

Congress of the United States
Washington, DC 20510

June 15, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, DC 20201

Dear Secretary Azar:

We write to express concern about the arrangement by which Dr. Moncef Slaoui has been brought on to serve as chief adviser for Operation Warp Speed, the Trump Administration’s “national program to accelerate the development, manufacturing, and distribution of [coronavirus disease 2019 (COVID-19)] vaccines, therapeutics, and diagnostics.”¹ We are concerned that Dr. Slaoui’s equity holdings and board positions raise serious conflicts of interest, and that his unusual arrangement with the federal government allows him to avoid addressing these conflicts entirely. We write to demand that—if he is to lead the administration’s vaccine response—Dr. Slaoui be brought on as a special government employee subject to federal ethics law and guidelines, and that he fully resolve his glaring conflicts of interest.²

Dr. Slaoui worked for GlaxoSmithKline (GSK) for decades, most recently as Chairman of Global Research and Development and Chairman of Global Vaccines.³ He still holds stock in the company, meaning he has a direct pecuniary interest in GSK’s financial position while GSK and its competitors have vaccine candidates that could benefit from government funds and regulatory action. This is an egregious conflict of interest given his role leading Operation Warp Speed. When asked, Dr. Slaoui refused to disclose the value of his GSK stock shares, and he has refused to sell his GSK stock.⁴ He said that he told administration officials that “I cannot take the job if I have to sell them.”⁵

¹ U.S. Health and Human Services, “Trump Administration Announces Framework and Leadership for ‘Operation Warp Speed,’” press release, May 15, 2020, <https://www.hhs.gov/about/news/2020/05/15/trump-administration-announces-framework-and-leadership-for-operation-warp-speed.html>; New York Times, “Trump’s Vaccine Chief Has Vast Ties to Drug Industry, Posing Possible Conflicts,” Sheila Kaplan, Matthew Goldstein and Alexandra Stevenson, May 20, 2020, <https://www.nytimes.com/2020/05/20/health/coronavirus-vaccine-czar.html>.

² Letter from Public Citizen and Lower Drug Prices Now to Christi Grimm, Jason Weida, and Emory Rounds, May 28, 2020, <https://www.citizen.org/wp-content/uploads/Slaoui-complaint3-1.pdf>.

³ U.S. Health and Human Services, “Trump Administration Announces Framework and Leadership for ‘Operation Warp Speed,’” press release, May 15, 2020, <https://www.hhs.gov/about/news/2020/05/15/trump-administration-announces-framework-and-leadership-for-operation-warp-speed.html>.

⁴ New York Times, “Trump’s Vaccine Chief Has Vast Ties to Drug Industry, Posing Possible Conflicts,” Sheila Kaplan, Matthew Goldstein and Alexandra Stevenson, May 20, 2020, <https://www.nytimes.com/2020/05/20/health/coronavirus-vaccine-czar.html>.

⁵ *Id.*

Indeed, it appears that the administration came up with an unusual arrangement for Dr. Slaoui in a blatant attempt to skirt federal ethics law, so that he could take the job without selling, or even disclosing the value of, his financial holdings and other possible conflicts of interest. According to the *New York Times*:

In agreeing to accept the position, Dr. Slaoui did not come on board as a government employee. Instead, he is on a contract, receiving \$1 for his service. That leaves him exempt from federal disclosure rules that would require him to list his outside positions, stock holdings and other potential conflicts. And the contract position is not subject to the same conflict-of-interest laws and regulations that executive branch employees must follow.⁶

Such an arrangement is clearly an attempted end-run around federal ethics rules, including federal criminal conflicts of interest laws that apply to “an[y] officer or employee of the executive branch of the United States Government...including a special Government employee.”⁷ This arrangement is also a clear attempt to shield Dr. Slaoui from public financial disclosures that are required under the *Ethics in Government Act of 1978* and that are meant to assure the American public that federal officials are not acting in their own financial interests.⁸ Former White House ethics counsel Virginia Canter said, “[t]his is basically absurd. It allows for no public scrutiny of his conflicts of interest.”⁹

And Dr. Slaoui’s conflicts of interest are not limited to his GSK stock. He continues to hold leadership positions that also pose intolerable conflicts of interest, including: SutroVax, a vaccine developer;¹⁰ Medixci, a life sciences-focused venture capital firm; and Galvani Bioelectronics, a GSK-affiliated venture.¹¹ Dr. Slaoui likely will be given access to sensitive non-public information and valuable proprietary information while working on Operation Warp Speed, which could be used to further these companies’ interests, unless he is also subject to the restrictions on misuse of public office for private gain and use of nonpublic information that apply to executive branch employees.¹² His conflicts have already had an effect on the project; reportedly, one FDA scientist quit Operation Warp Speed just days after being added to the project,¹³ “in part because he believed Dr. Slaoui had potential conflicts of interest.”¹⁴

⁶ *Id.*

⁷ 18 U.S. Code 208(a).

⁸ 5 Appendix U.S. Code; Title I.

⁹ New York Times, “Trump’s Vaccine Chief Has Vast Ties to Drug Industry, Posing Possible Conflicts,” Sheila Kaplan, Matthew Goldstein, and Alexandra Stevenson, May 20, 2020, <https://www.nytimes.com/2020/05/20/health/coronavirus-vaccine-czar.html>.

¹⁰ *Id.*

¹¹ ABC News, “Coronavirus vaccine czar to divest some holdings amid conflict concerns,” Soo Rin Kim and Katherine Faulders, May 18, 2020, <https://abcnews.go.com/Health/coronavirus-vaccine-czar-divest-holdings-amid-conflict-concerns/story?id=70753267>.

