

June 28, 2018

David J. Apol  
Acting Director  
U.S. Office of Government Ethics  
1201 New York Avenue, N.W., Suite 500  
Washington, DC 20005

Dear Acting Director Apol:

Democracy 21 and Citizens for Responsibility and Ethics in Washington are writing to call on the Office of Government Ethics (OGE) to investigate whether Jared Kushner's extensive and ongoing personal business interests, including by attribution the extensive business interests of his spouse, Ivanka Trump, are in direct conflict with Kushner's responsibilities as a Senior Adviser to President Donald Trump.

In particular, we request that you investigate two areas to determine whether Mr. Kushner has a conflict of interest between his financial interests and his official responsibilities – first, between his financial interests and his official responsibilities regarding Israel and second, between his attributed financial interests and his official responsibilities regarding China. If OGE determines that it is not within its purview to investigate allegations of misconduct by White House staff, we request that your office pursue any necessary corrective action to resolve the apparent violations.

Mr. Kushner and Ms. Trump are in unique if not unprecedented positions. They are the son-in-law and daughter of a President. They both work in the White House, with Mr. Kushner having a broad portfolio of responsibilities. They both have chosen to maintain rather than divest their extensive business holdings that involve foreign and domestic interests.

This places them in a position where foreign interests seeking to curry favor with the Trump Administration can do so by providing financial benefits to Mr. Kushner and Ms. Trump in the form of business arrangements with private companies in which Mr. Kushner and Ms. Trump continue to maintain a financial interest. None of these issues would have arisen if Mr. Kushner and Ms. Trump had been willing to divest their business interests in return for the privilege of serving in the White House.

As a result of their decisions to pursue private sector financial gain at the same time they are serving in the White House, the couple earned \$82 million in outside income in 2017, according

to a report in *The Washington Post*.<sup>1</sup> The 2017 earnings appear to be unprecedented in size and scope for White House staff members. The *Post* report further noted that they “maintained large stakes in businesses with domestic and foreign ties.”

### **Kushner and Israel**

Mr. Kushner has been assigned by President Trump to serve as the Administration’s point person for bringing peace to the Middle East. President Trump [said](#) about Mr. Kushner, “If you can’t produce peace in the Middle East, nobody can.”

A successful peace process requires delicate negotiations with both Israel and the Palestinians. Yet, Mr. Kushner is attempting to negotiate historic differences while he has financial connections with Israeli companies and banks.

According to a report in *The Washington Post*, “Kushner and his family company have made substantial investments over the years with Israel-based banks and companies, and his financial interests expanded over the past year. . . .”<sup>2</sup> A recently filed disclosure report showed that Kushner and his father “increased their line of credit with an Israeli bank to as much as \$25 million, up from a maximum of \$5 million in a previous report.” *Id.* Although Mr. Kushner “gave up control of his family business in January 2017,” he “retained financial interests in a wide portfolio of real estate holdings” and “continues to be at least partly liable for loans between \$40 million and \$200 million, including the line of credit he reported from Israel Discount Bank. . . .” *Id.*

According to published reports, Mr. Kushner’s financial disclosure reports show other Israeli financial entanglements. Mr. Kushner is a passive partner in Quail Ridge, a New Jersey apartment complex, and holds personal debt with other partners of between \$5 million and \$25 million on that property.<sup>3</sup> One of those partners is Psagot Investment House, an Israeli firm that is Israel’s largest asset manager. *Id.* In addition, according to another report, Menora Mivtachim, an Israeli insurer that is one of Israel’s largest financial institutions and the country’s largest manager of pension funds, has made a \$30 million investment in the Kushner family holdings in a Baltimore area real estate project.<sup>4</sup>

---

<sup>1</sup> A. Brittain, A. Parker and A. Narayanswamy, “Jared Kushner and Ivanka Trump made at least \$82 million in outside income last year while serving in the White House,” *The Washington Post* (June 11, 2018).

<sup>2</sup> M. Kranish, “Kushner’s ties to Israeli firms are at issue as he visits region on peace mission,” *The Washington Post* (June 22, 2018).

<sup>3</sup> C. Melby and D. Kocieniewski, “Kushner’s 2017 Apartment Deal Shows Turn Toward Israeli Firms,” *Bloomberg News* (June 12, 2018).

<sup>4</sup> J. Drucker, “Kushner’s Financial Ties to Israel Deepen Even With Mideast Diplomatic Role,” *The New York Times* (Jan. 7, 2018).

At the same time that he retains personal financial entanglements with Israeli banks and investors, Mr. Kushner is playing a lead role for the United States in an effort to broker peace between Israel and the Palestinians.

This creates the appearance, if not the reality, of a conflict of interest on several levels.

