008

To: Democratic Members of the Committee on Oversight and Government Reform

Fr: Chairman Henry A. Waxman

Re: Referral of Roger Clemens

Earlier today, Ranking Member Tom Davis and I sent a letter to Attorney General Michael Mukasey asking that he investigate whether Roger Clemens committed perjury and made knowingly false statement during the Committee's investigation of the use of steroids and performance-enhancing drugs in professional baseball. This referral prompted several members to ask for more information about the basis for the referral.

Ranking Member Davis and I did not prepare a joint document explaining the basis for the referral. My thinking on this issue, however, was influenced by a memorandum that my staff prepared for me analyzing Mr. Clemens's testimony.

As additional background on today's action, I am enclosing with this memorandum a copy of this staff analysis. I hope it will be of assistance to you as you evaluate this issue.

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MEMORANDUM

February 26, 2008

To: Chairman Henry A. Waxman
Fr: Majority Staff
Re: Testimony of Roger Clemens

You asked for an analysis of the credibility of the testimony of Roger Clemens in his February 5, 2008, deposition and his February 13, 2008, appearance before the House Oversight and Government Reform Committee. In response to your request, this memorandum summarizes seven sets of assertions made by Mr. Clemens in his testimony that appear to be contradicted by other evidence before the Committee or implausible.

I. MR. CLEMENS'S TESTIMONY THAT HE HAS "NEVER TAKEN STEROIDS OR HGH"

In his deposition and at the Committee's hearing, Mr. Clemens repeatedly denied that he has taken steroids or human growth hormone. During his deposition on February 5, 2008, Mr. Clemens testified that "I have not used steroids or growth hormone"; "I am just making it as possibly as clear as I can. I haven't done steroids or growth hormone"; and "I never used steroids. Never performance-enhancing steroids" or "human growth hormone."¹ Mr. Clemens also testified during his deposition that he had never "possessed" or "seen" anabolic steroids or human growth hormone.² During his testimony at the Committee's hearing on February 13, 2008, Mr. Clemens made similar statements, including the following: "Let me be clear. I have never taken steroids or HGH"; "Brian McNamee has never given me growth hormone or

¹ House Committee on Oversight and Government Reform, *Deposition of William Roger Clemens*, 9, 10, 24-25 (Feb. 5, 2008).

² *Id.* at 101-03.

steroids”; and “this man [Mr. McNamee] has never given me HGH or growth hormone or steroids of any kind.”³

The Committee received three pieces of evidence that call Mr. Clemens’s testimony into question: (1) the testimony of Mr. Clemens’s former strength and conditioning coach, Brian McNamee; (2) the testimony and affidavit of Mr. Clemens’s former teammate, Andrew Pettitte, and the affidavit of Mr. Pettitte’s wife, Laura Pettitte; and (3) Mr. Clemens’s medical records.

A. The Testimony of Brian McNamee

In his deposition and in the Committee’s hearing, Mr. McNamee testified that he personally injected Mr. Clemens with steroids and human growth hormone on several occasions in 1998, 2000, and 2001. During his deposition on February 7, 2008, Mr. McNamee testified that he injected Mr. Clemens with the steroid Winstrol “maybe 16 to 20” times in 1998, with testosterone “more than six and less than 10” times and HGH “eight to 12 or eight to 20” times in 2000, and with testosterone and nandrolone “8 to 14” times in 2001.⁴

Additionally, Mr. McNamee testified at the Committee’s hearing on February 13 that “[d]uring the time that I worked with Roger Clemens, I injected him on numerous occasions with steroids and human growth hormone.”⁵ Mr. McNamee also made this statement at the hearing:

[M]ake no mistake, when I told Senator Mitchell that I injected Roger Clemens with performance-enhancing drugs, I told the truth. I told the truth about steroids and human growth hormone. I injected those drugs into the body of Roger Clemens at his direction.⁶

Mr. McNamee has a history of misleading investigators. He admitted to the Committee that he lied to the police in a criminal investigation in Florida in 2001.⁷ He also admitted that he withheld evidence from federal prosecutors investigating steroid use by professional baseball players.⁸ According to Mr. McNamee, he took those actions to protect others.⁹

³ House Committee on Oversight and Government Reform, *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2*, 110th Cong., 25, 104, 139 (Feb. 13, 2008).

⁴ House Committee on Oversight and Government Reform, *Deposition of Brian McNamee*, 14, 21, 22, 51-52 (Feb. 7, 2008).

⁵ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2*, 28.

⁶ *Id.* at 30.

⁷ *Id.* at 32.

⁸ *Id.* at 59-60.

⁹ *Id.* at 32, 60.

In this case, however, Mr. McNamee's testimony is bolstered by the deposition testimony of Andrew Pettitte and the transcribed interview of Chuck Knoblauch, another former teammate of Mr. Clemens. Mr. McNamee testified that he injected both Mr. Pettitte and Mr. Knoblauch with human growth hormone.¹⁰ Both Mr. Pettitte and Mr. Knoblauch confirmed Mr. McNamee's testimony that he injected them with human growth hormone.¹¹ There is little reason to believe that Mr. McNamee would provide truthful testimony about Mr. Pettitte and Mr. Knoblauch, but false testimony about Mr. Clemens.

