

Congress of the United States
Washington, DC 20515

August 11, 2023

The Honorable Merrick Garland
Attorney General Department of Justice
950 Pennsylvania Avenue
N.W. Washington, DC 20530

Dear Attorney General Garland:

We write to urge the Department of Justice (“DOJ”) to launch an investigation into Supreme Court Justice Clarence Thomas for consistently failing to report significant gifts he received from Harlan Crow and other billionaires for nearly two decades—in defiance of his duty under federal law.

First, Justice Thomas has received numerous undisclosed valuable gifts from Harlan Crow over the course of at least fifteen years, despite certifying repeatedly that his financial disclosure forms are “accurate, true, and complete,” in certifications “subject to civil and criminal sanctions.”¹

On April 6, 2023, a report by *ProPublica* entitled “Clarence Thomas and the Billionaire”² described numerous instances in which Justice Thomas failed to disclose significant gifts he and his family received from Harlan Crow. Since then, additional reporting has detailed the ways in which Justice Thomas both failed to disclose crucial financial information and failed to recuse himself from matters before the court in which there was a potential conflict of interest.³ According to legal ethics experts, and by all appearances, Justice Thomas’s decades-long failure to disclose many of these emoluments violated his disclosure obligations under the plain text of the Ethics in Government Act of 1978.⁴

¹ Financial Disclosures of Clarence Thomas, Court Listener, (1990-2021), available at <https://www.courtlistener.com/person/3200/disclosure/30783/clarence-thomas/>

² Joshua Kaplan et al., *Clarence Thomas and the Billionaire*, PROPUBLICA (Apr. 6, 2023), available at <https://www.propublica.org/article/clarence-thomas-scotus-undisclosed-luxury-travel-gifts-crow>.

³ Brett Murphy et al., *Clarence Thomas’ 38 Vacations: The Other Billionaires Who Have Treated the Supreme Court Justice to Luxury Travel*, PROPUBLICA (Aug. 10, 2023), available at

<https://www.propublica.org/article/clarence-thomas-other-billionaires-sokol-huizenga-novelly-supreme-court>

⁴ Citizens for Responsibility and Ethics in Washington, *Request for Investigation of Justice Clarence Thomas’ failure to report gifts of private aircraft travel on his public financial disclosure*, (April 14, 2023), available at <https://www.citizensforethics.org/wp-content/uploads/2023/04/Justice-Clarence-Thomas-DOJ-Complaint-April-14-2023-5.pdf>

Judicial officers—including Associate Justices of the Supreme Court—are required to file annual reports disclosing financial income, gifts and reimbursements, property interests, liabilities, and transactions, among other information.⁵ Specifically, 5 U.S.C. § 13104(a)(2)(A) requires disclosure of the “identity of the source, a brief description, and the value of all gifts” exceeding minimal value, and 5 U.S.C. § 13104(a)(5)(A) requires disclosure of “a brief description, the date, and category of value of any purchase, sale or exchange” of real property exceeding \$1,000. Although, in some instances, an officer’s receipt of “food, lodging, and entertainment” may be exempted from mandatory disclosure as “personal hospitality,” that exemption does not extend to the officer’s receipt of complimentary transportation, such as the extensive private jet, helicopter, and yacht travel received by Justice Thomas.⁶

Violations of the Ethics in Government Act’s disclosure requirements can carry both civil and criminal legal penalties. The Act provides: “The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant.” 5 U.S.C. § 13106. It further outlines criminal penalties, including imprisonment for not more than one year, for “knowing and willful” falsification of any information that an officer is required to report. 5 U.S.C. § 13106.⁷

Despite this clear mandate, Justice Thomas and his wife, Virginia “Ginni” Thomas – a far right activist who often champions conservative causes that come before the Court – have received non-exempt gifts of significant value from Harlan Crow without reporting the source, description, and value of such gifts over the course of at least fifteen years. The unreported gifts include, but are not limited to:

- non-commercial transportation on a private airplane and on a superyacht to and from Indonesia in 2019, valued at approximately \$500,000;⁸

⁵ 5 U.S.C. §§ 13103 and 13104.

⁶ 5 U.S.C. § 13104.

⁷ The Ethics in Government Act, 5 U.S.C. § 13106(a)(1), authorizes the Attorney General to bring a civil action against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report and for the imposition of civil penalties in an amount not to exceed \$71,316, as adjusted for inflation. Section 13106(a)(2) allows for imposition of criminal sanctions of up to a year in prison for knowingly and willfully falsifying information required to be reported. And persons who knowingly and willfully make a false statement or representation in any matter within the jurisdiction of the executive, legislative or judicial branch of the U.S. Government may be fined or imprisoned for not more than 5 years. 18 U.S.C. § 1001.

⁸ Joshua Kaplan et al., *Clarence Thomas and the Billionaire*, PROPUBLICA (Apr. 6, 2023), available at <https://www.propublica.org/article/clarence-thomas-scotus-undisclosed-luxury-travel-gifts-crow>.

