

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



January 6, 2017

Mr. Edward N. Siskel
Wilmer, Cutler, Pickering, Hale & Dorr, LLP

(b) (6)

Dear Mr. Siskel:

I am writing on behalf of the U.S. Office of Government Ethics (OGE) in response to your letter dated December 28, 2016, regarding Mr. Kushner's plan to divest potentially conflicting assets if the President-elect appoints him to a position in the White House. Your letter captures most of the salient points from our conversations, and I have only a few additional points to reiterate.

Consistent with our conversations, your letter indicates that (b) (6)

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[Redacted]

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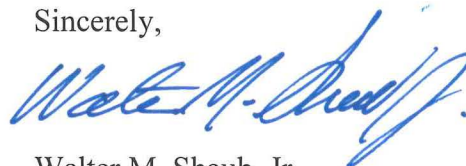
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As we discussed, the conflict of interest prohibition under 18 U.S.C. § 208(a) will continue to apply to the assets until they have been divested. Accordingly, with regard to each entity in which he holds an interest, Mr. Kushner must not participate personally and substantially in any particular matter that to his knowledge has a direct and predictable effect on the financial interests of the entity until he has divested it, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). If Mr. Kushner intends to seek a Certificate of Divestiture under 26 U.S.C. § 1043, please remember that he will need to obtain the Certificate of Divestiture before selling the assets.

Finally, please note that OGE is limited in the guidance it can provide as to conflicts of interest because OGE's staff is not in a position to know the precise nature of the duties that Mr. Kushner, or any future White House appointee, would perform. For that reason and because the applicable ethics requirements are more complex than could be addressed in a letter, Mr. Kushner would be well advised to obtain ethics counseling from the office of the White House Counsel prior to entering government and, after assuming the duties of his new position, to complete the new employee ethics training required under 5 C.F.R. § 2638.304. Ideally, the training for all incoming White House appointees should address, among other topics: conflicts of interest under 18 U.S.C. § 208; the gift bans under 5 C.F.R. part 2635, subparts B and C; impartiality under the government-wide appearance regulation, 5 C.F.R. part 2635, subpart E; "misuse of position," as that term is understood for purposes of 5 C.F.R. part 2635, subpart G (including use of public office for private gain, endorsements, coercion, and use of nonpublic information); the earned income ban under 5 C.F.R. § 2635.804(a); restrictions on fundraising under 5 C.F.R. § 2635.808; and certain restrictions relating to professions involving fiduciary relationships under 5 C.F.R. § 2636.305. As a preliminary introduction to the executive branch ethics program, I have enclosed a copy of OGE's Nominee Ethics Guide. Although Mr. Kushner will not be a "nominee," much of the information in this guide is pertinent to his anticipated appointment.

Please do not hesitate to contact me at (202) 482-9292 or Heather Jones, Senior Counsel, if we can be of further assistance.

Sincerely,



Walter M. Shaub, Jr.
Director

Enclosure