

MICHAEL F. BENNET
COLORADO

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY

FINANCE

HEALTH, EDUCATION, LABOR,
AND PENSIONS

United States Senate

WASHINGTON, DC 20510-0609

WASHINGTON, DC:
458 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5852

COLORADO:
1127 SHERMAN STREET
SUITE 150
DENVER, CO 80203-2398
(303) 455-7600

<http://www.bennet.senate.gov>

April 11, 2017

Mr. Donald McGahn
White House Counsel
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. McGahn:

I write to follow up on my March 17, 2017 letter regarding the national security and foreign policy implications of President Trump's potential conflicts of interest.

The President has yet to take steps to fully divest and separate himself from his business, create a complete blind trust and firewall from The Trump Organization (the "Organization"), and provide sufficient and concrete information and transparency regarding financial investments and foreign entanglements. As a result, significant questions remain about whether the President or The Trump Organization's interests influence the Administration's actions and decisions.

The White Paper that the President's attorneys published on January 11, 2017 ("the White Paper") recognizes the need to place "restrictions on new deals to avoid any possible conflicts of interest or concerns that The Trump Organization is exploiting the Office of the President"¹ and as a result prohibits "new foreign deals" and "new transaction[s] or contract[s] with . . . foreign countr[ies]...".² The White Paper, however, does not state how "new foreign deals" will be defined. The vagueness of the term "deal" makes it difficult for the public to understand how the ethics agreement seeks to address potential conflicts of interest around the world. Please confirm that the term "new deal" includes any transaction, arrangement, agreement, or financial exchange that had not been formalized by a final contract as of January 20, 2017. Please also clarify whether the White Paper's prohibition on new deals would affect and terminate any pending transactions, such as open or on-going negotiations, which have yet to be finalized and could create potential conflicts of interest.

While the White Paper attempts to address deals in foreign jurisdictions, it does not specifically address the potential conflicts that may arise when foreign citizens invest in deals in the United States. The White Paper merely asserts that any new domestic deals will go through a "rigorous

¹ Morgan, Lewis & Bockius LLP, White Paper, <https://assets.documentcloud.org/documents/3280261/MLB-White-Paper-1-10-Pm.pdf>, (January 11, 2017)

² Morgan, Lewis & Bockius LLP, White Paper, <https://assets.documentcloud.org/documents/3280261/MLB-White-Paper-1-10-Pm.pdf>, (January 11, 2017)

vetting process” regarding potential conflicts,³ without defining what would give rise to such a conflict. It has been reported that a potential new hotel in Dallas may have foreign investors.⁴

I have substantial concerns that foreign individuals and companies will seek to curry favor, influence, or even coerce foreign policy decisions by investing in new or existing Organization deals in the United States. I would appreciate if you could clarify whether an investment by any foreign national, organization, or entity would be determined to raise potential conflicts of interest and thus be prohibited under the ethics arrangement laid out in the White Paper. I would also appreciate if you could clarify whether new foreign investments in existing deals would be prohibited as a potential conflict of interest.

In addition, the White Paper does not sufficiently address the potential conflicts that may arise when the Organization makes profits from transactions with foreign individuals or companies. For instance, if a foreign individual or company spends a significant amount of money at a Trump property, the White Paper fails to specify how either the Organization or the Administration would minimize such a conflict. As President Trump reportedly remains the sole beneficiary of the Organization, I am concerned that such individuals and entities will seek to curry favor, influence, or even coerce policy outcomes beneficial to their countries and foreign business interests. In his short time in office, the President has already showcased his various properties traveling to Mar-A-Lago, the Trump International Hotel in Washington, and the Trump National Golf Club in Virginia, continuing to demonstrate the ties between the Organizations and the President. The White Paper ignores the challenges to U.S. foreign and national security policy that this type of conflict creates.

Even if the President does not receive specific information from the Organization regarding such profits, it would be relatively easy for an individual or company to make known their expenditures at Trump properties and businesses. Given this challenge, please describe the steps you have taken to mitigate potential conflicts that arise when foreign businesses or individuals spend substantial amounts of money at or invest in a Trump business.