There is also other evidence that lends corroboration to Mr. McNamee's testimony. In his deposition with Committee staff, Mr. McNamee testified about a conversation he had with one of Mr. Clemens's agents, Jim Murray, in 2003 or 2004. This conversation occurred after Major League Baseball had conducted what were supposed to be anonymous drug tests of baseball players, including Mr. Clemens. Mr. McNamee testified that after learning of news reports that the test results could become public, he met with Mr. Murray because he "feared that he [Mr. Clemens] might test positive."¹² Mr. McNamee described calling Mr. Murray to set up this meeting, described the Starbucks in Manhattan where it occurred, and described how Mr. Murray "took note after note and asked question after question about Roger's steroid use."¹³

On January 31, 2008, Committee staff conducted an interview of Mr. Murray, in which Mr. Murray confirmed many details of this meeting. Although Mr. Murray could not remember certain details, he stated that he remembered Mr. McNamee calling to set up the meeting, remembered that it occurred in a coffee shop in New York, and remembered Mr. McNamee "saying something about drug test results, having knowledge of the drug test results."¹⁴

In addition, the Committee obtained a copy of an e-mail sent by Mr. McNamee to Mr. Murray on January 3, 2007, in which Mr. McNamee described a conversation he had with "Jeff Novitki [sic], the FBI/IRS agent," who is investigating steroid use by athletes. In this e-mail, Mr. McNamee asked Mr. Murray to assure Mr. Clemens and Mr. Pettitte that "I WAS NOT OFFICIALLY TALKED TO AND WILL NEVER BE, I WILL NEVER BETRAY MY CLIENTS AND I WANT THEM NOT TO WORRY ABOUT BEING AROUND ME."¹⁵

B. The Testimony and Affidavit of Andy Pettitte and Affidavit of Laura Pettitte

In his deposition with the Committee, Mr. Pettitte testified that Mr. McNamee injected

¹⁰ *Deposition of Brian McNamee*, 31, 89, 217.

¹¹ House Committee on Oversight and Government Reform, *Deposition of Andrew Pettitte*, 11-20, 97 (Feb. 4, 2008); House Committee on Oversight and Government Reform, *Interview of Edward Charles Knoblauch*, 6-12 (Feb. 1, 2008).

¹² *Deposition of Brian McNamee*, 147.

¹³ *Id.* at 149.

¹⁴ House Committee on Oversight and Government Reform, *Interview of James Joseph Murray IV*, 26 (Jan. 31, 2008).

¹⁵ E-mail from Brian McNamee to Jim Murray (Jan. 3, 2007) (emphasis in original).

him with HGH in 2002 and that Mr. Pettitte injected himself with HGH in 2004. Mr. Pettitte also testified in his deposition that he remembered a conversation in 1999 or 2000 in which Mr. Clemens admitted using human growth hormone.¹⁶

Mr. Pettitte was asked during his deposition whether he had “any doubt” about his recollection:

Committee Staff: You recollect a conversation with Mr. Clemens. ... Your recollection is that he said he was taking human growth hormone?
Mr. Pettitte: Yes.
Committee Staff: And you have no doubt about that recollection?
Mr. Pettitte: I mean, no. ... [H]e told me that.¹⁷

Mr. Pettitte also provided the Committee with a sworn affidavit. This affidavit gave Mr. Pettitte an opportunity to express his recollection clearly and without the pressures of a deposition. He stated in the affidavit:

In 1999 or 2000, I had a conversation with Roger Clemens in which Roger told me that he had taken human growth hormone (“HGH”). This conversation occurred at his gym in Memorial, Texas. He did not tell me where he got the HGH or from whom, but he did tell me that it helped the body recover.¹⁸

Mr. Pettitte remembered a second conversation with Mr. Clemens about human growth hormone that took place in 2005. In his affidavit, he wrote:

In 2005, around the time of the congressional hearings into the use of performance enhancing drugs in baseball, I had a conversation with Roger Clemens in Kissimmee, Florida. I asked him what he would say if asked by reporters if he ever used performance enhancing drugs. When he asked what I meant, I reminded him that he had told me that he had used HGH.

Roger responded by telling me that I must have misunderstood him; he claimed that it was his wife, Debbie, who used HGH.

I said, “Oh, okay,” or words to that effect, not because I agreed, but because I wasn’t going to argue with him.¹⁹

According to Mr. Pettitte, his first conversation with Mr. Clemens occurred in 1999 or 2000. Both Mr. Clemens and Mr. McNamee stated to the Committee that Mr. Clemens’s wife

¹⁶ *Deposition of Andrew Pettitte*, 20-25, 98.

¹⁷ *Id.* at 98.

¹⁸ *Affidavit of Andy Pettitte* (Feb. 8, 2008).

¹⁹ *Id.*

did use HGH, but did not do so until 2002 or 2003.²⁰ This timeline would appear to rule out the possibility that Mr. Clemens could have been referring to his wife's use of HGH in the first conversation with Mr. Pettitte. Furthermore, Mr. Pettitte testified that prior to the 2005 conversation, Mr. Clemens never told him that his wife had used HGH.²¹

During his deposition, Mr. Pettitte told the Committee that he told his wife, Laura Pettitte, about his conversations with Mr. Clemens. His wife also submitted an affidavit to the Committee. This affidavit confirmed that Mr. Pettitte told Mrs. Pettitte about both his conversations with Mr. Clemens. According to Mrs. Pettitte's affidavit:

In 1999 or 2000, Andy told me that he had had a conversation with Roger Clemens in which Roger admitted to him using human growth hormone ("HGH").

A few years later, I believe in 2005, Andy again told me of a conversation with Roger Clemens about HGH. Andy told me that he had been thinking that if a reporter asked him, he would tell the reporter of his own use of HGH in 2002. He said that he told Roger Clemens this and asked Roger what he would say if asked.

Andy told me that in this 2005 conversation, Roger denied using HGH and told Andy that Andy was mistaken about their earlier conversation. According to Andy, Roger said that it was his wife, Debbie, who used HGH.²²

Mr. Pettitte also recalled two conversations with Mr. McNamee in which Mr. McNamee confirmed that Mr. Clemens used HGH and told Mr. Pettitte that Mr. Clemens used steroids. According to Mr. Pettitte's affidavit, shortly after the 1999 or 2000 conversation with Mr. Clemens about HGH:

I spoke with Brian McNamee. Only he and I were parties to the conversation. I asked Brian about HGH and told him that Roger said he had used it. Brian McNamee became angry. He told me that Roger should not have told me about his use of HGH because it was supposed to be confidential.²³

The other conversation took place in Mr. Pettitte's home in 2003 or 2004. In this conversation, Mr. McNamee told Mr. Pettitte that "he had gotten steroids for Roger."²⁴ Mr. Pettitte was asked whether he had "any reason to think" that Mr. McNamee "wasn't being straight with you about that."²⁵ He replied: "No. ... I had no reason to think that."²⁶

²⁰ *Deposition of William Roger Clemens*, 175-77; *Deposition of Brian McNamee*, 117-20.

²¹ *Deposition of Andrew Pettitte*, 27.

²² *Affidavit of Laura Pettitte* (Feb. 8, 2008).

²³ *Affidavit of Andy Pettitte*.

²⁴ *Deposition of Andrew Pettitte*, 31.

²⁵ *Id.* at 33.

²⁶ *Id.*

In his deposition, Mr. McNamee independently confirmed two conversations with Mr. Pettitte that appear to be the same conversations described by Mr. Pettitte. Mr. McNamee testified that he recalled a conversation in Mr. Clemens's gym in which Mr. Pettitte told Mr. McNamee that Mr. Clemens had admitted using human growth hormone.²⁷ Mr. McNamee was unsure of the exact date, but said this conversation could have occurred in 2000.²⁸

Mr. McNamee also described a second conversation with Mr. Pettitte that occurred in 2004 during a workout with Mr. Pettitte. According to Mr. McNamee, he believed that Mr. Pettitte was aware of steroid use by Mr. Clemens. Mr. McNamee told the Committee: "I had a conversation with Andy in 2004. ... [Mr. Pettitte] knew that Roger was taking steroids and growth hormones."²⁹

C. The Medical Evidence

On December 12, 2007, investigators working for Mr. Clemens secretly taped an interview of Mr. McNamee. During this interview, Mr. McNamee asserted that "Roger got an abscess through shooting steroids."³⁰ In his deposition, Mr. McNamee provided a similar account. He told the Committee that after he injected Mr. Clemens with the steroid Winstrol in 1998, Mr. Clemens developed an abscess on his buttocks from the steroid injections.³¹ Mr. McNamee again confirmed this account in his testimony before the Committee.³²

The Committee asked for medical records to confirm whether Mr. Clemens had developed such an injury in 1998. A July 28, 1998, medical record from the Blue Jays states that Mr. Clemens "started complaining of right buttocks soreness" and that the "diagnosis was a small collection of blood below the surface of the skin."³³ The July 28 record also stated: "Roger received a B-12 injection approximately 7-10 days ago into his right buttocks from Dr. Taylor at the Skydome."³⁴ A July 30 record described Mr. Clemens's injury as a "palpable mass."³⁵ A second medical record from August 4 indicates that Mr. Clemens also had a palpable mass on his left buttocks.³⁶

²⁷ *Deposition of Brian McNamee*, 29-31.

²⁸ *Id.*

²⁹ *Id.* at 224.

³⁰ Rusty Hardin and Associates, *Interview of Brian McNamee*, 39 (Dec. 12, 2007).

³¹ *Deposition of Brian McNamee*, 103-06.

³² *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball*, Day 2, 76-77, 86.

³³ Toronto Blue Jays, *Injuries Report, Clemens, William* (July 28, 1998).

³⁴ *Id.*

³⁵ Toronto Blue Jays, *Physician Visits Report, Clemens, William* (July 30, 1998).

³⁶ Toronto Blue Jays, *Treatments Report, Clemens, William* (Aug. 4, 1998).

In a transcribed interview, Dr. Ron Taylor, the Toronto Blue Jays team doctor, remembered giving Mr. Clemens a vitamin B-12 injection, but he did not remember when he administered it.³⁷ There is no direct documentation of this vitamin B-12 injection in the medication and medical visit records kept by the physicians who provide injections.

In his deposition, Mr. Clemens said “I don’t know what caused” the palpable mass.³⁸ He said that it was probably due to the vitamin B-12 injection or physical damage to the muscle, caused when he “strained my glute.”³⁹

The medical records provided to the Committee indicated that Mr. Clemens was sent for an MRI on July 30, 1998.⁴⁰ The Committee made repeated requests starting on February 5, 2008, for the MRI and its results. Mr. Clemens’s lawyers did not produce the MRI results to the Committee until February 11, 2008, just two days before the hearing.

The results of the MRI state that the injury on Mr. Clemens’s buttocks was “likely related to the patient’s prior attempted intramuscular injections.”⁴¹

The Committee staff stripped identifying information from the MRI results and provided the results to Dr. Mark Murphey, the Chief of Musculoskeletal Radiology at the Armed Forces Institute of Pathology, who is one of the leading experts on MRI in the nation. Dr. Murphey provided the Committee with a report of his observations. In his report, he stated that he could not provide a definitive diagnosis without seeing the actual MRI films, which were never provided to the Committee. He also stated that patient reactions can vary.⁴²

In his report, Dr. Murphey agreed with the diagnosis that the palpable mass was caused by a reaction to injections rather than a muscle strain. According to Dr. Murphey, the MRI demonstrated that the muscles of the buttocks showed no muscle strain or blunt trauma.⁴³

Dr. Murphey was asked whether the injury was more likely caused by a vitamin B-12 injection, as Mr. Clemens claims, or a steroid injection, as Mr. McNamee claims. Dr. Murphey informed the Committee: “[I]t is my opinion that the history and MR imaging descriptions are

³⁷ House Committee on Oversight and Government Reform, *Interview of Dr. Ron Taylor*, 15, 62 (Feb. 4, 2008).

