

United States Senate

WASHINGTON, DC 20510

February 5, 2025

Robert F. Kennedy Jr.
Madonna & Madonna, LLP
48 Dewitt Mills Rd.
Hurley, NY 12443

Dear Robert F. Kennedy Jr.:

We congratulate you on your nomination to serve as Secretary of the Department of Health and Human Services (HHS). However, we are concerned that, if confirmed, you will enter this role with serious conflicts of interest. At your Senate confirmation hearing, you pledged to “remove the financial conflicts of interest in [HHS] agencies.”¹ You should start by mitigating your own conflicts of interest, including by: (1) relinquishing your direct and indirect financial interests in matters over which you will have power at HHS; (2) recusing yourself from matters involving your former clients, former employers, or entities in which you have a financial interest; and (3) for at least four years after you leave office, committing to not lobbying HHS, litigating cases against pharmaceutical companies and vaccine manufacturers, or joining the industries or entities that you interact with at HHS.

I. Divestment

First, we ask that you relinquish your contingency fee interest in all cases you referred to the law firm Wisner Baum that involve any entities regulated by HHS, including any vaccine companies. You should do so by forfeiting the interest or transferring it back to Wisner Baum for sum certain before taking office — rather than by assigning the contingency fee interest to your adult son.²

Your original ethics plan appeared to allow you to continue earning 10 percent of any payments awarded to plaintiffs in cases you referred, including cases against the pharmaceutical company Merck regarding its Gardasil vaccine. However, as HHS Secretary, you could influence the outcome of those vaccine cases, including by influencing Merck’s willingness to settle, or influencing the jury pool through publishing baseless anti-vaccine information or biased data, making scientifically unsupported statements about the vaccine, or initiating the process to add

¹ United States Senate Committee on Finance, “Hearing to consider the nomination of Robert F. Kennedy, Jr., of California, to be Secretary of Health and Human Services,” January 29, 2025, <https://www.finance.senate.gov/hearings/hearingto-consider-the-nomination-of-robert-f-kennedy-jr-of-california-to-be-secretary-of-health-and-human-services>.

² United States Senate Committee on Finance, “Responses to Questions for the Record to Robert F. Kennedy, Jr. Part 2,” January 2025, p. 38, https://www.finance.senate.gov/imo/media/doc/responses_to_questions_for_the_record_to_robert_f_kennedy_jrpart_2.pdf.

new injuries to the vaccine injury table to bolster plaintiffs' claims.³ By increasing the likelihood of a large payout for plaintiffs, you would do the same for yourself.

Following a wave of public opposition to your plan to retain your financial interest in Gardasil cases, you newly agreed to divest that interest, along with your interest in almost all other contingency fee cases you referred to Wisner Baum.⁴ However, you plan to do so by assigning your interest to your non-dependent adult son.⁵ You specified that this son is "licensed to practice law in California," in apparent reference to your son Conor Kennedy who is employed by Wisner Baum.⁶ This arrangement simply does not pass the smell test. Your son is not an independent third party, and ethics experts have critiqued your plan as exploiting a loophole in the law.⁷

Instead of keeping your Gardasil contingency fees within your family, you should divest by either forfeiting the fee or agreeing with Wisner Baum to accept a "sum certain that is not dependent on the outcome of the case,"⁸ as you are doing for cases that involve the U.S. government.⁹

Furthermore, if any of the "many hundreds" of other cases you referred to Wisner Baum involve entities regulated by HHS, you should also divest your interest in those cases through forfeiture or transfer back to Wisner Baum for sum certain — not by assigning the interest to a family

³ Kaiser Family Foundation, "How HHS, FDA, and CDC Can Influence U.S. Vaccine Policy," Jennifer Kates and Josh Michaud, November 20, 2024, <https://www.kff.org/policy-watch/how-hhs-fda-and-cdc-can-influence-u-s-vaccine-policy/>; Politico, "Five vaccine policy moves RFK Jr. could make," Lauren Gardener, January 24, 2025, <https://www.politico.com/news/2025/01/24/5-rfk-jr-vaccine-policy-moves-00200403>; Wall Street Journal, "Why RFK Jr. Is Dangerous to Public Health," the Editorial Board, January 26, 2025, <https://www.wsj.com/opinion/rfk-jr-senate-hearing-health-and-human-services-vaccines-trial-lawyers-ce7703cf>; Reuters, "Exclusive: Kennedy played key role in Gardasil vaccine case against Merck," Dan Levine and Mike Spector, January 18, 2025, <https://www.reuters.com/business/healthcare-pharmaceuticals/kennedy-played-key-role-vaccine-case-against-merck-2025-01-18/>.

