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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

February 8, 2017

Adam J. Szubin
Acting Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Mr. Acting Secretary:

I am writing to request details concerning policies or procedures the Department of the Treasury has established for receiving profits President Trump will convey to the Treasury to mitigate conflicts of interest concerns.

In a press conference on January 11, 2017, then-President-Elect Trump outlined policies designed to mitigate conflicts of interest stemming from his failure to divest his holdings in the Trump Organization. An accompanying memorandum from the law firm of Morgan, Lewis & Bockius LLP expanded on these policies and procedures, which include a pledge by President Trump to donate all profits from foreign government patronage of Trump “hotels and similar businesses...to the U.S. Treasury.”¹

President Trump and his attorneys and ethics advisers have not, however, provided additional details on how they plan to define and calculate “profit,” determine which Trump entities fall under the category of “hotels and similar business,” or investigate whether payments from foreign businesses could qualify as “foreign government patronage” due to government ties. As the *Associated Press* has explained, the term “hotels and similar businesses” leaves “open questions about foreign governments that may purchase condos in [President Trump’s] buildings or spend money on Trump golf courses.”² Also unclear is whether “similar businesses” include Trump properties leased as office space; the largest tenant at Trump Tower, for example, is the state-owned Industrial and Commercial Bank of China.³ Similarly, the term “foreign government” may “overlook governments that use a third-party vendor to do business with Trump,”⁴ as well as governments acting through corporations they own or otherwise

¹ Morgan Lewis, *Conflicts of Interest and the President* (Jan. 11, 2017).

² *Trump Plan to Donate Foreign Hotel Profits Can’t Be Checked*, Associated Press (Jan. 12, 2017).

³ Erwin Chemerinsky, *Trump May Violate the Constitution on Day One*, Los Angeles Times (Jan. 12, 2017).

⁴ *Trump Plan to Donate Foreign Hotel Profits Can’t Be Checked*, Associated Press (Jan. 12, 2017).

control.⁵ In the case of Chinese business entities, in particular, “the extent of state ownership is not always clear.”⁶ Moreover, as Steve Carvell, an expert in hotel administration has explained, it is a “monumental task” to calculate “profit” for individual hotel rooms or venues—as opposed to entire properties or lines of business.⁷

The ethics plan President Trump and others have detailed also fails to explain how the Trump Organization will convey funds to the Treasury and what details or documentation will accompany these transfers. Additionally, the plan provides no method for the disclosure of “donations”—and therefore no mechanism through which Congress and the American public can exercise oversight. This is particularly troubling given President Trump’s documented failure to adhere to his public pledges of charitable donations—including his \$6 million pledge to groups supporting military veterans—in a complete and timely manner.⁸

President Trump has now placed the Treasury on the front lines of the effort to mitigate his serious and wide-ranging financial conflicts of interest. Although the vague nature of his ethical plan will, as experts have noted, likely “precipitate scandal and corruption,”⁹ Treasury now has the obligation to ensure President Trump—at the very least—adheres to his own promises to the American people. Part of discharging this obligation must include regular public disclosures—on a quarterly basis, if not more frequently—of all transfers from the Trump Organization to the Treasury, as well as a detailed accounting of the sources of the income these payments represent.

In light of the concerns outlined above, I request you answer the following questions:

- 1) What guidance has the Treasury provided, or will it provide, to the Trump Organization concerning the procedures it should follow in transferring payments, including the timing of these payments, policies for determining their necessity, and any documentation or other details that should accompany them? Please produce all communications from the Treasury to the Trump Organization or Trump ethical advisers conveying guidance on this issue.

⁵ *Emoluments: Trump’s Coming Ethics Trouble*, The Atlantic (Jan. 18, 2017).

⁶ *Chinese Investments in U.S. Hotel Companies Spur National Security Scrutiny*, Los Angeles Times (March 18, 2016).

⁷ *Trump Plan to Donate Foreign Hotel Profits Can’t Be Checked*, Associated Press (Jan. 12, 2017).

⁸ *What Ever Happened to All That Money Trump Raised for the Veterans?*, Washington Post (March 3, 2016); *Trump Campaign Admits it Did Not Raise \$6 Million for Veterans*, CNN (May 20, 2016); *Four Months After Fundraiser, Trump Says He Gave \$1 Million to Veterans Group*, Washington Post (May 24, 2016).

⁹ *Ethics Experts: Trump Still Faces Serious Conflicts of Interest*, Forbes (Jan. 11, 2017).

- 2) What standards will the Treasury employ internally in determining whether specific transfers from the Trump Organization—resulting from particular examples of foreign government patronage—are necessary to enable President Trump to fulfill his ethical promises? Please produce all communications from the Trump Organization or Trump ethical advisers to the Treasury concerning the standards the former will employ in determining whether transfers are necessary.
- 3) What standards will the Treasury employ internally in calculating whether transfers from the Trump Organization represent the full amounts due under the guidelines President Trump has established? Please produce all communications from the Trump Organization or Trump ethical advisers to the Treasury concerning the standards the former will employ in calculating transfer amounts.
- 4) What guidance has the Trump Organization or Trump ethical advisers provided to the Treasury concerning the definition of key terms in the Morgan Lewis memorandum described above? Please produce all communications from the Trump Organization or Trump ethical advisers to the Treasury conveying guidance on this issue.
- 5) What oversight will the Treasury conduct, in general, regarding whether President Trump and the Trump Organization have fulfilled their payment obligations under the ethical guidelines President Trump has established?
- 6) At what intervals will the Treasury make disclosures to the public and Congress concerning transfers from the Trump Organization, and what information, specifically, will these disclosures contain?

Please provide your responses as soon as possible, but in no event later than March 1, 2017. If you have any questions related to this request, please contact Brandon Reavis of the Committee staff at Brandon_Reavis@hsgac.senate.gov or (202) 224-2627. Please send any official correspondence relating to this request to Amanda_Trosen@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman