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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR
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February 6, 2023

Michael D. Bopp
Partner
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306

Dear Mr. Bopp,

As part of the Senate Committee on Finance's ("the Committee") ongoing investigations into the means by which ultra-high net worth U.S. persons avoid or evade paying federal taxes, I write to offer your client Harlan Crow another opportunity to address a number of potentially serious issues the Committee has identified related to the activities of Mr. Crow's superyacht, *Michaela Rose*. New evidence obtained by the Committee raises serious concerns regarding the tax treatment of Mr. Crow's luxury assets, including tax deductions related to the personal recreational use of his superyacht for his benefit and that of his wealthy and powerful friends.

The Committee reviewed federal government records related to *Michaela Rose*, and interviewed former members of the crew. The results of this inquiry indicate that *Michaela Rose* is exactly what it appears to be, a pleasure boat for one of America's wealthiest individuals. Official documents indicate *Michaela Rose* is not registered with maritime authorities as a yacht engaged in trade for the purpose of carrying passengers for hire. However, according to reports, Mr. Crow claims to tax officials that *Michaela Rose* is a yacht available for private charter despite not being registered as engaged in such business.

The Committee's inquiry casts fresh doubt on the validity of reported deductions from purported yacht charter losses Mr. Crow appears to have claimed to lower his tax liability by millions of dollars. In addition to potential violations of tax law, these records raise important questions regarding the truthfulness of a sworn declaration Mr. Crow's representatives made to the United States government that the yacht was being used in U.S. commerce for the purpose of yacht charter services.

These revelations have heightened the Committee's concern that a superyacht registered exclusively as a pleasure boat for recreational use is inappropriately being treated as a yacht chartering business for tax purposes. Sections 162 and 183 of the Internal Revenue Code make clear that a taxpayer may claim deductions for costs associated with a business activity that is

engaged in for-profit; a taxpayer may not deduct the costs of voyages that are primarily for personal purposes. Due to your refusal to provide the Committee requested information regarding Mr. Crow's lavish gifts to Supreme Court Justice Clarence Thomas, it also remains unclear whether your client may have impermissibly claimed deductions on yacht voyages that were described to the Committee as personal hospitality.

Above all, I am concerned by new evidence that *Michaela Rose* has represented to maritime authorities that it is a yacht used exclusively for personal pleasure and private recreation and not engaged in trade (such as carrying passengers for hire). I fail to see how it is appropriate for a taxpayer to assert to the Internal Revenue Service that a superyacht with registrations indicating it is not engaged in trade can generate losses from purported for-profit yacht charter services.

Millions of dollars in deductions reportedly claimed from yacht charter activities

According to public reports, Mr. Crow formed a company, Rochelle Charter Inc, ("Rochelle Charter") with the stated purpose of chartering out *Michaela Rose* to third parties. Rochelle Charter appears to serve as the entity that legally owns *Michaela Rose* and all associated commercial rights. Recent reports by ProPublica indicate that from 2003 to 2015, Rochelle Charter reported losses on federal tax filings for more than 10 years.¹ These losses appear to have totaled nearly \$8 million, with about half of those losses flowing to Mr. Crow personally.² Reporting further indicates that Mr. Crow used these losses to offset income from other sources, allowing Mr. Crow to substantially lower his overall tax liability.³ In particular, the reports indicate that a large deduction related to *Michaela Rose* was from major renovations and upgrades done to the yacht in 2014.⁴ Those same reports indicate that in the same year, Rochelle Charter reported a \$1.8 million loss on federal tax filings.⁵

Despite apparent representations on federal tax filings that *Michaela Rose* was used in a for-profit business, former crew members interviewed by ProPublica stated that they were not aware of *Michaela Rose* ever being chartered out to third parties.⁶ According to vessel schedules reviewed by ProPublica, the use of *Michaela Rose* appears to have been limited to Crow's family, and friends, along with their guests.⁷ A frequent guest of Mr. Crow aboard *Michaela Rose* was Supreme Court Justice Clarence Thomas, who was reportedly a passenger on *Michaela Rose* in Greece, Indonesia, New Zealand and the Atlantic off the coast of Georgia (U.S.), among other locations.⁸

