

Congress of the United States
Washington, DC 20510

March 8, 2017

Stefan C. Passantino
Deputy Counsel to the President
and Designated Agency Ethics Official
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Passantino:

We write today to request information on how the Office of the White House Counsel plans to monitor and ensure compliance with federal conflict of interest laws. According to recent reports, Jared Kushner, son-in-law and Senior Adviser to President Donald Trump, has failed to fully divest from his business interests.¹ Accordingly, we request additional information regarding Mr. Kushner's financial assets and his decisions on recusals.

On January 9, 2017, President Trump formally announced that Mr. Kushner would serve as a senior White House advisor.² Two days prior, Mr. Kushner's attorney promised that Mr. Kushner would "recuse [himself] from particular matters" that had the potential to affect his financial interests while serving in the White House.³ In the early days of President Trump's Administration, Mr. Kushner has reportedly been assigned an extensive portfolio that includes advising the President on business, tax, and foreign policy matters.⁴

Federal conflict of interest laws prohibit a federal official, such as Mr. Kushner, from profiting off of his government work. Federal officials are subject to criminal and civil penalties for violations of these laws, which require the disqualification of an executive branch official from participating in any governmental matter where the official has a financial interest.⁵ Mr.

¹ Justin Elliot and Al Shaw, "White House Power Player Jared Kushner Is Keeping Parts of His Real Estate Empire," *ProPublica* (February 24, 2017) (online at https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire?utm_campaign=sprout&utm_medium=social&utm_source=sprout&utm_content=1488034890).

² Glenn Thrush and Maggie Haberman, "Jared Kushner Named Senior White House Adviser to Donald Trump," *New York Times* (January 9, 2017) (online at <https://www.nytimes.com/2017/01/09/us/jared-kushner-senior-adviser-white-house-trump.html>).

³ Caleb Melby, "Trump Son-in-Law Poised to Quit as Family Firm CEO, Lawyer Says," *Bloomberg Politics* (Jan. 7, 2017) (online at <https://www.bloomberg.com/politics/articles/2017-01-08/trump-son-in-law-poised-to-quit-as-family-firm-ceo-lawyer-says>).

⁴ Justin Elliot and Al Shaw, "White House Power Player Jared Kushner Is Keeping Parts of His Real Estate Empire," *ProPublica* (February 24, 2017) (online at https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire?utm_campaign=sprout&utm_medium=social&utm_source=sprout&utm_content=1488034890).

⁵ 18 U.S.C. § 208 provides criminal penalties for "an officer or employee of the executive branch of the United States Government ... [who] participates personally and substantially as a Government officer or employee, through

Kushner's attorney announced that Mr. Kushner would divest from "substantial assets," including all common stock, foreign investments, and 35 other investments; step down as CEO of Kushner Companies; and resign from all board positions, trusteeships, and other partnerships.⁶ Mr. Kushner reportedly planned to sell some of his assets to his brother, Josh Kushner, as well as to a private trust of which his mother is a trustee, but in which Mr. Kushner would not be a beneficiary.⁷

Recent reports, however, reveal that Mr. Kushner "is keeping parts of his family business," including "some real-estate holdings associated with Kushner companies."⁸ It appears that Mr. Kushner's retained financial holdings have already required him to recuse himself from at least one policy matter. According to the *Baltimore Sun*, Mr. Kushner's company owns three apartment complexes in Maryland that receive vouchers from the Department of Housing and Urban Development. As a result, he plans to recuse himself "from any particular matter concerning HUD's rental voucher program."⁹ Neither the White House nor Mr. Kushner's attorneys, however, has confirmed which financial assets Mr. Kushner still controls — rendering oversight of Mr. Kushner's recusals and compliance with conflict-of-interest law impossible.¹⁰ The status of the financial holdings of Mr. Kushner's wife, Ivanka Trump, is also unclear, adding additional confusion as to which matters would have "a direct and predictable effect" on Mr. Kushner's, or his wife's, finances.¹¹

Ethics expert Kathleen Clark stated that "the public should have information about what types of matters Kushner is going to have to recuse from," as well as the "mechanism" the White House will use "to ensure that Kushner will not participate in matters that affect his retained financial interest."¹² We agree. While previous Administrations made ethics-pledge waivers publicly available on the White House website, the Trump Administration has chosen not to do

decision, approval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee ... has a financial interest..." See also 18 U.S.C. § 216 (2015).