Similarly, the new issuance of trademarks raises serious ethical and constitutional questions. Since the President assumed office, foreign countries have granted numerous trademarks to the Organization.^{5,6} I am deeply concerned that foreign nations may seek to influence or curry favor with the President by issuing new and potentially valuable trademarks to the Organization. Please explain whether you believe the issuance of trademarks to the Organization in foreign

³ Morgan, Lewis & Bockius LLP, White Paper, <https://assets.documentcloud.org/documents/3280261/MLB-White-Paper-1-10-Pm.pdf>, (January 11, 2017)

⁴ Hui-Yong Yu & Caleb Melby, “Trump Hotels to Open Scion in Dallas with Foreign Investors,” *Bloomberg*, February 2, 2017, <https://www.bloomberg.com/news/articles/2017-02-03/trump-hotels-plans-50-million-dallas-project-with-foreign-money>

⁵ Erika Kinetz, “China Grants Preliminary Approval to 38 New Trump Trademarks,” *Associated Press*, March 8, 2017, <http://bigstory.ap.org/article/8f54b14808a2459f9efcb0089f41f056/china-grants-preliminary-approval-38-new-trump-trademarks>

⁶ Peter Orsi & Bernard Condon, “Mexico OKs New Trump Trademarks for Hotels and Tourism,” *Associated Press*, March 12, 2017, <http://bigstory.ap.org/article/cef40d0189294ae3923ec301cfd6662e/mexico-oks-trump-trade-marks-hotels-and-tourism-industry>

countries creates or could create a conflict of interest or constitutional issues for the President or his Administration and what steps you are taking to mitigate against this. I would also appreciate if you could share any documents or legal opinions that have been written on this subject. Please also describe any steps taken to ensure that these benefits don't conflict with or influence our national security and foreign policy.

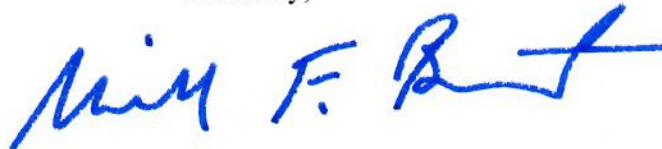
The White Paper states that "the Trust and The Trump Organization will be prohibited at all times during the Presidency from engaging in any new deals with respect to the use of the 'Trump' brand or any trademark, trade name, or marketing ... in any foreign jurisdictions."⁷ It also states "the Trust Agreement prohibits The Trump Organization from entering into any new transaction or contract with a foreign country, agency, or instrumentality thereof, including a sovereign wealth fund, foreign government official, or member of a royal family..."⁸ However, the White Paper does not address whether the Organization will refrain from filing or perusing any new or existing trademark applications in foreign countries. I request clarification as to whether the Organization is continuing to seek new trademarks in foreign countries. I would also appreciate clarification on whether the Administration is monitoring the Organization's pending trademark applications in foreign countries, including the Organization's efforts to advance such applications, to ensure that they do not create a conflict of interest.

The American people must be confident that the President will make decisions and take actions that are in the best interests of our national and personal security irrespective of the potential effect on the Organization's or the President's financial interests. U.S. foreign policy must be conducted without regard to foreign individuals and governments who have patronized Trump Organization properties or businesses. Without further action and clarifications, the President's ethics arrangement fails to satisfy this standard.

I look forward to your prompt response. It is imperative that you and the Administration make clear that the interests of our country and of the American people are the sole driving force in the White House.

Thank you for your attention to this matter.

Sincerely,



Michael F. Bennet
U.S. Senator

⁷ Morgan, Lewis & Bockius LLP, White Paper, <https://assets.documentcloud.org/documents/3280261/MLB-White-Paper-1-10-Pm.pdf>, (January 11, 2017)

⁸ Morgan, Lewis & Bockius LLP, White Paper, <https://assets.documentcloud.org/documents/3280261/MLB-White-Paper-1-10-Pm.pdf>, (January 11, 2017)