The Committee has engaged in multiple attempts to request information regarding how Mr. Crow's lavish travel was treated for tax purposes. These reports have heightened the

¹ *How Harlan Crow Slashed his Tax Bill by Taking Clarence Thomas on Superyacht*, ProPublica, Jul. 17, 2023 available online at <https://www.propublica.org/article/harlan-crow-slashed-tax-bill-clarence-thomas-superyacht>

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Clarence Thomas and the Billionaire*, ProPublica, Apr. 6, 2023, available online at <https://www.propublica.org/article/clarence-thomas-scotus-undisclosed-luxury-travel-gifts-crow>

Committee’s concerns regarding your client’s refusal to provide information to the Committee, including whether Mr. Crow, or any entities linked to Mr. Crow, claimed any deductions for the use of *Michaela Rose* to host public officials such as Justice Thomas as a guest. As you are aware, owners of private jets and yachts must document the extent to which they are used for business or personal activities in order to determine whether costs related to the asset are allowable as deductions under to the Internal Revenue Code.

Section 183 of the Internal Revenue Code (the “Hobby Loss Rule”)

Section 183 of the Internal Revenue Code, often referred to as the “hobby loss rule,” disallows tax deductions for costs associated with activities that are not engaged in for-profit.⁹ Courts have reiterated these requirements in several recent cases involving taxpayers attempting to claim deductions for the personal use of yachts. Under this section of the code, the U.S. tax court disallowed deductions related to the use of luxury yachts and collected hundreds of thousands of dollars in back taxes and penalties. Among other reasons, the tax court has disallowed deductions because it determined a yacht’s activities were not engaged in for-profit.

Additionally, IRS audit guidance highlights certain situations where examiners should consider potential fraud.¹⁰ These fraud indicators include clues that the taxpayer has “deliberately misrepresented pertinent facts” or “misstated income for the activity to make it appear that the activity has a for-profit motive.”¹¹ A 75 percent civil penalty may apply to the portion of an underpayment of taxes that is attributable to fraud, and tax fraud is a crime.¹²

Michaela Rose is registered exclusively as a pleasure yacht not engaged in trade

As part of the Committee’s interest in understanding weakness in the tax law and tax enforcement regime as it applies to the idiosyncratic world of the ultra-wealthy, the Committee conducted its own inquiry into the allegations raised by ProPublica. In the course of that investigation, the Committee contacted several former crew members of *Michaela Rose* to inquire about the yacht’s operations. Committee staff specifically asked these crew members whether the yacht was ever chartered out commercially or whether the yacht was used exclusively by Mr. Crow and his friends, family or guests for personal leisure. The crew members contacted by Committee staff stated that they never witnessed the yacht being chartered out to third parties during their time on board and claimed the yacht was used exclusively for Mr. Crow’s personal pleasure or that of his friends, family and guests. Additionally, a former crew member indicated that *Michaela Rose* “did not have the appropriate registrations” to be engaged in yacht chartering activities.

⁹ 26 U.S.C. § 183 – Activities not engaged in for-profit

¹⁰ *Activities Not Engaged in for Profit Audit Technique Guide Internal Revenue Code Section 183*, U.S. Internal Revenue Service, revised 9/7/2021, available online at <https://www.irs.gov/pub/irs-pdf/p5558.pdf>

¹¹ Id. (At pg. 55: “Fraud indicators are clues that the taxpayer has deliberately misrepresented pertinent facts. These indicators usually outline actions that the taxpayer has taken to deceive, to conceal, or to make things appear different from the actual facts.” And at pg. 35: “Some taxpayers have misstated income for the activity to make it appear that the activity has a profit motive. So, examiners need to verify the income. Under these circumstances, the examiner should consider potential fraud.”)

¹² 26 U.S.C. §§ 6663 and 7201 et. seq.

As a large yacht made in Germany, flagged in the United Kingdom (UK) and employing a largely foreign crew, *Michaela Rose* is subject to a host of requirements related to its ability to engage in any yacht chartering business in U.S. waters as well as internationally. In addition to crew interviews, the Committee reviewed government records to independently determine whether *Michaela Rose* had the appropriate documentation and registrations required to engage in any yacht chartering business activities. As part of this effort, the Committee obtained information from U.S. Customs and Border Protection (CBP), the United States Coast Guard and the United States Maritime Administration (MARAD). Each of these government agencies verified to the Committee that *Michaela Rose* has not registered with U.S. maritime authorities as a vessel engaged in commercial yacht chartering business. In other words, *Michaela Rose* is not legally licensed to be chartered out for the transportation of passengers for hire in the United States and is only registered as a pleasure boat for Mr. Crow's personal use.