Mr. Kushner's financial entanglements, and the likelihood of more to come in the future, create conflicts of interest that are unprecedented in scope, and appear to violate several fundamental ethical principles. His financial deals appear to "conflict with the conscientious performance of duty;" result in misuse of "public office for private gain;" impede his ability to carry out his duties with "impartially" and avoid giving "preferential treatment;" and constitute "actions creating the appearance" of "violating the law or ethical standards." 5. C.F.R. § 2635.101(b)(2), (7), (8) and (14).

Mr. Kushner's entanglements with major Israeli financial institutions undermine his role in the Middle East negotiations, and he stands to potentially financially benefit from how American foreign policy is conducted in the region.

In addition, the Israeli interests to which Mr. Kushner is indebted could seek to use that indebtedness to influence or shape his diplomatic efforts in the region. Furthermore, Mr. Kushner's financial relationships with Israeli banks and financial interests create an obvious public appearance of bias towards Israel that, at a minimum, compromises Mr. Kushner's ability to lead U.S. efforts and act as an honest broker between hostile nations.

The overall effect of these entanglements is to compromise the public's trust in the Middle East peace process. As a result, Mr. Kushner should be required to divest himself of any ongoing financial interests in Israel, or he should be recused from participating in U.S. diplomatic efforts in the Middle East.

### **Kushner and China**

In a letter dated May 8, 2017 to former OGE Director Walter Shaub, Democracy 21 previously raised the question of Mr. Kushner's apparent conflict of interest with regard to his duties relating to China. That letter stated that "given the business interests in China of his spouse, Ivanka Trump, including her valuable trademarks and pending trademark applications, Mr. Kushner is required to recuse himself from his foreign policy responsibilities for matters dealing with China." Democracy 21 received no response from OGE to that letter.

As was widely reported last year, according to *The New York Times*, Ivanka Trump, through her company, Ivanka Trump Marks LLC, has "at least 23 trademarks for everything from swimwear to wedding dresses" in China.<sup>5</sup>

---

<sup>5</sup> D. Hakim and R. Abrams, "Ivanka Trump's Global Reach, Undeterred by a White House Job," *The New York Times* (April 18, 2017).

Although Ivanka Trump turned management of her business enterprises over to others and placed the business assets in a trust run by family members, “she continues to profit from the business.”<sup>6</sup> According to an article in *The New York Times*, Ms. Trump “has kept her financial interest in the company and retains the ability to approve or veto certain deals through her trust arrangement.”<sup>7</sup>

Last month, following an initial report by Citizens for Responsibility and Ethics in Washington, *The New York Times* reported that Ivanka Trump was recently awarded seven new trademarks by the Chinese government for a collection of businesses she operates there.<sup>8</sup> As the [article](#) noted, “Ms. Trump’s growing portfolio of trademarks in China and the family’s business interests there raises questions about whether Chinese officials are giving the Trump family extra consideration that they otherwise might not get.”

According to the article, Ivanka Trump “now has 34 trademarks in China that would allow her to capitalize on her brand in the world’s second largest economy.” According to a report in *Time*, “Taken together, the trademarks could allow her brand to market a lifetime’s worth of products in China, from baby blankets to coffins, and a host of things in between, including perfume, make-up, bowls, mirrors, furniture, books, coffee, chocolate and honey.”<sup>9</sup>

The federal conflicts of interest statute that applies to Mr. Kushner, 18 U.S.C. § 208(a), makes it illegal for any person who is “an officer or employee of the executive branch of the United States” to “participat[e] personally and substantially as a Government officer or employee, through decision. . . recommendation, the rendering of advice, . . . or otherwise, in a . . . particular matter in which, to his knowledge, he or his spouse. . . has a financial interest. . . .”

Under OGE regulations, section 208 prohibits any federal employee “from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he . . . has a financial interest, if the particular matter will have a direct and predictable effect on that interest.” 5 C.F.R. § 2640.103.

Importantly, OGE regulations also apply the conflict of interest rules where an employee knows that a particular matter “is likely to have a direct and predictable effect on the financial interest of a member of his household” and where “the circumstances would cause a reasonable person

---

<sup>6</sup> E. Kinetz, “China Approves 13 New Ivanka Trump Trademarks in 3 Months, Adding to Conflict of Interest Questions,” *Time* (May 28, 2018).

<sup>7</sup> D. Hakim and R. Abrams, “Ivanka Trump’s Global Reach, Undeterred by a White House Job,” *The New York Times* (April 18, 2017).

<sup>8</sup> S. Wee, “Ivanka Trump Wins China Trademarks, Then Her Father Vows to Save ZTE,” *The New York Times* (May 28, 2018).

<sup>9</sup> E. Kinetz, “China Approves 13 New Ivanka Trump Trademarks in 3 Months, Adding to Conflict of Interest Questions,” *Time* (May 28, 2018).

with knowledge of the relevant facts to question his impartiality in the matter.” 5 C.F.R. § 2635.502.