⁴ Letter from Robert F. Kennedy, Jr. to Designated Agency Ethics Official Randal Hall, February 1, 2025, [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/\\$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20AMENDED%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20AMENDED%20finalEA.pdf).

⁵ United States Senate Committee on Finance, "Responses to Questions for the Record to Robert F. Kennedy, Jr. Part 2," January 2025, p. 38, https://www.finance.senate.gov/imo/media/doc/responses_to_questions_for_the_record_to_robert_f_kennedy_jrpart_2.pdf.

⁶ United States Senate Committee on Finance, "Question for the Record submitted to Robert F. Kennedy, Jr. from Senator Wyden.," January 29, 2025, https://www.finance.senate.gov/imo/media/doc/further_response_to_senator_wyden_question_for_the_record_to_robert_fkennedyjr.pdf; Wisner Baum, "Conor Kennedy," <https://www.wisnerbaum.com/attorneys/conor-kennedy/>.

⁷ Politico, "RFK Jr. to revise ethics pledge, direct stake in vaccine lawsuit to his son," Lauren Gardner and Adam Cancryn, January 31, 2025, <https://www.politico.com/live-updates/2025/01/31/congress/rfk-jr-to-revise-ethics-pledge-00201813>; American Law Institute, Principles of the Law - Government Ethics § 302 TD No 4 (2023), Thomson Reuters, 2023, (noting that an adult child's financial interests can lead "a reasonable observer aware of the facts likely [to] question whether the financial interest would affect the public servant's performance of official duties").

⁸ Letter from Acting Director Shelley K. Finlayson to Designated Agency Ethics Officials, October 17, 2024, p. 7, [https://www.oge.gov/Web/oge.nsf/Legal%20Docs/ED1800BD9214263685258BB900591B7D/\\$FILE/OGE%20Legal%20Advisory%20LA-24-12.pdf?open](https://www.oge.gov/Web/oge.nsf/Legal%20Docs/ED1800BD9214263685258BB900591B7D/$FILE/OGE%20Legal%20Advisory%20LA-24-12.pdf?open).

⁹ Letter from Robert F. Kennedy, Jr. to Designated Agency Ethics Official Randal Hall, January 21, 2025, p. 3, [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/\\$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20finalEA.pdf).

member.¹⁰ For transparency, we ask that you provide a complete list of all cases referred to Wisner Baum and specify the defendant in each, whether you intend to retain or divest your contingency fee interest in each, and *how* you plan to divest your interest in each.

II. Recusal

Second, we ask that you commit to recuse from all particular matters involving your former clients and employers for four years. You have worked for an anti-vaccine advocacy group, Children’s Health Defense, that regularly sues the agencies you will oversee.¹¹ You have also worked for a number of law firms with ongoing health-related matters, including JW Howard Attorneys, Kennedy & Madonna LLP, Morgan & Morgan, and Wisner Baum.¹² Your relationships with these entities will raise serious doubts about your impartiality if you participate in decisions about cases and other particular matters that involve them. You have agreed to a cooling-off period of merely one year,¹³ which will do little to assuage that concern. Over a dozen Biden appointees voluntarily agreed to recuse from their former clients’ specific-party matters for *four years* — going beyond the two-year recusal requirement in former President Biden’s ethics pledge.¹⁴ You should do the same.

Furthermore, you should recuse from particular matters (including particular matters of general applicability) that will impact your financial interests and commit to not seeking a waiver. For example, you own investments in several companies impacted by HHS’s work, including CRISPR gene editing biotechnology, the immunotherapy company Dragonfly Therapeutics, and the healthcare cloud company Zscaler.¹⁵ Your ethics agreement permits you to continue owning those investments for up to 90 days following your confirmation and leaves the door open to you

¹⁰ United States Senate Committee on Finance, “Responses to Questions for the Record to Robert F. Kennedy, Jr. Part 3,” January 2025, p. 2, https://www.finance.senate.gov/imo/media/doc/responses_to_questions_for_the_record_to_robert_f_kennedy_jrpart_3.pdf;

¹¹ STAT News, “The many legal fronts of RFK Jr.’s fight against vaccines,” Isabella Cueto, November 19, 2024, <https://www.statnews.com/2024/11/19/rfk-jr-vaccine-lawsuit-history-children-health-defense/>.

¹² Office of Government Ethics, “Public Financial Disclosure Report (OGE Form 278e),” p. 3, [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/A56222F259495B0D85258C1A00565073/\\$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20final278.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/A56222F259495B0D85258C1A00565073/$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20final278.pdf).