***Michaela Rose* is not registered as a commercial vessel in the U.S. or UK**

Documentation from relevant maritime authorities reviewed by Committee staff indicates that *Michaela Rose* is registered as a "Pleasure Boat," used exclusively for private recreational use and has no commercial registration. *Michaela Rose* reports entries into the United States to CBP through the Pleasure Boat Reporting System (PBRs). CBP includes in this category any vessel not engaged in trade or documented trade (not carrying merchandise or passengers for hire), such as pleasure boats and yachts, regardless of size and country of registration.¹³

Additionally, *Michaela Rose* has registered exclusively as a "pleasure yacht" under Part 1 of the UK Ship Register since 1995. Part 1 of the UK ship register allows a large yacht to be registered as a commercial yacht or as a pleasure yacht.¹⁴ According to the UK ship register's official boat registration guidance, yachts registered in the Part 1 registry as a pleasure yacht "means you do not make any money from it."¹⁵ The Committee notes that *Michaela Rose* has never chosen to register as a commercial yacht in the UK, raising questions about the extent it is used in for-profit commercial activities such as chartering. The UK ship register treats chartering

¹³ Pleasure Boat reporting guidance from U.S. Customs and Border Protection available online at <https://www.cbp.gov/travel/pleasure-boats> ("All U.S. Citizens and aliens seeking entry to the United States must report their arrivals. Masters - The master or person in charge of the boat must report their arrival to U.S. Customs and Border Protection (CBP). For the purpose of these instructions, the term 'boat,' means any vessel not engaged in trade or documented trade [not carrying merchandise or passengers for hire] such as pleasure boats and yachts, regardless of size. This requirement applies to all boats regardless of country of registration. Additionally, boats registered outside Canada or the U.S. must contact a local CBP office for a cruising license.")

¹⁴ *A Master's Guide to the UK Flag Large Yacht Edition v4*, UK Ship Register, March 2022 available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1059282/A_Master's_Guide_to_the_UK_Flag-Large_Yacht_Edition-Version_4.pdf (At pg. 20: A yacht may be registered as a commercial vessel or as a pleasure vessel. The type of registration depends on how the yacht will be used. If guests are carried that do not meet the definition of - 'Owner, their friends or family', then the yacht is on a commercial voyage and must be registered commercially. Whether the guest is paying to be on the voyage is immaterial. Commercial yachts must comply with the REG Yacht Code.")

¹⁵ *Register a boat*, UK Ship Register, available online at <https://www.gov.uk/register-a-boat/the-uk-ship-register> ("Part 1 registration - commercial or pleasure boats. You can use Part 1 of the register if you have either: a commercial boat, unless you plan to use it for fishing, a 'pleasure vessel' - this means you do not make any money from it.")

as a commercial use of a vessel and that large yachts engaged in chartering activities must be registered commercially and comply with the large yacht commercial code.¹⁶

As a large yacht (over 24 meters in length), such a registration would have subjected *Michaela Rose* to more stringent certification activities and inspections associated with frequent commercial use, such as holding and maintaining a large yacht certificate or undertaking annual renewal surveys.¹⁷ It remains unclear why *Michaela Rose* has never registered commercially in the UK, despite representations it has made to various U.S. government agencies that it is chartered out for hire.

UK maritime laws and regulations are also very clear that any yacht documented as a “pleasure vessel” is one “used only for the sport or pleasure of the owner or the immediate family or friends of the owner” and “on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person.”¹⁸ Additionally, if any guests carried do not meet the definition of the owner, friends or family then a yacht is on a commercial voyage and must be registered commercially.¹⁹ Put more simply, any yacht claiming to be operating as a pleasure vessel is stating that it is not engaging in the for-profit transportation of passengers.