- non-commercial transportation on a superyacht to and around New Zealand in or around 2013⁹; non-commercial transportation on a superyacht to and around Greece in 2007;¹⁰
- extensive free lodging and food at Topridge, a resort in the Adirondacks owned by a company owned or controlled by Mr. Crow;¹¹
- multiple trips via non-commercial transportation on a private airplane on multiple occasions, including but not limited to flights to New Haven, Connecticut in 2016, to Dallas, Texas in 2018 and again in 2022, to New York City in 2021, and to Topridge Resort in New York in 2022;¹²
- and tuition payments, in excess of \$6,000 per month, to two private boarding schools for Justice Thomas’s grandnephew while he was in Justice Thomas’s legal custody.¹³

Justice Thomas additionally failed to disclose the 2014 sale of a single-story home and two vacant lots, previously held by Justice Thomas and two family members, to Mr. Crow for \$133,363, an amount significantly higher than the price of other properties in the neighborhood and significantly higher than \$15,000, the amount that Justice Thomas valued his one-third stake in the properties in 2010.¹⁴ Mr. Crow has also permitted Justice Thomas’s mother to continue living in the home rent-free through at least May 2023, and has paid for improvements for the benefit of Justice Thomas’s mother, including construction of a car port.¹⁵ Both the free rent and the improvements may constitute additional gifts that Justice Thomas was required, but failed, to disclose.¹⁶

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Joshua Kaplan et al., *Clarence Thomas Had a Child in Private School. Harlan Crow Paid the Tuition*, PROPUBLICA (May 4, 2023, 6:00 AM EDT), available at <https://www.propublica.org/article/clarence-thomas-harlan-crow-private-school-tuition-scotus>.

¹⁴ Justin Elliott et al., *Billionaire Harlan Crow Bought Property From Clarence Thomas. The Justice Didn’t Disclose the Deal*, ProPublica (April 13, 2023, 2:20 PM EDT), available at <https://www.propublica.org/article/clarence-thomas-harlan-crow-real-estate-scotus>

¹⁵ *Id.*; Matt Stieb, *Billionaire Harlan Crow Bought Clarence Thomas’s Mother a House*, N.Y. Magazine (Apr. 14, 2023), available at <https://nymag.com/intelligencer/2023/04/harlan-crow-bought-clarence-thomass-mothers-house.html>.

¹⁶ Financial Disclosures of Clarence Thomas, Court Listener, (1990-2021), available at <https://www.courtlistener.com/person/3200/disclosure/30783/clarence-thomas/>

Throughout such time, Mr. Crow has served on the Board of Directors of the American Enterprise Institute,¹⁷ which regularly files amicus briefs in Supreme Court cases and whose position Justice Thomas has regularly adopted.¹⁸

Second, *ProPublica*'s most recent reporting identifies other wealthy businessmen, in addition to Crow, who have provided Justice Thomas and his wife, Ginni, with luxury travel and other gifts, such as expensive box seats at football games and access to one of the most exclusive golf courses in the world.¹⁹ These include David Sokol, H. Wayne Huizenga, and Paul "Tony" Novelly, who were connected to Thomas through the Horatio Alger Association.²⁰ As the *New York Times* reported, Thomas has routinely given access to the U.S. Supreme Court building for Horatio Alger events,²¹ which *ProPublica* confirmed cost \$1,500 or more in donations per person.²² These arrangements appear to violate explicit language in the judiciary's code of conduct advising federal judges against using their position as a public officer to fundraise for outside organizations.²³

In addition, recent reporting in the *New York Times* documented how Justice Thomas purchased a \$267,230 luxury recreational vehicle with custom detailing and plush leather seating, financed

¹⁷ Joshua Kaplan et al., *Clarence Thomas and the Billionaire*, ProPublica (Apr. 6, 2023, 5:00 AM EDT), available at <https://www.propublica.org/article/clarence-thomas-scotus-undisclosed-luxury-travel-gifts-crow>

¹⁸ See, e.g., Brief of Alan D. Viard et al. as Amici Curiae Supporting Respondents, *Department of Revenue v. Davis*, 553 U.S. 328 (2008); Brief of Project on Fair Representation as Amici Curiae Supporting Appellant, *Riley v. Kennedy*, 553 U.S. 406 (2008); Brief of Project on Fair Representation et al. Supporting Petitioners, *Parents Involved in Community Schools v. Seattle School District. No. 1*, 551 U.S. 701 (2007); Brief of Amici Curiae of AEI-Brookings Joint Center for Regulatory Studies et al. as Amici Curiae Supporting Cross-Petitioners, *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001).