¹³ Letter from Robert F. Kennedy to Designated Agency Ethics Official Randall Hall (“Ethics Agreement”), January 21, 2025, pp. 2-4, [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/\\$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20finalEA.pdf).

¹⁴ Office of Senator Elizabeth Warren, “In Response to Senator Warren, FDA Commissioner Nominee Dr. Robert Califf Makes Strongest Ethics Commitments of Any Senior Biden Administration Official,” press release, January 31, 2022, <https://www.warren.senate.gov/newsroom/press-releases/-in-response-to-senator-warren-fda-commissioner-nominee-dr-robert-califf-makes-strongest-ethics-commitments-of-any-senior-biden-administration-official>; Office of Senator Elizabeth Warren, “At Hearing, Senator Warren Announces Strong Ethics Commitments from Federal Reserve Vice Chair for Supervision Nominee Michael Barr,” May 19, 2022, <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-senator-warren-announces-strong-ethics-commitments-from-federal-reserve-vice-chair-for-supervision-nominee-michael-barr>.

¹⁵ Letter from Robert F. Kennedy to Designated Agency Ethics Official Randall Hall (“Ethics Agreement”), January 21, 2025, p. 5, [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/\\$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/F3C8425ED335BB5685258C1A00565D57/$FILE/Kennedy%2C%20Jr.%2C%20Robert%20F.%20%20finalEA.pdf).

seeking a waiver in order to work on particular matters that would impact the value of those investments.¹⁶

Similarly, your ethics agreement states that you will continue to own investments in Park Holdings Group funds until April 2025 and that you *will* seek a waiver to work on particular matters that directly impact those investments, in order to “carry out [your] duties as Secretary.”¹⁷ These funds are invested in multiple companies that contract with or are regulated by HHS, such as Regeneron Pharmaceuticals Inc., Ecolab Inc., and Elevance Health Inc.¹⁸

In short, you appear to be planning to make decisions that can impact your own investments in numerous health companies. We urge you to either divest these holdings before taking office or to recuse from all particular matters that could impact those holdings.

III. Post-employment restrictions

We appreciate your commitment at your Senate Finance Committee confirmation hearing to not go work for a drug company for at least four years after leaving HHS.¹⁹ You should also commit, for at least four years after leaving office, to not seeking compensation from any entity that you regulated or otherwise interacted with while at HHS, or any entities suing pharmaceutical companies in cases that HHS can impact. If, for example, you left HHS to join an entity litigating cases against vaccine manufacturers, the public may reasonably question whether you spent your time at HHS stacking the rules in favor of anti-vaccine litigants only to profit from the new processes you created. Or if you were to join a dietary supplement company soon after leaving HHS, the public would likely question whether you were cashing in on your executive-branch connections to benefit a company looking to skirt regulations that you oversaw. Numerous Biden appointees voluntarily agreed to this four-year cooling-off period, including: members of the Federal Reserve Board of Governors, who agreed to not work for financial services companies; Ambassador to the Organization for Economic Cooperation and Development Sean Patrick Maloney, who agreed to not work for the crypto industry; military leaders, including former Defense Secretary Lloyd Austin, who agreed to not work for defense contractors; and former National Institutes of Health Director Monica Bertagnolli, who agreed to not work for pharmaceutical companies.²⁰

¹⁶ *Id.*

¹⁷ *Id.*, p. 5.

¹⁸ United States Senate Committee on Finance, “Responses to Questions for the Record to Robert F. Kennedy, Jr. Part 3,” January 2025, pp. 2-4, https://www.finance.senate.gov/imo/media/doc/responses_to_questions_for_the_record_to_robert_f_kennedy_jrpart_3.pdf; Regeneron, “Regeneron Announces Expanded Collaboration with HHS to Develop Antibody Treatments for New Coronavirus,” press release, February 4, 2020, <https://newsroom.regeneron.com/news-releases/news-release-details/regeneron-announces-expanded-collaboration-hhs-develop-antibody/>; Letter from Chief Scientist Denise Hinton to Ecolab Inc. Vice President Raghu Jainapur, June 30, 2021, <https://www.fda.gov/media/150467/download>; Letter from CMS Director John Scott to Elevance Health, Inc. President Aimee Dailey, January 17, 2025, <https://www.cms.gov/files/document/elevancehealthcmp01172025.pdf>.

¹⁹ United States Senate Committee on Finance, “Hearing to consider the nomination of Robert F. Kennedy, Jr. of California, to be Secretary of Health and Human Services,” January 29, 2025, <https://www.finance.senate.gov/hearings/hearingto-consider-the-nomination-of-robert-f-kennedy-jr-of-california-to-be-secretary-of-health-and-human-services>.