***Michaela Rose* lacks a Certificate of Documentation with a Coastwise Endorsement necessary to charter a yacht under U.S. coastwise trade laws**

Michaela Rose is also subject to longstanding coastwise trade laws that prohibit foreign yachts from engaging in the transportation of passengers or cargo between U.S. ports. The primary coastwise trade law related to the yacht chartering business is the Passenger Vessel Services Act (PVSA) – contained within the Jones Act. The PVSA prohibits the transportation of

¹⁶ *Information on Large Yacht Commercial Code*, UK Ship Register, available online at <https://www.ukshipregister.co.uk/other-services/large-yacht-services/guidance/ly2-and-ly3/> (“Chartering is a commercial use of a vessel therefore all yachts engaged in chartering activities have to comply with the Code.”)¹⁸

¹⁷ *Frequently Asked Questions*, UK Ship Register Large Yacht Services, available online at <https://www.ukshipregister.co.uk/other-services/large-yacht-services/faqs/> (“A pleasure registered yacht does not have to hold or maintain a Large Yacht Certificate or undertake annual or renewal surveys.”)

¹⁸ *Marine Guidance Note 599 (M): Pleasure Vessels – Regulations and Exemptions – Guidance and Best Practice Advice*, UK Maritime & Coastguard Agency, available online at https://assets.publishing.service.gov.uk/media/5dd5680ced915d086aa3cb5d/MGN_599_on_Pleasure_Vessel_Regulations.pdf (At pg. 5: “Pleasure Vessel (according to SI1998/2771) means: - (a) any vessel which at the time it is being used is: (i) (aa) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or (bb) in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or (b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and (d) in the case of any vessel referred to in paragraphs (a) or (b) above no other payments are made by or on behalf of users of the vessel, other than by the owner.)

¹⁹ A Master’s Guide to the UK Flag Large Yacht Edition v4, UK Ship Register, March 2022 available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1059282/A_Masters_Guide_to_the_UK_Flag-Large_Yacht_Edition-Version_4.pdf

passengers between points in the U.S. in a vessel that is not built in the U.S. or flagged in the U.S.²⁰

Under Title 46 of the U.S. code, a vessel cannot engage in the U.S. coastwise trade of passengers unless it has been “issued a Certificate of Documentation with a Coastwise Endorsement under Chapter 121” or has received an exemption or waiver from the PVSA.²¹ As a foreign-built and flagged yacht *Michaela Rose* would need to obtain a certificate of documentation for a coastwise endorsement in order to engage in the trade of transporting passengers between U.S. ports.

Guidance provided by the Coast Guard specifies that foreign-flagged yachts carrying more than 12 passengers are subject to these restrictions if even one passenger is paying to travel aboard the vessel, and makes clear it applies to a vessel that is chartered and carrying more than 12 passengers.²² This guidance also specifies that payments for use of the yacht includes any consideration “directly or indirectly flowing to the owner, charterer, agent or any other person having an interest in the vessel.”²³ This clearly applies to any charter activities involving *Michaela Rose*, which reportedly can carry up to 29 passengers (16 guests and 13 crew members).²⁴

If a yacht lacks a Certificate of Documentation of Coastwise Endorsement, it may seek to obtain a waiver or exemption to the PVSA to engage in the coastwise trade of passengers. Waivers or exemptions to the PVSA for large yachts like *Michaela Rose* that carry more than 12 passengers require an act of Congress and cannot be done administratively by MARAD.

Accordingly, the Committee contacted the Coast Guard and MARAD to determine if *Michaela Rose* had a Certificate of Documentation to be engaged in the U.S. coastwise trade of passengers. Coast Guard officials reported to the Committee that “The M/Y MICHAELA ROSE was not issued a Certificate of Documentation.”²⁵ MARAD officials also confirmed that

²⁰ *The Passenger Vessel Services Act*, U.S. Customs and Border Protection, April 2010, available online at https://www.cbp.gov/sites/default/files/documents/pvsa_icp_3.pdf (At pg. 9: “The PVSA (46 U.S.C. § 55103), provides that the transportation of passengers between U.S. points is reserved for coastwise-qualified vessels. Pursuant to section 55103, ‘a vessel may not transport passengers between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel— (1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and (2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of [Title 46] or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.’ Consequently, foreign-flag vessels are prohibited from engaging in the coastwise trade.”)

