

**U.S. House of Representatives**  
**Committee on the Judiciary**  
Washington, DC 20515-6216  
One Hundred Fourteenth Congress

November 30, 2016

The Honorable Bob Goodlatte  
Chairman  
House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Goodlatte:

As the Committee with jurisdiction of the Ethics in Government Act, we write to urge you to hold hearings immediately to examine the issue of the federal conflicts-of-interest and ethics provisions that may apply to the President of the United States.

This request is all the more urgent in light of president-elect Trump announcement this morning that he will be “leaving [his] great business” to his children, a move he felt would be “visually important.”<sup>1</sup>

Although we do not yet know the details of his proposal, this announcement raises a number of questions, including whether Mr. Trump intends to legally transfer ownership of his assets to his children, or simply allow them to manage his assets; the extent his children will continue to be involved in his Administration and whether they will be subject to an “ethics firewall;” whether businesses, foreign governments, and others will continue to be able to take actions that benefit Mr. Trump and his family; and what level of transparency in these matters Mr. Trump will provide.

Noted legal experts Norman Eisen and Richard Painter, the chief White House ethics lawyers for Presidents Obama and George W. Bush, respectively, have already expressed concerns about Mr. Trump’s inescapable business entanglements: “unless [Mr. Trump] divests

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<sup>1</sup> Drew Harwell, *Trump announces he will leave business ‘in total’ – leaving open how he will avoid conflicts of interest*, WASH. POST, Nov. 30, 2016.

ownership, he will have an interest in the foreign government payments and benefits that flow to his business daily. That creates such a serious conflict of interest that the framers of the constitution prohibited it for presidents in the emoluments clause.”<sup>2</sup>

The issue is particularly important given the continued cascade of reports outlining President-Elect Donald Trump’s apparent disregard for conflicts of interest he may already face.<sup>3</sup> Just last week, Mr. Trump denied that it is even possible for a president to have a conflict of interest.<sup>4</sup> An independent report shows that understanding of the law to be mistaken.

At our request, the Congressional Research Service has compiled a list of federal ethics and conflict-of-interest rules that may apply to the President-Elect when he assumes office. These rules include:

- Article I, section 9, clause 8 of the United States Constitution, which prohibits the President from accepting any “emolument” from any foreign power.
- 5 U.S.C. app. §§ 101-111, the Ethics in Government Act, which requires federal officials to make certain financial disclosures.
- 5 U.S.C. § 3110, which restricts the President’s employment of his relatives.
- 5 U.S.C. § 7342, which governs the receipt and disposition of gifts from foreign officials and heads of state.
- 5 U.S.C. § 7353, which restricts the receipt of gifts by federal employees.
- 18 U.S.C. § 201, which prohibits bribery of public officials.
- 18 U.S.C. § 211, which prohibits the acceptance of gifts in connection with appointment to public office.
- 18 U.S.C. § 219, which prohibits officers and employees of the United States from acting as agents of a foreign power.

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<sup>2</sup> Adam Liptak, *Donald Trump’s Business Dealings Test a Constitutional Limit*, N.Y. TIMES, Nov. 21, 2016.

<sup>3</sup> See, e.g., Richard C. Paddock et al., *Potential Conflicts Around the Globe for Trump, the Businessman President*, N.Y. TIMES, Nov. 26, 2016; Rosalind S. Helderman & Tom Hamburger, *Trump’s presidency, overseas business deals and relations with foreign governments could all become intertwined*, WASH. POST, Nov. 25, 2016; *Donald Trump’s Conflicts of Interest*, THE ECONOMIST, Nov. 26, 2016.

<sup>4</sup> *Donald Trump’s New York Times Interview: Full Transcript*, N.Y. TIMES, Nov. 23, 2016.

- 18 U.S.C. § 1905, which prohibits the disclosure of confidential information, including trade secrets and other proprietary information, learned by an official in the course of his or her official duties.

We have attached the CRS work product for your convenience. This memorandum makes clear that, in addition to the emoluments clause, a number of applicable conflict of interest laws that would apply to a President Trump and his family. In addition, our committee has received legislative referrals of legislation that would further expand these restrictions. We can certainly expect to receive additional legislative referrals in the future.