⁶ Annie Karni, "Kushner to resign from exec posts, divest sizable assets," *Politico* (January 9, 2017) (online at <http://www.politico.com/story/2017/01/jared-kushner-divest-assets-trump-adviser-233368>).

⁷ *Id.*

⁸ Justin Elliot and Al Shaw, "White House Power Player Jared Kushner Is Keeping Parts of His Real Estate Empire," *ProPublica* (February 24, 2017) (online at https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire?utm_campaign=sprout&utm_medium=social&utm_source=sprout&utm_content=1488034890).

⁹ Doug Donovan and Jean Marbella, "Jared Kushner, relative and adviser to Trump, to avoid housing voucher policies," *Baltimore Sun* (February 25, 2017) (online at <http://www.baltimoresun.com/news/maryland/investigations/bs-md-jared-kushner-housing-20170226-story.html>).

¹⁰ Justin Elliot and Al Shaw, "White House Power Player Jared Kushner Is Keeping Parts of His Real Estate Empire," *ProPublica* (February 24, 2017) (online at https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire?utm_campaign=sprout&utm_medium=social&utm_source=sprout&utm_content=1488034890).

¹¹ 5 C.F.R. § 2640.103 (a) (2015).

¹² Justin Elliot and Al Shaw, "White House Power Player Jared Kushner Is Keeping Parts of His Real Estate Empire," *ProPublica* (February 24, 2017) (online at https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire?utm_campaign=sprout&utm_medium=social&utm_source=sprout&utm_content=1488034890).

so. As the Deputy Counsel to the President and the Designated Agency Ethics Official in the Office of the White House Counsel — which is responsible for monitoring Mr. Kushner’s compliance with federal conflict of interest statutes—you are responsible for maintaining this information.


To better understand how the Office of the White House Counsel plans to monitor and ensure Mr. Kushner's compliance with federal conflict of interest laws, please provide the following information no later than March 14, 2017:

1. From what holdings has Mr. Kushner divested his interests, and in which holdings has he retained his interests? Specifically, has Mr. Kushner divested from the holdings described by his attorney on January 7, 2017?
2. Based on Mr. Kushner’s retained financial holdings, from what issues will the White House Counsel advise Mr. Kushner to recuse himself while serving as a senior White House advisor?
3. Based on the financial holdings of Mr. Kushner's wife, Ivanka Trump, from what issues will the White House Counsel advise Mr. Kushner to recuse himself while serving as a senior White House advisor?
4. To date, has Mr. Kushner recused himself from any of his advisory duties while working for President Trump? If so, from which issues did he do so?
5. In order to work on issues that could potentially affect his or his wife's financial holdings, Mr. Kushner must receive a waiver from White House ethics officials or qualify for a regulatory exemption. Has Mr. Kushner requested, or received, any waivers that have allowed him to work on issues that would directly affect his or his wife’s financial interests? If so, please provide copies of the waivers.

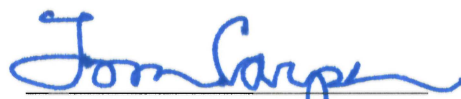
If you or members of your staff have any questions about this request, please do not hesitate to ask your staff to contact Susannah Savage with Senator Warren’s staff at 202-224-4543, Roberto Berrios with Senator Carper’s staff at 202-224-2627, or Krista Boyd with Congressman Cummings staff at 202-225-9493.

With best personal regards, we are

Sincerely yours,



Elizabeth Warren
United States Senator



Tom Carper
United States Senator



Elijah Cummings
Ranking Member, House Committee on Oversight and Government Reform

cc: The Honorable Walter M. Shaub
Director
U.S. Office of Government Ethics