²¹ 46 U.S.C. § 55103 - Transportation of passengers; 46 U.S.C. § 12112 - Coastwise endorsement

²² *Guidance on Port State Control Examinations for Foreign Flagged Yachts*, United States Coast Guard, Nov. 18, 2015 available online at https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2015/CG-CVC_pol15-04.pdf (Enclosure 1 to CG-CVS Policy Letter 15-04 – Foreign-Flagged Yachts Engaged in Trade Carrying More than 12 passengers – “Foreign flagged yachts engaged in trade carrying more than 12 passengers may not engage in coastwise trade. The passenger count may include non-paying guests. Vessel is engaged in trade if it carries one or more paying passengers (persons contributing consideration as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, agent or any other person having an interest in the vessel.) This section also applies to a vessel that is chartered and carrying more than 12 passengers.”)

²³ *Id.*

²⁴ <https://www.superyachts.com/fleet/michaela-rose-3255/> (Yacht specs: 16 guests and 13 crew).

²⁵ Email from United States Coast Guard to Patricio Gonzalez, Majority Staff,

“MARAD have not issued any Certificates of Eligibility for Endorsement Documents (CEED)” for *Michaela Rose*.²⁶ Furthermore, neither the Coast Guard nor MARAD had any record of *Michaela Rose* being granted a waiver or exemption to the PVSA or Jones Act.²⁷

This information confirms that *Michaela Rose* has never obtained the documentation required to be engaged in the yacht charter business between U.S. ports, raising further questions regarding claims that the yacht was engaged in any for-profit yacht chartering activities.

**Discrepancies with declaration made to the U.S. Patent and Trademark Office
under 18 U.S.C. 1001**

The revelation that *Michaela Rose* is representing to maritime authorities that it is not engaged in trade (such as yacht charter services for-profit) raises serious questions regarding the truthfulness of statements made by Mr. Crow and his representatives in filings with the U.S. Patent and Trademark Office (USPTO). As you are aware, Rochelle Charter, Inc., the company that owns *Michaela Rose*, filed an application with the USPTO in 2019 to obtain a trademark for *Michaela Rose*. As part of that application, Rochelle Charter claimed that *Michaela Rose* was being used in U.S. commerce for the purpose of “yachting services, namely, yacht charter services for entertainment purposes.”²⁸

On January 14, 2020, the USPTO notified Rochelle Charter that it had denied the trademark registration for *Michaela Rose* because the company could not “show the applied-for mark use in commerce.”²⁹ After this first notice, the USPTO again on August 10, 2020 indicated that the trademark for *Michaela Rose* was still refused because Rochelle Charter could not “provide evidence of use of the mark in commerce.”³⁰ USPTO went further, stating that the “the specimen is unacceptable because it is simply informational material about the yacht. There is no indication that the yachting services are provided.”³¹

Senate Committee on Finance, Jan. 19, 2024. (“The M/Y MICHAELA ROSE was not issued a Certificate of Documentation.”)

²⁶ Email from U.S. Maritime Administration (MARAD) to Patricio Gonzalez, Majority Staff, Senate Committee on Finance, Jan. 22, 2024. (“MARAD have not issued any Certificates of Eligibility for Endorsement Documents (CEED) or any other related document on this vessel.”)

²⁷ Email from United States Coast Guard to Patricio Gonzalez, Majority Staff, Senate Committee on Finance, Jan. 17, 2024. (“The Coast Guard does not have records of the M/Y MICHAELA ROSE being granted a waiver.”)

²⁸ Trademark Reg. No. 6,399,377. MICHAELA ROSE (First use in commerce 11-30-1984 – Class 39: Yachting Services, namely, yacht charter services for entertainment purposes.)

²⁹ USPTO Office Action (Official Letter) About Applicant’s Trademark Application, U.S. Application Serial No. 88648013, Mark: MICHAELA ROSE, Jan. 14, 2020 (“Specimen Unacceptable. Registration is refused because the specimen does not show the applied-for mark in use in commerce. Specifically, the specimen appears to be a brochure about a yacht. The nature of the services is not clear from the specimen because there is not a direct association with yacht charter services as the services are not mentioned.”)