Donald Trump regularly boasts of the scale and global reach of his companies,<sup>5</sup> and he can be expected to face an array of situations in which his personal business interests are entwined with official policy matters. So far, however, he has indicated only that he will turn over day-to-day management of his holdings to three of his children, each of whom has played a role in his presidential transition, and who may continue to serve as informal advisors during his presidency.<sup>6</sup>

In the weeks since his election, a number of incidents have occurred which may well cross the lines of ethical behavior. Citing to just a few examples:

- Mr. Trump met with Indian business partners who are seeking to capitalize on his victory to extend the Trump brand throughout India.<sup>7</sup>
- Foreign diplomats booked rooms in Mr. Trump's Washington D.C. hotel in an effort to curry favor with him.<sup>8</sup>
- Mr. Trump reportedly encouraged the leader of a British political party to oppose offshore wind farm projects because such projects could block the views from one of Mr. Trump's golf courses.<sup>9</sup>

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<sup>5</sup> *Donald Trump's New York Times Interview: Full Transcript*, N.Y. TIMES, Nov. 23, 2016 ("When I filed my forms with the [F]ederal [E]lection [Commission], people said, 'Wow that's really a big company, that's a big company.' It really is big, it's diverse, it's all over the world.").

<sup>6</sup> See Editorial, *The Trump Family Political Business*, WALL ST. JOURNAL, Nov. 17, 2016.

<sup>7</sup> Editorial, *Donald Trump's Caldron of Conflicts*, N.Y. TIMES, Nov. 25, 2016.

<sup>8</sup> Jonathan O'Connell & Mary Jordan, *For foreign diplomats, Trump hotel is place to be*, WASH. POST, Nov. 18, 2016.

<sup>9</sup> Danny Hakim & Eric Lipton, *With a Meeting, Trump Renewed a British Wind Farm Fight*, N.Y. TIMES, Nov. 21, 2016.

Such conduct may also implicate the emoluments clause of the U.S. Constitution, which prohibits United States officials from accepting gifts from foreign powers without the consent of Congress.<sup>10</sup> There is concern that foreign governments and government-owned corporations may steer business to him, or offer him favorable business terms, in an effort to gain political influence with his administration.<sup>11</sup>

To avoid such inevitable conflicts, a broad range of scholars has urged President-Elect Trump to liquidate his assets. This viewpoint includes Richard Painter, President George W. Bush's chief ethics lawyer,<sup>12</sup> Norman Eisen, President Barack Obama's chief ethics lawyer,<sup>13</sup> conservative columnist Peggy Noonan,<sup>14</sup> and even the *Wall Street Journal* Editorial Page.<sup>15</sup> It would seem that allowing his children to simply continue to operate his businesses would fall far short of these standards.

The American people should never have to question whether their president is working on their behalf or rather on behalf of his own personal interests.

For all the foregoing reasons, we ask that you schedule hearings, without delay, to examine these critical issues.

Sincerely,



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<sup>10</sup> U.S. CONSTITUTION, Art. I, Sec. 9, cl. 8 ("no Person holding any Office of Profit or Trust under [the United States] shall, without Consent of Congress, accept ... any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.").

<sup>11</sup> See Adam Liptak, *Donald Trump's Business Dealings Test a Constitutional Limit*, N.Y. TIMES, Nov. 21, 2016; Ailsa Chang, *Trump's International Business Dealings Could Violate the Constitution*, NAT. PUB. RADIO, Nov. 22, 2016.

<sup>12</sup> Richard W. Painter, *Trump must address conflicts of interest*, CNN, Nov. 18, 2016.

<sup>13</sup> Richard W. Painter & Norman Eisen, *Trump's 'blind trust' is neither blind nor trustworthy*, WASH. POST, Nov. 15, 2016.

<sup>14</sup> Peggy Noonan, *No More Business As Usual, Mr. Trump*, WALL ST. JOURNAL, Nov. 24, 2016.

<sup>15</sup> Editorial, *The Trump Family Political Business*, WALL ST. JOURNAL, Nov. 17, 2016.

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