³⁸ *Deposition of William Roger Clemens*, 33-34.

³⁹ *Id.* at 34.

⁴⁰ *Physician Visits Report, Clemens, William*.

⁴¹ Tri-Hospital Magnetic Resonance Centre, *MRI Examination Report: Roger Clemens* (July 31, 1998).

⁴² *Statement of Mark D. Murphey, M.D.* (Feb. 12, 2008).

⁴³ *Id.*

more compatible with the Winstrol injection as the inflammatory component is prominent by report.”⁴⁴

The Committee asked Dr. Taylor, and the Blue Jays team trainers, Tommy Craig and Scott Shannon, whether they thought a vitamin B-12 injection could have caused the mass on Mr. Clemens’s buttocks. Dr. Taylor told the Committee that this was unlikely. He stated that he had given close to 1,000 vitamin B-12 injections in his medical career and that he had never seen a complication like Mr. Clemens’s.⁴⁵ Mr. Craig told the Committee that he had never seen a side effect like Mr. Clemens’s from a vitamin B-12 injection in almost 30 years as a trainer.⁴⁶ The assistant trainer, Scott Shannon, in a career of almost 20 years, also said he had never seen a vitamin B-12 injection cause this kind of reaction.⁴⁷

II. MR. CLEMENS’S TESTIMONY THAT MR. MCNAMEE INJECTED HIM WITH LIDOCAINE

In his deposition with Committee staff, Mr. Clemens stated that Mr. McNamee injected him with lidocaine, an anesthetic, in an “open area” in the team’s weight training room.⁴⁸ According to Mr. Clemens: Mr. McNamee “gave me lidocaine once,” and “it gave me some comfort for about 2 days. It was a numbing effect, and it was in my ... lower back.”⁴⁹ During the Committee hearing, Mr. Clemens confirmed this account, stating that Mr. McNamee “gave me one shot of lidocaine in my lower back, and that happened in Toronto.”⁵⁰ According to Mr. Clemens, this injection occurred “after [the] All Star break,” which was in July 1998.⁵¹

Mr. McNamee denied that these injections occurred, stating that “I never injected Roger Clemens or anyone else with lidocaine.”⁵²

Committee staff consulted medical experts, including Dr. Frederick W. Burgess, the former president of the American Academy of Pain Medicine, about the effects and dangers of lidocaine injections. Dr. Burgess provided a letter to the Committee stating that the numbing

⁴⁴ *Id.*

⁴⁵ *Interview of Dr. Ron Taylor*, 19-20.

⁴⁶ House Committee on Oversight and Government Reform, *Interview of Melvin Thomas Craig*, 25 (Feb. 4, 2008).

⁴⁷ House Committee on Oversight and Government Reform, *Interview of Scott Shannon*, 24 (Jan. 31, 2008).

⁴⁸ *Deposition of William Roger Clemens*, 40-41, 48.

⁴⁹ *Id.* at 44.

⁵⁰ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball*, Day 2, 102.

⁵¹ *Deposition of William Roger Clemens*, 42-44.

⁵² *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball*, Day 2, 30.

“anesthetic” effect of lidocaine would last for a maximum of two hours, rather than two days as Mr. Clemens described.⁵³ Dr. Burgess also informed the Committee that injecting lidocaine into the lower back is a difficult procedure with significant medical risks. Improperly administered, a lidocaine injection in the lower back can cause nerve damage and paralysis and, if injected into a blood vessel, can trigger a heart attack.⁵⁴

The Committee interviewed the Blue Jays team doctor and the team’s head and assistant trainers to ascertain their views about Mr. Clemens’s account of the lidocaine injection. They told the Committee that the account provided by Mr. Clemens was implausible.

Dr. Ronald Taylor, the team doctor, was asked in his interview: “Does it make sense to you that an athletic trainer like Mr. McNamee would have been performing lidocaine injections for lower back pain?” He responded: “No, definitely not, it does not make sense.”⁵⁵ He further stated: “It doesn’t make sense to me because it borders on — well, it’s malpractice.”⁵⁶ According to Dr. Taylor, because “[y]ou’re dealing with nerves there in the spinal cord,” it would have been “very dangerous” for Mr. McNamee to perform this procedure.⁵⁷ Because of the risks and complications involved with injecting lidocaine in the lower back, Dr. Taylor stated that he would not perform the procedure himself, but would refer such a case to an orthopedic specialist.⁵⁸ He also said that no one on the training staff was allowed to give players any injections.⁵⁹

Tommy Craig, the Blue Jays head medical trainer, told the Committee he was “baffled” when he heard the claim that Mr. McNamee gave Mr. Clemens a lidocaine injection because “there is an array of things that could go wrong” and “[i]t doesn’t make any sense.”⁶⁰ Scott Shannon, the Blue Jays assistant trainer, told the Committee that lidocaine “was something that the doctors always took care of” and “it was never anything that a trainer would go near.”⁶¹

Committee staff reviewed Mr. Clemens’s medical records from the Blue Jays, and there was no evidence in the records that he ever received a lidocaine injection. Dr. Taylor told the Committee that he was not aware of Mr. Clemens receiving any lidocaine injections, and Mr.

⁵³ Letter from Frederick W. Burgess, M.D., Ph.D., to House Committee on Oversight and Government Reform (Feb. 8, 2008).

⁵⁴ *Id.*

⁵⁵ *Interview of Dr. Ron Taylor*, 38.

⁵⁶ *Id.* at 41.

⁵⁷ *Id.* at 39.

⁵⁸ *Id.* at 35-38.

⁵⁹ *Id.* at 40.

⁶⁰ *Interview of Melvin Thomas Craig*, 28.

⁶¹ *Interview of Scott Shannon*, 22.