²⁰ Letter from Director of NIH Nominee Monica Bertagnolli to Senator Elizabeth Warren, August 11, 2023, <https://www.warren.senate.gov/imo/media/doc/Bertagnolli%20Letter%20to%20Senator%20Warren%2008.2023.pdf>; Letter from Ambassador to the OECD Nominee Sean Patrick Maloney to Senator Elizabeth

Relatedly, you should commit to not lobbying HHS for four years after leaving office. The rampant revolving door of former government leaders lobbying the agencies they once led, while their government relationships remain fresh, erodes Americans' faith in the federal government. To mitigate that concern, multiple Biden appointees agreed to a four-year lobbying ban, including Treasury Assistant Secretary for Investment Security Paul Rosen and Chairman of the Joint Chiefs of Staff Charles Q. Brown, while Defense Secretary Lloyd Austin agreed to a permanent lobbying ban.²¹ You should commit to not lobbying HHS for at least four years after leaving office, either as a formal registered lobbyist or informal shadow lobbyist — given that former high-level officials can leverage their influence not only by directly lobbying but through facilitating others to do so.

Conclusion

By making these commitments, you would increase Americans' trust in your ability to serve the public interest during your time at HHS — rather than the special interests of industries poised to profit from your policy agenda. We urge you to demonstrate a commitment to public integrity and request that you reply in writing by Friday, February 7, 2025 regarding these commitments and with answers to the following questions:

1. Please provide a complete list of all cases referred to Wisner Baum. For each, indicate:
 - a. The defendant(s) sued and claims raised;
 - b. Whether you intend to retain or divest your contingency fee interest, and, if applicable, whether you will divest your interest by assignment to a third party, by receiving a lump sum payment from Wisner Baum for your interest, or by forfeiture. If you plan to assign to a third party, name the party who would receive your contingency fee interest.

2. Have you referred any vaccine-related cases to Wisner Baum other than the Gardasil cases? Do you currently have a contingency fee interest in any such cases?

Warren, February 9, 2024, <https://www.warren.senate.gov/imo/media/doc/Signed%20Warren%20Letter.pdf>; Office of Senator Elizabeth Warren, “In Response to Senator Warren's Questions, Secretary of Defense Nominee General Lloyd Austin Commits to Recusing Himself from Raytheon Decisions for Four Years,” press release, January 19, 2021, <https://www.warren.senate.gov/newsroom/press-releases/in-response-to-senator-warrens-questions-secretary-of-defense-nominee-general-lloyd-austin-commits-to-recusing-himself-from-raytheon-decisions-for-four-years>; Office of Senator Elizabeth Warren, “In Response to Senator Warren, Federal Reserve Nominees Make Historic Ethics Commitments,” press release, February 10, 2022, <https://www.warren.senate.gov/newsroom/press-releases/in-response-to-senator-warren-federal-reserve-nominees-make-historic-ethics-commitments>.

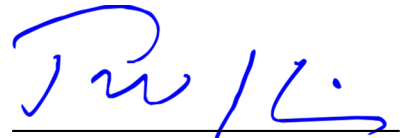
²¹ “In Response to Senator Warren's Questions, Secretary of Defense Nominee General Lloyd Austin Commits to Recusing Himself from Raytheon Decisions for Four Years,” press release, January 19, 2021, <https://www.warren.senate.gov/newsroom/press-releases/in-response-to-senator-warrens-questions-secretary-of-defense-nominee-general-lloyd-austin-commits-to-recusing-himself-from-raytheon-decisions-for-four-years>; Letter from Senator Elizabeth Warren to Nominee for Assistant Secretary of the Treasury for Investment Securities Paul Rosen, <https://drive.google.com/file/d/1U1-n0TRS5nzCBwMMbByChfs22YtyAnPB/view>; Office of Senator Elizabeth Warren, “At Hearing, Warren Secures Ethics Commitment Joint Chiefs of Staff Nominee General Brown; Reiterates Concern over Senior Military Holds,” press release, July 11, 2023 <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-warren-secures-ethics-commitment-joint-chiefs-of-staff-nominee-general-brown-reiterates-concern-over-senior-military-holds>.

3. Your son Conor Kennedy is a Wisner Baum employee. To which of your non-dependent adult family members do you plan to assign your contingency fee interest in any pending cases, including Wisner Baum's Gardasil cases?
4. If you do participate in particular matters with a direct and predictable effect on your Park Holdings Group funds or any of your investments in health companies, will you disclose to the public what those matters are and in what ways you participated?

Sincerely,



Elizabeth Warren
United States Senator



Tim Kaine
United States Senator

Cc: Dorothy A. Fink M.D., Acting Secretary, Department of Health and Human Services