³⁰ USPTO Office Action (Official Letter) About Applicant’s Trademark Application, U.S. Application Serial No. 88648013, Mark: MICHAELA ROSE, Aug. 10, 2020 (“Thus, the refusal to register the applied-for mark is now made final because applicant failed to provide evidence of use of the mark in commerce... The refusal of the specimen is maintained because the specimen does not show the applied-for mark as actually used in commerce in International Class 39.”)

³¹ Id. (“The refusal of the specimen is maintained because the specimen does not show the applied-for mark as actually used in commerce in International Class 39. The specimen is in the nature of a brochure, or ‘marketing materials’ about a yacht. The specimen is unacceptable because it is simply informational material about the yacht. There is no indication that the yachting services are provided.”)

Rochelle Charter appealed the USPTO’s decision and resubmitted the application. However, Rochelle Charter did not submit any proof that the vessel was actually being used in commerce for class 39 yacht charter services, it only provided screenshots of the yacht being advertised for charter on the superyachts.com and liveyachts.com websites. It seems highly unusual that a yacht owner claiming to be chartering out his yacht would be unable to provide USPTO any proof or records demonstrating that the yacht had been chartered for hire.

Additionally, Committee staff attempted to contact representatives from superyachts.com and liveyachting.com several times seeking information related to *Michaela Rose*’s purported charter activities. Neither of these charter websites responded to the Committee’s requests for information. However, a basic search of superyachts.com currently states that “*Michaela Rose* is currently unavailable for charter on Superyachts.com.”³² Liveyachting.com appears to no longer function as a yacht chartering website.

The claims made by Rochelle Charter to the USPTO asserting that *Michaela Rose* was being used in commerce for yacht charter services merit further investigation. The trademark application for *Michaela Rose* included a signed declaration by a Rochelle Charter executive acknowledging that willful false statements in the application are “punishable by fine or imprisonment, or both, under 18 U.S.C. 1001” and that any willful false statements regarding the yacht’s use in commerce could lead to the invalidation of the trademark.³³ A deliberate attempt to mislead the PTO regarding *Michaela Rose*’s charter activities could constitute a felony offense.

Statements that voyages involving Justice Thomas were for “personal hospitality”

As part of its investigation, the Committee has repeatedly requested information from Mr. Crow regarding whether he claimed any tax deductions related to the cost of voyages in which Justice Thomas was a passenger on *Michaela Rose*. Your prior responses to the Committee state that all trips Justice Thomas took on *Michaela Rose* were in the context of “personal hospitality.”³⁴ If so, none of these trips serve a business purpose and therefore any costs associated with the trips are not deductible.

³² <https://www.superyachts.com/fleet/michaela-rose-3255/charter/> (“*Michaela Rose* is currently unavailable for charter on Superyachts.com.”)

³³ *Trademark/Service Mark Application, Principal Register (Serial Number: 88648013)*, Rochelle Charter, Inc., Oct. 9, 2019 (Declaration signed by William McMahan, Vice President, Rochelle Charter, Inc. “The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the Applicant; he believes the Applicant to be the owner of the mark sought to be registered; that the mark is in use in commerce as specified in the application; to the best of his knowledge and belief no other person or entity other than specified in the application or accompanying papers (if any) has the right to use such mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when used on or in connection with the goods or services of such other person or entity, to cause confusion, or to cause mistake, or to deceive, and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.”)

³⁴ Letter from Michael Bopp on behalf of client, Harlan Crow, to Senator Ron Wyden, Chairman, United States Senate Committee on Finance, May 8, 2023. (“To the extent that the Letter addresses hospitality in the form of invitations to the Thomases to accompany the Crows on personal flights and boat trips, it appears to reflect a

However, you stated to the Committee that while trips involving Justice Thomas and his wife, Ginni Thomas, were for Mr. Crow’s personal use, “charter rates or reimbursement at rates prescribed by law were paid to the Crow family entities holding or operating those assets.”³⁵ It remains unclear what individuals or entities made those payments, and whether those payments were made by legitimate yacht charter customers or simply consisted of Mr. Crow paying Rochelle Charter or other companies he owns and controls to cover the cost of operating *Michaela Rose*.

