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January 23, 2008

Via E-mail and First Class Mail

Patrick N. Findlay, Esq.
Investigative Counsel
Committee on Education and Labor
U.S. House of Representatives
1107 Longworth House Office Building
Washington, DC 20515

Re: Crandall Canyon Mine Investigation

Dear Mr. Findlay:

As you know, I represent Laine Adair in the above-referenced matter and returned to the office yesterday after having been overseas since January 8, 2008. As I informed you on January 17, 2008, Mr. Adair would assert a blanket Fifth Amendment privilege in response to questions relating to the above-referenced matter if he were to appear at a deposition. I will send an affidavit from Mr. Adair confirming my representation as soon as possible today. As we agreed today, I will send a pdf copy of the affidavit to you via e-mail and keep the original.

Although we have agreed that I will accept a notice of deposition in lieu of subpoena and that you will not issue a subpoena to Mr. Adair in light of that representation, and although Mr. Adair is willing to appear on February 8, 2008 in Washington, D.C., such an appearance would quite clearly be a needless inconvenience for Mr. Adair. Moreover, it would be entirely inconsistent with the established proposition that there is "no Congressional power to expose for the sake of exposure," *Watkins v. United States*, 354 U.S. 178, 187 (1957), as well as D.C. Legal Ethics Opinion No. 31 (March 29, 1977), which I discuss below in more detail. Accordingly, I would greatly appreciate hearing from you as soon as possible that you do not expect Mr. Adair to appear on February 8, 2008, in Washington. Let me also make clear that Mr. Adair reserves all rights in connection with this matter (and does not waive or forfeit any rights as a result of my agreement to accept a notice of deposition in lieu of a subpoena).

Patrick N. Findlay, Esq.

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The Fifth Amendment's privilege against self-incrimination, of course, "protects the innocent as well as the guilty." *Ohio v. Reiner*, 532 U.S. 18, 18 (2001). One of its "basic functions . . . is to protect *innocent* men . . . 'who otherwise might be ensnared by ambiguous circumstances.'" *Reiner*, 532 U.S. at 21 (quoting *Grunewald v. United States*, 353 U.S. 391, 421 (1957) (in turn quoting *Slochower v. Board of Higher Ed. of New York City*, 350 U.S. 551, 557-558 (1956)) (emphasis in original)). The privilege extends to witnesses who have "reasonable cause to apprehend danger from a direct answer." *Reiner*, 532 U.S. at 21 (quoting *Hoffman v. United States*, 341 U.S. 479, 486 (1951)). I hardly need to recount all of the circumstances that risk "ensnar[ing]" Mr. Adair in connection with this matter and that give him "reasonable cause to apprehend danger from a direct answer."

As you may already have learned, or doubtless will learn upon further investigation, Mr. Adair has earned an impeccable reputation in the mining industry as a hard-working, straightforward person devoted above all to the safety of miners and fairness in his treatment of others. As I have stated, we are very concerned – given the conduct of the October 2007 hearing, among other things – about certain motives associated with this congressional investigation and the potential manipulation of this inquiry in a manner unfair to Mr. Adair. As I also have stated, I do not question your good faith in attempting to conduct an investigation as a member of the Bar in the course of your duties, but Members of Congress do not necessarily act as members of the Bar, and the pressures relating to the Crandall Canyon matter are obvious to anyone who reads the newspapers. Because I want to ensure that Mr. Adair's reputation is not needlessly harmed, I respectfully request that this matter be handled with the utmost sensitivity. I also expect that the matter will be handled by staff attorneys consistent with the D.C. Rules of Ethics. As Opinion No. 31 states, "the inquiring power of a congressional committee is limited to obtaining information in aid of Congress' legislative function" (citation omitted). According to that opinion, it is not proper to require a witness to appear if an attorney for a committee subject to the D.C. Rules of Ethics knows in advance that the witness will invoke his constitutional privilege to remain silent.

On a related issue, either you or Michael Zola asked during our discussions last week whether Mr. Adair would testify before the full Committee at a hearing. Although the question is hypothetical, I am happy to respond, as a courtesy, that I fully expect I would make the same representation on behalf of Mr. Adair if the circumstances surrounding such a potential hearing, whenever that might be set, had not materially changed. Moreover, even if the circumstances at that time had materially changed, I would need to know what they were before making any absolute representations. As I am sure you can appreciate, a hearing scheduled four months from now, for example, might raise new or different issues and considerations.

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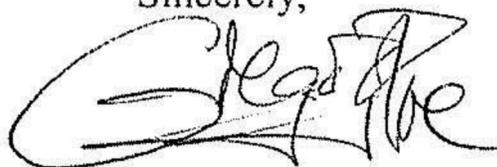
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Thank you for your professional courtesy with respect to the constraints I faced while overseas. Again, I would greatly appreciate hearing from you as soon as possible that you do not expect Mr. Adair to appear on February 8, 2008, in Washington. Please do not hesitate to contact me at any time if you wish to discuss anything.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory L. Poe". The signature is fluid and cursive, with a large initial "G" and a stylized "Poe".

Gregory L. Poe