¹² 5 C.F.R. §§ 2635.702 - 2635.703.

¹³ Politico, “FDA struggles to remain independent amid race for virus cure,” Sarah Oweremohle, June 3, 2020, <https://www.politico.com/news/2020/06/03/fda-struggles-to-remain-independent-amid-race-for-virus-cure-299127>.

¹⁴ New York Times, “Trump Administration Selects Five Coronavirus Vaccine Candidates as Finalists,” Noah Weiland and David E. Sanger, June 3, 2020, <https://www.nytimes.com/2020/06/03/us/politics/coronavirus-vaccine-trump-moderna.html>.

Dr. Slaoui previously served on the board of drug manufacturer Moderna, a position from which he resigned in order to lead Operation Warp Speed.¹⁵ On the date that his appointment was announced, Dr. Slaoui held equity in Moderna worth over \$10 million.¹⁶ In the announcement ceremony in the Rose Garden, Dr. Slaoui announced that he had “very recently seen early data from a clinical trial with a coronavirus vaccine,” and that “these data made [him] feel even more confident that we will be able to deliver a few hundred million doses of vaccine by the end of 2020.”¹⁷ He did not specify the trial he had seen, but the statement was interpreted as “likely referencing”¹⁸ Moderna’s COVID-19 vaccine candidate. On the morning of Monday, May 18, 2020, Moderna indeed announced promising early data, causing Moderna’s stock to increase by nearly 20% that day.¹⁹ That day, a spokesperson for the U.S. Department of Health and Human Services said that Dr. Slaoui would be divesting his equity holdings in Moderna, but only after public outcry about Dr. Slaoui’s conflicts of interest.²⁰ Although we are glad that Dr. Slaoui plans to divest his Moderna holdings, it should not take public outcry or Congressional scrutiny to ensure that the search for COVID-19 countermeasures is free of financial conflicts of interest.

It is absolutely unacceptable for Dr. Slaoui—or any other key decision-maker within the administration—to have a financial stake in companies that could profit based on the actions of Operation Warp Speed. If Dr. Slaoui were properly brought on as a federal official, it would be illegal for him to maintain these conflicts while leading Operation Warp Speed. And it is outrageous that the administration made a special arrangement, circumventing the law, that allows Dr. Slaoui to avoid disclosing his conflicts of interest.

If Dr. Slaoui is to lead the administration’s vaccine response, he must be brought on as a special government employee subject to federal ethics laws and rules, which would require him to fully disclose his financial interests, divest from his financial conflicts, and recuse from matters in which he would have a personal conflict of interest,²¹ including any particular matter involving specific parties in which he knows “any person for whom [he] has, **within the last year**, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee” is or represents a party to that matter.²²

As the COVID-19 pandemic wreaks havoc on Americans’ health and economic well-being, it is critical that the effort to develop countermeasures be guided by science and data—not by an intent to profit. The American public must have full faith that officials responsible for

¹⁵ STAT, “Trump administration outlines audacious plan to deliver ‘hundreds of millions’ of Covid-19 vaccine doses by end of 2020,” Lev Facher, May 15, 2020, <https://www.statnews.com/2020/05/15/trump-audacious-plan-vaccine-covid19/>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ CNBC, “After positive data on a coronavirus vaccine, Moderna will try to raise \$1.34 billion with a stock sale,” Jasmine Kim, May 18, 2020, <https://www.cnbc.com/2020/05/18/moderna-plans-to-issue-1point25-billion-in-fresh-equity-following-20percent-stock-jump.html>.

²⁰ CNBC, “White House coronavirus vaccine advisor Moncef Slaoui to divest \$12.4 million of Moderna holdings,” Christina Wilkie, May 18, 2020, <https://www.cnbc.com/2020/05/18/coronavirus-vaccine-adviser-moncef-slaoui-to-divest-12point4-million-of-moderna-holdings.html>.

²¹ Letter from Public Citizen and Lower Drug Prices Now to Christi Grimm, Jason Weida, and Emory Rounds, May 28, 2020, <https://www.citizen.org/wp-content/uploads/Slaoui-complaint3-1.pdf>.

²² 5 CFR § 2635.502. Emphasis added.

responding to the pandemic disclose, and divest from, conflicted investments prior to joining administration efforts in which their actions could have a significant influence on financial markets and the financial performance of individual companies.

We have introduced the *Coronavirus Oversight and Recovery Ethics Act*, legislation that would address and eliminate conflicts of interest related to the federal pandemic response, in part by requiring advisors involved in pandemic response such as Dr. Slaoui to file public reports detailing their financial interests.²³ We intend to continue working to make this bill law. Until our bill is made law, the American public has a right to know that decisions are driven by science and the need to mitigate the pandemic, rather than by personal profit.

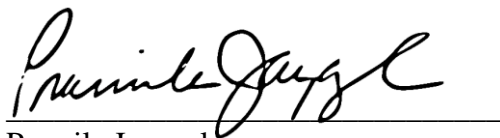
Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Pramila Jayapal
Member of Congress

CC: Elizabeth J. Fischmann, Designated Agency Ethics Official, Department of Health and Human Services

²³ Senators Elizabeth Warren, Richard Blumenthal, and Chris Coons, and Representatives John Sarbanes and Pramila Jayapal, “Warren, Blumenthal, Coons, Jayapal, Sarbanes Officially Introduce the CORE Act,” press release, June 15, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-blumenthal-coons-jayapal-sarbanes-officially-introduce-the-core-act>.