As emphasized above, the “financial interests” held by Ivanka Trump are fully attributable to Mr. Kushner and thus create the same potential for a conflict of interest for Mr. Kushner as there would be if the financial interests were his own. *See* 5 C.F.R. § 2640.103(c) (employee’s spouse is a person whose financial interests “will serve to disqualify an employee to the same extent as the employee’s own interests”). In short, Ivanka Trump’s financial interests in her trademarks in China are attributable to Mr. Kushner.

Mr. Kushner’s formally assigned duties as Senior Adviser to the President include foreign policy matters involving a range of countries, including China.<sup>10</sup>

Given Ivanka Trump’s extensive business interests in China, including her valuable trademarks, we believe that Mr. Kushner is required by the law and regulations either to recuse himself from all matters dealing with China, or Ivanka Trump has to divest herself of her financial interests in China, including trademarks issued by the Chinese government.

The Chinese government exercises complete control over the issuance of trademarks in China, and indeed, overall foreign business interests in the country. Accordingly, any actions that Mr. Kushner takes, or any policy advice he gives, on any matter dealing with China is “likely” to affect his spouse’s business interests, by the effect his actions or advice might have on these interests as a result of his gaining favor with, or in alienating, the government of China.

Because of his spouse’s extensive financial interests in China, which inure to him, Mr. Kushner’s involvement in matters relating to China would also likely cause “a reasonable person with knowledge of the relevant facts to question his impartiality in the matter.”

The fact that additional trademarks were recently granted at the discretion of the Chinese Government to Ivanka Trump at a time when U.S. relations with China on trade and other foreign policy matters are extremely sensitive underscores Mr. Kushner’s increasing personal stake in his spouse’s China-relating financial holdings, and the ongoing financial interest he has in the Chinese government’s decisions on his spouse’s business interests there.

Since White House foreign policy towards China is a matter that has been expressly included in Mr. Kushner’s assigned portfolio of responsibilities, it is likely that he is “personally and substantially” involved in a range of “particular matters” affecting China. There is little doubt that a conflict of interest exists between Mr. Kushner’s ability to influence the actions of the U.S. government towards China, and his personal financial interests which are directly affected by the actions of the government of China towards his spouse’s business interests.

There is no evidence in the public record that Mr. Kushner has agreed to, or has taken, any measures to recuse himself from White House decisions or recommendations regarding

---

<sup>10</sup> A. Entous and E. Osnos, “Jared Kushner is China’s Trump Card,” *The New Yorker* (January 29, 2018).

Administration policy towards China. Indeed, on the facts of this matter, the public is uniquely disadvantaged in its ability to monitor Mr. Kushner’s compliance with the recusal requirements of the law.

Although press reports state that Mr. Kushner has signed a written ethics agreement to avoid any conflict of interest, that agreement—unlike similar ethics protocols signed by Cabinet secretaries—has been filed with the Executive Office of the President (EOP) and not with OGE. According to one report with regard to Mr. Kushner, EOP is “not legally required to release [ethics agreements], and in this case it has not.”<sup>11</sup>

Thus, the public has no way of knowing whether Mr. Kushner has agreed to any prophylactic measures to mitigate or avoid a conflict of interest between his duties relating to China as Senior Adviser to the President, and his spouse’s business interests in China. And even if such an agreement does address his conflicts in matters regarding China, the public has no information about whether Mr. Kushner is operating in compliance with his ethics agreement.

By failing to take appropriate measures to guard against conflicts of interest arising from his spouse’s financial interests, Mr. Kushner has undermined public confidence in the development and implementation of U.S. trade and foreign policy with China. We again call on OGE to investigate whether Mr. Kushner is in continuing violation of the conflict of interest provisions of section 208(a), and its implementing OGE regulations, by failing to recuse himself from all matters relating to U.S. policy in China while his spouse maintains her extensive business interests in China.

We also call on OGE to investigate whether Mr. Kushner has a conflict of interest between his personal financial entanglements with Israeli banks and financial institutions and his role in formulating and implementing U.S. policy in the Middle East, including his efforts to reach a peace agreement between Israel and the Palestinians. If OGE determines that this matter is not within its purview to investigate, it should pursue any necessary corrective action to resolve the apparent violations.

Sincerely,

/s/ Noah Bookbinder

Noah Bookbinder  
Executive Director  
Citizens for Responsibility and Ethics in Washington

/s/ Fred Wertheimer

Fred Wertheimer  
President  
Democracy 21

---

<sup>11</sup> D. Wilman, “Jared Kushner may face new scrutiny over tangled financial holdings,” *Los Angeles Times* (May 14, 2018).