Conclusion

I have long been concerned that the ultra-wealthy may be using idiosyncratic arrangements involving high-end assets like superyachts and private aircrafts to illegally or inappropriately avoid paying their fair share in taxes. The tax code makes abundantly clear that the use of a superyacht for personal purposes is not a legitimate business use and therefore any related costs cannot be claimed as a deduction. Any effort to mischaracterize a yacht used as a pleasure craft as a business is a run of the mill tax scam, plain and simple.

Unfortunately, your prior responses to the Committee have done nothing to address the Committee’s concerns that personal trips to host friends such as Justice Thomas aboard *Michaela Rose* may have been used to help Mr. Crow avoid or evade paying federal taxes. Additionally, the Committee has obtained significant new evidence that *Michaela Rose* was not registered with the appropriate maritime authorities as a yacht engaged in trade and transporting charter passengers for hire. This directly undermines claims Mr. Crow has made to various branches of the federal government that *Michaela Rose* was a commercial vessel engaged in for-profit yacht chartering activities.

The United States Senate Committee on Finance has jurisdiction over all federal tax laws and is empowered to conduct investigations related to the Internal Revenue Code. Among the issues in the Committee’s purview is conducting investigations into potential abuse of these provisions to inform potential legislation intended to improve enforcement and compliance with Section 183 of the Internal Revenue Code and federal gift tax laws. Accordingly, please provide answers to the following questions no later than February 29, 2024:

1. For tax years 2010 – 2022, please provide a list of all instances in which *Michaela Rose* was chartered for hire. For each of these transactions, please include the daily or weekly rate that customers were charged to charter *Michaela Rose*. This list should not include

misunderstanding of the purpose and operation of the gift tax. The underlying justification for the federal gift tax is to serve as a backstop to the estate and income tax. That justification does not come into play in the context of personal hospitality provided to friends and family, because value is not transferred out of the hosts’ taxable estates.”)

³⁵ Letter from Michael Bopp on behalf of client, Harlan Crow, to Senator Ron Wyden, Chairman, United States Senate Committee on Finance, Jun. 2, 2023. (“Our understanding is that for trips involving the Thomases – and for Mr. Crow’s personal use of private aircraft and the *Michaela Rose* in general – charter rates or reimbursements at rates prescribed by law were paid to the Crow family entities holding or operating those assets. Those entities included in income the amounts paid.”)

any instances where *Michaela Rose* was chartered to Mr. Crow or any entities he owns or controls.


2. Please provide a list of Rochelle Charter's paying customers for yacht charter services from 2010 – 2022. For each customer, provide the number of times they chartered *Michaela Rose*, the duration of each voyage, and the amount paid for Rochelle Charter Inc. or Mr. Crow directly for each voyage.
3. For each tax year from 2010 – 2022 please provide the annual income, expenses and losses reported on federal tax filings for Rochelle Charter. Please also provide a copy of Rochelle Charter's Form 1120-S (if applicable) and Mr. Crow's Schedule C and E for each tax year between 2010 – 2022.
4. For each tax year from 2010 – 2022, please provide the dollar value of the losses from Rochelle Charter that Mr. Crow used to reduce his taxable income.
5. For tax years 2010 – 2022, please provide the total dollar value of losses from Rochelle Charter or any other entities related to *Michaela Rose* that Mr. Crow has used to reduce his taxable income. Please specify the exact amount in losses from Rochelle Charter's activities that Mr. Crow offset against his taxable income for each tax year.
6. Are public reports that Rochelle Charter reported a \$1.8 million loss on federal tax filings in 2014 accurate? If so, how much of that loss was related to expenses incurred from upgrades and renovations done to *Michaela Rose*?
7. Between tax years 2010 – 2022, how much in federal tax deductions has Mr. Crow claimed from expenses related to the use of *Michaela Rose*? (This is understood to mean ALL deductions claimed by Mr. Crow from any expenses incurred from the use of *Michaela Rose*).
8. Has Mr. Crow ever been asked by the IRS to provide proof that *Michaela Rose* was actually being engaged in for-profit yacht chartering activities? If so, please provide a copy of documentation and records provided to the IRS substantiating that *Michaela Rose* was being chartered to paying customers for the purpose of the transportation of passengers for hire.
9. Has Mr. Crow or Rochelle Charter ever been audited by the IRS regarding Internal Revenue Code Section 183 in connection with the purported business activities of *Michaela Rose*?
10. Why has *Michaela Rose* never registered as a "commercial yacht" with the UK ship register? Please explain to the Committee why *Michaela Rose* has only registered as a Pleasure Yacht under Part 1 of the UK Ship Register and never as a Commercial Yacht under Part 1 of the UK Ship register.

11. Has *Michaela Rose* ever obtained a large yacht certificate from the UK Ship Register? If so, please provide a copy of all large yacht certificates obtained for *Michaela Rose* between 2000 and 2022. Please also provide copies of all Charter Yacht Certificates and Letters of Compliance issued for *Michaela Rose* by the UK Ship Register. If none exists, please explain why not.
12. Please provide a list of instances in which *Michaela Rose* was chartered out through superyachts.com, liveyachting.com or any other yacht charter websites. Please also provide any registrations, documentation or licenses to superyachts.com or liveyachting.com that *Michaela Rose* was legally allowed to be chartered out for hire to paying customers.
13. Has *Michaela Rose* ever obtained insurance for the purpose of commercial activities, including yacht charter services? Specifically, has *Michaela Rose* ever been insured to engage in trade for the transportation of passengers for hire?
14. Why has *Michaela Rose* never obtained a Certificate of Documentation for a coastwise enforcement from any U.S. maritime authorities? (To include the U.S. Coast Guard, the U.S. Maritime Administration, and U.S. Customs and Border Protection)
15. Why has *Michaela Rose* never sought an exemption or waiver to the Passenger Vessel Services Act or the Jones Act?
16. Please explain why Rochelle Charter was unable to or declined to provide the USPTO examples of instances where *Michaela Rose* was chartered out for hire to paying customers. Do these records exist? If so, please provide them to the Committee.
17. The USPTO claimed that there was “no indication that the yachting services are provided” in response *Michaela Rose*’s trademark application. Why did Rochelle Charter only provide marketing materials and brochures to the USPTO instead of records or documentation of *Michaela Rose* being chartered to customers? Please provide the Committee records of *Michaela Rose*’s yacht chartering activities, including schedules for paying customers.
18. Please provide examples of *Michaela Rose* being engaged in a lawful U.S. business, including invoices to paying customers for yacht chartering activities or other business activities.
19. Please provide a detailed list of all instances in which Justice Clarence Thomas has been a guest aboard Mr. Crow’s superyacht, *Michaela Rose*. For each of these trips, please include the following information:
 - a. The date, location and duration of stay for each instance in which Justice Thomas was a guest aboard *Michaela Rose*.

- b. The cost of purported chartering *Michaela Rose* for each instance in which Justice Thomas was a guest aboard *Michaela Rose*.
- c. Whether Justice Thomas ever provided any monetary consideration for stays aboard *Michaela Rose* to Mr. Crow or any entities in which Mr. Crow is a partner, director or officer, including Crow Holdings or subsidiaries.
- d. For each instance in which Justice Thomas traveled aboard *Michaela Rose*, please indicate whether any trade or business:
 - 1. Included the value of the use of the yacht as a taxable fringe benefit to the owner(s),
 - 2. Depreciated the yacht to the extent of qualified business use,
 - 3. Deducted operating costs (e.g., fuel, labor, food, etc.) attributable to these particular trips; or,
 - 4. For yacht uses that are for personal reasons as well as mixed use reasons (i.e., both personal and business reasons), whether logs were being kept to determine and substantiate proper income inclusion (e.g., all employee travelers, number of family members or guests accompanying the employee, distance traveled, hours used, etc.).
- e. For each instance in which Justice Thomas did not provide full payment for his stay aboard *Michaela Rose*, please indicate the value of the stay, whether you included the value of these stays on your gift tax return, how much of your unified lifetime gift and estate tax credit (or exemption) was applied to the gift (if any), and how much gift tax you paid with respect to the gift. If you did not report the amount on your gift tax return, pay gift tax, or reduce your unified lifetime gift and estate tax credit (or exemption), please explain why not.

Thank you for your attention to this important matter. Should you have any questions please direct them to Patricio Gonzalez from my staff.

Sincerely,



Ron Wyden
United States Senator
Chairman, Committee on
Finance