Craig and Mr. Shannon agreed.⁶² Mr. Clemens did receive a lidocaine injection in his lower back on October 26, 2005, when he was playing for the Houston Astros. The circumstances of that injection contrast markedly with the injection that Mr. Clemens says Mr. McNamee gave him in the Blue Jays weight room in July 1998. When Mr. Clemens received his October 2005 injection, he was under anesthesia, and the injection was administered by a specialist using X-ray fluoroscopy.⁶³

At the hearing, Mr. Clemens testified that he allowed Mr. McNamee to inject him because he thought Mr. McNamee had a Ph.D. and other appropriate qualifications. According to Mr. Clemens, “he told me that he was a Ph.D.,” and “I had no reasons not to trust him, just like other trainers and doctors and physicians.”⁶⁴ Mr. Clemens’s explanation seems implausible. Mr. McNamee was the bullpen catcher at the New York Yankees before he came to the Blue Jays. He was the strength and conditioning coach for the Blue Jays, not a medical trainer. His “Ph.D.” was a degree in behavioral sciences from a diploma mill.⁶⁵ Moreover, even if the Ph.D. degree was in a relevant field, which it is not, Mr. McNamee did not receive the degree until “the end of ‘98,” after Mr. Clemens received the lidocaine injection.⁶⁶

III. MR. CLEMENS’S TESTIMONY THAT TEAM TRAINERS GAVE HIM PAIN INJECTIONS

In his deposition with Committee staff, Mr. Clemens stated that that “all trainers have given me shots.”⁶⁷ He specifically indicated that trainers from all four of his Major League teams — the Red Sox, Blue Jays, Yankees, and Astros — provided him with pain injections:

| | |
|------------------|--|
| Committee Staff: | You had said that you thought other trainers could have given you pain shots. Is there any specific examples you can remember with a trainer as opposed to a medical doctor? |
| Mr. Clemens: | I would say just about every club, doctors and trainers from every club I have played with over the 24 years. I am certain that doctors and trainers have — |
| Committee Staff: | Let me differentiate between doctors and trainers. If we go to the Red Sox, did trainers give you any pain shots? Are you certain of that? |
| Mr. Clemens: | I would say yes. |
| Committee Staff: | And the Blue Jays, are you certain of that? |

⁶² *Interview of Dr. Ron Taylor*, 35; *Interview of Melvin Thomas Craig*, 27-28; *Interview of Scott Shannon*, 21-22.

⁶³ Doctor, McCann and Arthur, LLP, *RT/Documentation Med Images* (Oct. 26, 2005).

⁶⁴ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball*, Day 2, 149-150.

⁶⁵ *Id.* at 134-35.

⁶⁶ *Id.* at 133.

⁶⁷ *Deposition of William Roger Clemens*, 164.

Mr. Clemens: Yes.
Committee Staff: And the Yankees' trainers giving you pain shots, are you certain of that?
Mr. Clemens: I can remember, yes.
Committee Staff: And Astros?
Mr. Clemens: Sure.⁶⁸

These statements by Mr. Clemens are contradicted by numerous team trainers and medical officials. The Committee staff conducted interviews of both medical trainers with the Toronto Blue Jays, Tommy Craig and Scott Shannon. Each stated that they never gave Mr. Clemens a single injection, and that it was team policy that only doctors could give injections.⁶⁹ Mr. Craig said that this was something that every player should have known, because it "would be just common sense."⁷⁰

Both of Mr. Clemens trainers with the Astros, Dave LaBossiere and Rex Jones, also denied ever giving Mr. Clemens an injection.⁷¹ Mr. LaBossiere stated that he gave an injection to only one person in the last five years and "[i]t's not Mr. Clemens."⁷²

Committee staff also interviewed Dr. Arthur Pappas, the Medical Director of the Red Sox during Mr. Clemens's time with the team. He stated that it was against team policy for trainers to provide injections, and that "[t]rainers did nothing with needles."⁷³

The one exception among Mr. Clemens's four teams was the Yankees, who did allow trainers to provide injections. In a transcribed interview with the Committee, Mr. Eugene Monahan, the team's head trainer during Mr. Clemens's tenure with the team, indicated that he had provided Mr. Clemens with one injection. This injection contained "a light dose of Toradol," a pain medication.⁷⁴

⁶⁸ *Id.* at 127-28.

⁶⁹ *Interview of Melvin Thomas Craig*, 15; *Interview of Scott Shannon*, 22.

⁷⁰ *Interview of Melvin Thomas Craig*, 32.

⁷¹ House Committee on Oversight and Government Reform, *Interview of Rex Allen Jones*, Addendum (Feb. 8, 2008).

⁷² House Committee on Oversight and Government Reform, *Interview of David Leo LaBossiere*, 15 (Feb. 8, 2008).

⁷³ House Committee on Oversight and Government Reform, *Interview of Dr. Arthur Pappas*, 11 (Feb. 12, 2008).

⁷⁴ House Committee on Oversight and Government Reform, *Interview of Eugene J. Monahan*, 10-11 (Feb. 12, 2008).

IV. MR. CLEMENS'S TESTIMONY THAT HE RECEIVED MANY VITAMIN B-12 INJECTIONS

Mr. Clemens told the Committee during his deposition that he had received four to six vitamin B-12 injections from Mr. McNamee between 1998 and 2001.⁷⁵ He also said that it was common for him to receive these injections from both team doctors and trainers. In his deposition, he told the Committee that over the course of his career he had received "at least 25, maybe 50" vitamin B-12 injections and that "[s]ome years I could have had two or three, and some years I could have had five."⁷⁶ Mr. Clemens stated that "it is so common to take B-12" and "you get it in your shirt or you pull your jeans down, and they give you a B-12 shot, and you are out the door."⁷⁷ Mr. Clemens stated that he received vitamin B-12 injections with the Red Sox, Blue Jays, and Yankees and that "I'm sure I could have" received vitamin B-12 injections with the Astros.⁷⁸ When asked if he had received these injections from team doctors, nurses, or team trainers, he replied "All of the above."⁷⁹

In injectable form, vitamin B-12 is a prescription medication. The Committee sought medical records for Mr. Clemens from each of his four major league teams, and received records dating back to 1995. There is only one reference to a vitamin B-12 injection in these records. This is the reference in the July 28, 1998, medical report on Mr. Clemens's buttock injury.

