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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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June 29, 2020

VIA ELECTRONIC TRANSMISSION

Deborah Connor, Chief
Money Laundering and Asset Recovery Section
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Ms. Connor:

On April 1, 2020, I wrote to you asking a series of questions about why the U.S. was assisting with a transfer of more than \$320 million in stolen assets to the government of Nigeria even though proper safeguards were not in place. On April 27, I received a reply from the Justice Department's Office of Legislative Affairs just before the U.S. helped complete the transfer of the money to Nigeria. The reply included a copy of the agreement outlining the U.S. role in the transfer and explained that if the U.S. were to "conclude that any of the returned funds had been used for an ineligible expenditure, a 'claw-back' provision would then obligate [Nigeria] to replace fully any such improperly diverted monies."¹

While I appreciate the reply, it was non-responsive to some of my questions, particularly questions 4, 5, 6, and 7.

Questions 4 and 5 asked whether the money would go to contractors with a history of Foreign Corrupt Practices Act (FCPA) violations. The reply failed to provide a direct answer, but footnote 2 disclosed that some of the money will indeed go to a contractor with a known history of FCPA violations.

Specifically, the Department's letter disclosed that one of the firms implementing the contracts, Julius Berger Nigeria, is a subsidiary of Bilfinger SE. The Department dismissed criminal charges against Bilfinger SE in July 2019 pursuant to a deferred prosecution agreement (DPA) "including payment of a fine" of \$32 million.² According to the statement of facts attached to the DPA, the firm engaged in a "bribery scheme" to pay Nigerian officials more than \$6 million in order to obtain and retain business.³ It inflated bids to cover the cost of bribes, and employees "made payments to Nigerian officials in cash using money obtained from a safe at [Julius Berger Nigeria]."⁴

¹ Letter from Stephen E. Boyd, Assistant Attorney General, Dep't of Justice, to Sen. Charles Grassley, United States Senate (April 27, 2020).

² Letter from Stephen E. Boyd, Assistant Attorney General, Dep't of Justice, to Sen. Charles Grassley, United States Senate (April 27, 2020).; *UNITED STATES OF AMERICA v. Bilfinger SE, U.S. v. Bilfinger*, 4:13-cr-00745 (S.D. Tex. 2013) available at <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2013/12/12/bilfinger-dpa.pdf>

³ *Id.* at A7-A8.

⁴ *Id.* at A8.

The Department's assurance that the transfer of \$320 million to Nigeria was done with sufficient safeguards is called into question in light of these facts. Please answer questions 4 and 5 and explain why the Department failed to ensure that firms with a history of FCPA violations would be ineligible to share in the returned money.

Question 6 asked for an explanation of what steps the U.S. has taken to consider sanctions against individual Nigerian officials involved in detaining individuals who have spoken out against the Buhari government. Please provide a response that question, and if sanctions against individual Nigerian officials have not been considered in response to human rights violations, please explain why not.

Question 7 asked why the U.S. would help facilitate the return of funds even though Nigeria was not fully cooperating with forfeiture to the U.S. of other stolen funds. Please respond to the question and describe the current state of Nigeria's cooperation on this and any other U.S. forfeiture efforts.

Please provide written responses no later than July 14, 2020, and, as requested in my initial letter, schedule a follow-up briefing for my staff for no later than July 14, 2020. Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance