



Office of the Attorney General
Washington, D. C. 20530

June 20, 2020

Mr. Geoffrey S. Berman
United States Attorney's Office
1 St. Andrews Plaza
New York, New York 10007

Dear Mr. Berman:

I was surprised and quite disappointed by the press statement you released last night. As we discussed, I wanted the opportunity to choose a distinguished New York lawyer, Jay Clayton, to nominate as United States Attorney and was hoping for your cooperation to facilitate a smooth transition. When the Department of Justice advised the public of the President's intent to nominate your successor, I had understood that we were in ongoing discussions concerning the possibility of your remaining in the Department or Administration in one of the other senior positions we discussed, including Assistant Attorney General for the Civil Division and Chairman of the Securities and Exchange Commission. While we advised the public that you would leave the U.S. Attorney's office in two weeks, I still hoped that your departure could be amicable.

Unfortunately, with your statement of last night, you have chosen public spectacle over public service. Because you have declared that you have no intention of resigning, I have asked the President to remove you as of today, and he has done so. By operation of law, the Deputy United States Attorney, Audrey Strauss, will become the Acting United States Attorney, and I anticipate that she will serve in that capacity until a permanent successor is in place. See 28 U.S.C. 541(c).

To the extent that your statement reflects a misunderstanding concerning how you may be displaced, it is well-established that a court-appointed U.S. Attorney is subject to removal by the President. See *United States v. Solomon*, 216 F. Supp. 835, 843 (S.D.N.Y. 1963) (recognizing that the "President may, at any time, remove the judicially appointed United States Attorney"); see also *United States v. Hilario*, 218 F.3d 19, 27 (1st Cir. 2000) (same). Indeed, the court's appointment power has been upheld only because the Executive retains the authority to supervise and remove the officer.

Your statement also wrongly implies that your continued tenure in the office is necessary to ensure that cases now pending in the Southern District of New York are handled appropriately. This is obviously false. I fully expect that the office will continue to handle all cases in the normal course and pursuant to the Department's applicable standards, policies, and guidance. Going forward, if any actions or decisions are taken that office supervisors conclude are improper interference with a case, that information should be provided immediately to Michael Horowitz, the Department of Justice's Inspector General, whom I am authorizing to review any such claim. The Inspector General's monitoring of the situation will provide additional confidence that all cases will continue to be decided on the law and the facts.

Sincerely,

William P. Barr
Attorney General