During the interviews with team doctors and trainers with the Red Sox, Blue Jays, Yankees, and Astros, the Committee staff asked whether the teams would have kept records of vitamin B-12 injections administered to Mr. Clemens. The Red Sox, Blue Jays, and Astros team physicians indicated that their practice was to keep records of all injections administered to players, including those of vitamin B-12.⁸⁰

Dr. Arthur Pappas, the chief medical officer of the Red Sox during Mr. Clemens's time with the team, stated that vitamin B-12 injections were provided only rarely, and that he could not recall Mr. Clemens ever receiving a vitamin B-12 injection.⁸¹ Dr. Ron Taylor, the Blue Jays team doctor, reported that he had provided only one vitamin B-12 injection for Mr. Clemens, as

⁷⁵ *Deposition of William Roger Clemens*, 37-38, 157-59.

⁷⁶ *Id.* at 149-150.

⁷⁷ *Id.* at 146.

⁷⁸ *Id.* at 150-55.

⁷⁹ *Id.* at 28.

⁸⁰ *Interview of Dr. Arthur Pappas*, 9; *Interview of David Littner*, 10-11; *Interview of Dr. Ron Taylor*, 12-13. Eugene Monahan, the Yankees head trainer, stated that "[g]enerally, medications that are prescriptive in nature are always, always listed and recorded." He also stated that vitamin B-12 injections "are and can be noted, but by and large not at all times, not every time." *Interview of Eugene Monahan*, 9.

⁸¹ *Interview of Dr. Arthur Pappas*, 6-8.

suggested in the team records.⁸² Mr. Monahan, head trainer with the Yankees, indicated that he had never provided Mr. Clemens with a vitamin B-12 injection, and that he had no knowledge of any other officials with the Yankees providing him with a vitamin B-12 injection.⁸³ Dr. David Littner, the team physician of the Houston Astros, stated that it had been team policy “forever” that players were not provided with vitamin B-12 injections.⁸⁴

V. MR. CLEMENS’S TESTIMONY THAT HE NEVER DISCUSSED HGH WITH MR. MCNAMEE

In his deposition, Mr. Clemens was asked repeatedly whether he had spoken with Mr. McNamee about human growth hormone. He denied talking with Mr. McNamee about HGH:

Committee Staff: Did you ever speak with Mr. McNamee about human growth hormone?
Mr. Clemens: I have not.
Committee Staff: Never asked him any questions about it?
Mr. Clemens: Never asked him.⁸⁵

Mr. Clemens was also asked: “Do you recall a specific instance where you did speak with Mr. McNamee about HGH?”⁸⁶ He answered:

I don’t remember. The only thing I remember about the topic was, there was an article or show about some elderly men ... one guy ... had a curve in his spine ... and then later on in the show he was able to play golf. ... [T]hat’s basically ... the conversation that we had.⁸⁷

These answers were not truthful. Near the end of the deposition, Mr. Clemens was asked whether any family member had used HGH. He said that Mr. McNamee had injected Mr. Clemens’s wife, Debbie Clemens, with HGH in 2003 without Mr. Clemens’s knowledge. According to Mr. Clemens, his wife had an adverse reaction to the HGH. Mr. Clemens told the Committee in his deposition: “I was not present at the time. I found out later that evening. And the reason I found out ... she was telling me that something was going on with her circulation,

⁸² *Interview of Dr. Ron Taylor*, 14.

⁸³ *Interview of Eugene Monahan*, 11.

⁸⁴ *Interview of Dr. David Littner*, 12.

⁸⁵ *Deposition of William Roger Clemens*, 67.

⁸⁶ *Id.*

⁸⁷ *Id.*

and this concerned me.”⁸⁸ At the hearing, Mr. Clemens testified that after the injection, Mrs. Clemens also experienced “itching and she had some type of circulation problem.”⁸⁹

Mr. Clemens told the Committee that after he learned of his wife’s adverse reaction, he had two specific conversations with Mr. McNamee about HGH. The first conversation happened the night Ms. Clemens was injected. Mr. Clemens said: “We had a pretty heated discussion about it, that I don’t know enough about it, and that we don’t know enough about it.”⁹⁰

The second conversation occurred the next day. In his deposition, Mr. Clemens testified: “I also called him the next day, because she was still not feeling comfortable ... something about her circulation. ... I wasn’t happy about it. I said ... we don’t know anything about this. He says it’s legal. There’s no laws against it.”⁹¹ Mr. Clemens told the Committee that he also searched Mr. McNamee’s luggage, which Mr. McNamee had stored at his home, for evidence of HGH.⁹²

At the hearing, Mr. Clemens was asked why he told the Committee he had never talked with Mr. McNamee about HGH when, according to his subsequent account, he had two specific conversations with Mr. McNamee. Mr. Clemens could not explain the contradiction at the hearing:

Mr. Clemens: I never had any detailed discussions with Brian McNamee about HGH.
Mr. Tierney: Well, didn’t you call him on the phone after your wife had told you that she had taken HGH?
Mr. Clemens: That very much is a detailed conversation.⁹³

Mr. Clemens testified that he had no conversations with Mr. McNamee about HGH in the same proceeding in which he later described two specific conversations with Mr. McNamee. As a legal matter, this may affect whether the statements meet the legal definition of perjury or false statement. They are evidence, however, that Mr. Clemens affirmatively sought to mislead the Committee. If the Committee staff had not asked Mr. Clemens whether a family member had used HGH, the Committee would never have known about Mr. Clemens’s conversations with Mr. McNamee.