¹⁹ Brett Murphy et al., *Clarence Thomas' 38 Vacations: The Other Billionaires Who Have Treated the Supreme Court Justice to Luxury Travel*, PROPUBLICA (Aug. 10, 2023), available at

<https://www.propublica.org/article/clarence-thomas-other-billionaires-sokol-huizenga-novelly-supreme-court>

²⁰ *Id.*

²¹ Jo Becker et al., *Clarence Thomas's \$267,230 R.V. and the Friend Who Financed It*, THE NEW YORK TIMES (Aug. 5, 2023), available at <https://www.nytimes.com/2023/08/05/us/clarence-thomas-rv-anthony-welters.html>

²² *Id.*

²³ "A judge may assist nonprofit law-related, civic, charitable, educational, religious, or social organizations in planning fund-raising activities and may be listed as an officer, director, or trustee. A judge may solicit funds for such an organization from judges over whom the judge does not exercise supervisory or appellate authority and from members of the judge's family. Otherwise, a judge should not personally participate in fund-raising activities, solicit funds for any organization, or use or permit the use of the prestige of judicial office for that purpose. A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism." Code of Conduct for United States Judges, effective March 12, 2019, available at,

https://www.uscourts.gov/sites/default/files/code_of_conduct_for_united_states_judges_effective_march_12_2019.pdf; Chief Justice Roberts, Letter to Senator Richard Durbin, Chair, Committee on the Judiciary, (April 25, 2023), available at

https://www.washingtonpost.com/documents/70adb490-28c6-4065-b929-6e2e9ab5b9a8.pdf?itid=lk_inline_manual_4, Chief Justice Roberts states that the Justices take guidance from the Code of Conduct for United States Judges.

through a private loan that he never disclosed.²⁴ While it was asserted that the debt was “satisfied,” there is apparently no independent documentation of the loan’s repayment, or a full pay-off of the price of the RV, nor are the terms of the loan public. As tax lawyer and expert Michael Hamersley explained to the *Times*, “‘satisfied’ doesn’t necessarily mean someone paid the loan back.”²⁵

All told, Thomas has received at least 38 destination vacations, 26 private jet flights, eight helicopter flights, VIP passes to sporting events, stays at luxury resorts, and an invitation to an exclusive golf club.²⁶ The total value of the undisclosed trips given to Thomas since his appointment to the U.S. Supreme Court in 1991 is estimated to be several million dollars, according to *ProPublica*.

Moreover, testimony recently submitted to the Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights by U.S. District Judge Mark Wolf, who formerly served on the Judicial Conference of the United States, raises questions about whether Justice Thomas falsified his 2008 financial disclosure report to conceal his possible attendance at a private retreat hosted in Palm Springs, California by GOP mega donor Charles Koch.²⁷

Justice Thomas’s consistent failure to disclose gifts and benefits from industry magnates and wealthy, politically active executives highlights a blatant disregard for judicial ethics as well as apparent legal violations. No individual, regardless of their position or stature, should be exempt from legal scrutiny for lawbreaking. The integrity of our judicial system hinges on the impartiality and transparency of its members. As a Supreme Court justice and high constitutional officer, Justice Thomas should be held to the highest standard, not the lowest—and he certainly shouldn’t be allowed to violate federal law. Refusing to hold him accountable would set a dangerous precedent, undermining public trust in our institutions and raising legitimate questions about the equal application of laws in our nation.

The DOJ must undertake a thorough investigation into the reported conduct to ensure that it cannot happen again. Thank you for your attention to this matter of critical importance to the integrity of our justice system and our nation’s highest court.

²⁴ Jo Becker et al., *Clarence Thomas’s \$267,230 R.V. and the Friend Who Financed It*, THE NEW YORK TIMES (Aug. 5, 2023), available at <https://www.nytimes.com/2023/08/05/us/clarence-thomas-rv-anthony-welters.html>

²⁵ *Id.*

²⁶ Brett Murphy et al., *Clarence Thomas’ 38 Vacations: The Other Billionaires Who Have Treated the Supreme Court Justice to Luxury Travel*, PROPUBLICA (Aug. 10, 2023), available at <https://www.propublica.org/article/clarence-thomas-other-billionaires-sokol-huizenga-novelly-supreme-court>

²⁷ Written Testimony of Senior Judge Mark L. Wolf for the May 17, 2023 Hearing of the Senate Committee on the Judiciary, Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights Hearing on Review of Federal Judicial Ethics Processes at the Judicial Conference of the United States, submitted May 15, 2023, available at [https://www.whitehouse.senate.gov/imo/media/doc/Testimony%20of%20Hon.%20Mark%20L.%20Wolf%20with%20Exhibits%201-3%20\(5.15.23\).pdf](https://www.whitehouse.senate.gov/imo/media/doc/Testimony%20of%20Hon.%20Mark%20L.%20Wolf%20with%20Exhibits%201-3%20(5.15.23).pdf)

Sincerely,



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Member of Congress



JERROLD NADLER
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Member of Congress



TED W. LIEU
Member of Congress



HENRY C. "HANK" JOHNSON, JR.
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