⁸⁸ *Id.* at 176.

⁸⁹ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2, 67.*

⁹⁰ *Deposition of William Roger Clemens, 176.*

⁹¹ *Id.* at 178-79.

⁹² *Id.* at 179-80.

⁹³ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2, 64.*

Another aspect of Mr. Clemens's account seems implausible. At the hearing, Mr. Clemens testified that he never called the doctor after his wife began to suffer adverse reactions from the HGH injection.⁹⁴ In his deposition, he also testified that he "never researched" HGH and said, "I couldn't tell you the first thing about it."⁹⁵ Most individuals in Mr. Clemens's position would have reacted differently. It is unusual that Mr. Clemens neither called the doctor nor investigated the effects of HGH after learning that his wife was experiencing circulation and other problems from the injection.

In his deposition to the Committee, Mr. McNamee confirmed that he gave Mrs. Clemens an HGH injection in 2004 but gave a different account of the circumstances. According to Mr. McNamee, Mr. Clemens asked Mr. McNamee to inject Mrs. Clemens with HGH because "he said his wife wanted to do it. He had it and he wanted me to teach her how to do it."⁹⁶

VI. MR. CLEMENS'S TESTIMONY THAT HE WAS NOT AT JOSE CANSECO'S HOME FROM JUNE 8 TO JUNE 10, 1998.

The Mitchell report stated that during a Toronto Blue Jays road trip to play the Florida Marlins from June 8 to 10, 1998, Brian McNamee attended a lunch party for the team hosted by Jose Canseco and "observed Clemens, Canseco, and another person he did not know meeting inside Canseco's house."⁹⁷ Mr. McNamee repeated these claims in his deposition and during the Committee hearing.⁹⁸

In his deposition with Committee staff, Mr. Clemens stated that he was not present at a party at Jose Canseco's home but instead was playing golf at the Weston Hills Country Club: "I know I wasn't at a Toronto Blue Jay party."⁹⁹ When asked "could you have been at his house during this time period, June 8th to 10, 1998?" Mr. Clemens responded, "No."¹⁰⁰ When asked "Could you have been at Mr. Canseco's house on other dates in 1998?" Mr. Clemens replied "I don't believe so."¹⁰¹ Mr. Clemens was adamant about not being in Mr. Canseco's home. He said he was not at the team party eight times during his deposition.¹⁰² His attorneys stated: "We

⁹⁴ *Id.* at 66-67.

⁹⁵ *Deposition of William Roger Clemens*, 68.

⁹⁶ *Deposition of Brian McNamee*, 119.

⁹⁷ George J. Mitchell, DLA Piper US LLP, *Report to the Commissioner of Baseball of an Independent Investigation into the Illegal Use of Steroids and Other Performance Enhancing Substances By Players in Major League Baseball*, 168-169 (Dec. 13, 2007).

⁹⁸ *Deposition of Brian McNamee*, 25-28, 99-102; *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2*, 53-55.

⁹⁹ *Deposition of William Roger Clemens*, 16-17.

¹⁰⁰ *Id.* at 17.

¹⁰¹ *Id.* at 18.

¹⁰² When asked, "[Y]ou weren't at this party," Mr. Clemens replied "That's correct." *Deposition of William Roger Clemens*, 16. Mr. Clemens also made the following statements in

were able to establish, and we will be able to establish categorically, without question, that our client wasn't there."¹⁰³

Mr. Clemens's statement that he could not have been at the Canseco home from June 8 to June 10, 1998, is contradicted by an interview of Mr. Clemens's nanny. During a transcribed interview, the nanny stated that she, Mrs. Clemens, and the Clemens's children stayed overnight at the Canseco home during the road trip. She also stated that Mr. Clemens was at the Canseco home during this time period, though she did not know if he also stayed overnight. She stated:

I remember Roger coming into the house ... when ... we got there. ... Mr. Jose Canseco was very proud of his house, and he was showing us around. At that time, yes, yes, I saw Roger, he was with us looking at the house around.¹⁰⁴

According to press accounts, Mr. Clemens's lawyer, Rusty Hardin, was informed the day before the Committee hearing that there may be photographs placing Mr. Clemens at the party at Mr. Canseco's house.¹⁰⁵ At the Committee's hearing, Mr. Clemens testified that he was "not totally positive" that he did not go to the Canseco home after playing golf to drop off his wife before going to the ballpark.¹⁰⁶ He also noted that the nanny and his children may have been at the house.¹⁰⁷

In his deposition, Mr. McNamee identified the nanny as a potential witness to Mr. Clemens's attendance at the party.¹⁰⁸ On Friday, February 8, the Committee asked Mr. Clemens's attorneys for contact information for the nanny. An additional request was made for information on Sunday, February 10, and at that time Committee staff asked Mr. Clemens's attorneys to refrain from contacting the nanny before the Committee staff could speak with her. Mr. Clemens attorneys did not provide the Committee with the name and contact information for the nanny until the afternoon of Monday, February 11.

his deposition: "I never was at the party." *Id.* "I know I wasn't at a Toronto Blue Jay party." *Id.*, 16-17. "I wasn't here at ... a party that he had...I was not at this party." *Id.* at 17. "I wasn't at the party. I know I wasn't at the party." *Id.* "I just know for a fact I wasn't at the party." *Id.* at 18. "I don't remember any party but if there was one, I wasn't there ... I have records that I was not at the party. ... I was on the golf course." *Id.* at 88. "I just know that I wasn't at the party." *Id.* at 131.

¹⁰³ *Id.* at 80-81.

¹⁰⁴ House Committee on Oversight and Government Reform, *Interview of Roger Clemens's Nanny* (Name Redacted), 8 (Feb. 12, 2008).

¹⁰⁵ *Photograph Could Put Clemens at 1998 Party*, New York Times (Feb. 23, 2008).

¹⁰⁶ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2*, 132.

¹⁰⁷ *Id.*

¹⁰⁸ *Deposition of Brian McNamee*, 177-178.

The Committee staff contacted and interviewed the nanny on Tuesday, February 12. During her interview with the Committee staff, the nanny stated that Mr. Clemens, whom she had not seen since 2001, contacted her and invited her to come to his house on Sunday, February 10. During this meeting, the first time he had seen her in person in seven years, he asked her about her recollections of the June 1998 trip to Florida and the party at Canseco's house. According to the nanny, he told her: "[T]he reason you don't remember that party is because I wasn't there."¹⁰⁹ When interviewed, the nanny did not recall any party at the Canseco house while she was there.¹¹⁰

VII. MR. CLEMENS'S TESTIMONY THAT HE WAS "NEVER TOLD" ABOUT SENATOR MITCHELL'S REQUEST

When Mr. Clemens appeared on *60 Minutes* on January 6, 2008, he was asked the following question by Mike Wallace: "Why didn't you speak to George Mitchell's investigators?" In response, Mr. Clemens stated: "I listened to my counsel. I was advised not to. A lot of the players didn't go down and talk to him."¹¹¹

In his deposition before the Committee, Mr. Clemens gave a different and contradictory explanation, stating at least six times under oath that he had no idea that Senator Mitchell was seeking to interview him. For example, during his deposition, Mr. Clemens was asked: "[W]ere you aware that Senator Mitchell was seeking to interview you?" He answered: "I was not."¹¹²

Mr. Clemens gave the same testimony at the Committee's hearing on February 13, 2008, stating: "[T]he fact of the matter was I was never told by my baseball agent/attorney that we were asked to come down and see Senator Mitchell" and "I was never told by my baseball agent

¹⁰⁹ *Interview of Roger Clemens's Nanny*, 16, 21-23.

¹¹⁰ *Id.* at 7.

¹¹¹ *60 Minutes*, CBS (Jan. 6, 2008).

¹¹² *Deposition of William Roger Clemens*, 112. Mr. Clemens made other similar statements in his deposition. Mr. Clemens was asked: "Senator Mitchell sent a letter to the players union in July 2007, requesting an interview with you. And you were not aware of the July 2007 request?" His answer was: "I was not." *Id.* Mr. Clemens was asked: "[W]hen Mr. Hendricks [your agent] heard about the invitation, did he communicate with you that you were invited to talk to Senator Mitchell and Senator Mitchell wanted to talk with you?" His answer was: "I did not." *Id.* at 114. Mr. Clemens was asked: "In the July time frame Mr. Hendricks never said to you, by the way, Senator Mitchell wants to talk to you ... as part of his investigation?" His answer was: "That is correct." *Id.* at 115. Mr. Clemens was asked: "In October Senator Mitchell informed the players union that any player who agreed to an interview would be provided with the evidence that Senator Mitchell had ... Did you know in October 2007 that Senator Mitchell had made another request?" His answer was: "I did not." *Id.* at 115-16. Mr. Clemens also made this definitive statement: "I had no idea that Senator Mitchell wanted to talk to me. If it was about baseball and steroids in general, I would have went to see him. And obviously, if I knew what Brian McNamee was stating about me in his report ... I would have been there." *Id.* at 115.

or the Players Association that Mr. Mitchell requested to see me. Those letters or phone calls never came to me.”¹¹³

Mr. Clemens was also asked the following question at the hearing: “[W]ould you say then that your agents did you a terrible disservice by not bringing this information to you that you had an opportunity to talk before the report came out?” Mr. Clemens answered: “I would say so.”¹¹⁴ According to Mr. Clemens, however, he did not terminate his relationship with his agents or take other steps to reprimand them.¹¹⁵

Charles Scheeler, who served as the lead counsel for Senator’s Mitchell’s investigation, testified that Mr. Clemens did receive notice and declined to speak with Senator Mitchell:

[I]n the summer of 2007, Senator Mitchell sent a letter to the Major League Baseball Players Association in which he requested the interviews of Roger Clemens and a number of others and in which Senator Mitchell stated that we had evidence that Mr. Clemens had used performance enhancing substances ... during the period of 1998 through 2001. We received a letter back on August 8, 2007, from the players association in which they stated, the following players have asked us to inform you that they respectfully decline your request for an interview at this time. Roger Clemens and several others. ... Senator Mitchell sent another letter to the players association on October 22 in which he stated, to be clear, I have been and remain willing to meet with any player about whom allegations of performance enhancing substance use had been made in order to provide those players with an opportunity to respond to those allegations. ... Five weeks later Senator Mitchell received another letter from the players association, indicating that the players ... continue to respectfully decline your request.¹¹⁶

Andy Pettitte, who has the same agent as Mr. Clemens, Randy Hendricks, indicated in his deposition with the Committee that he had been informed by Mr. Hendricks that Senator Mitchell wished to interview him regarding allegations of Mr. Pettitte’s use of human growth hormone.¹¹⁷

The evidence before the Committee does not establish conclusively that Mr. Clemens received notice of Senator Mitchell’s inquiry. It seems unlikely, however, that on a matter as significant as Senator Mitchell’s inquiry, Mr. Clemens’s agents would have declined Senator Mitchell’s request to meet with Mr. Clemens without conferring with Mr. Clemens.

¹¹³ *Hearing on the Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2*, 106-107, 142.

¹¹⁴ *Id.* at 107.

¹¹⁵ *Id.* at 108.

¹¹⁶ *Id.* at 170-71.

¹¹⁷ *Deposition of Andrew Pettitte*, 50-51.