

**U.S. House of Representatives**  
**Committee on the Judiciary**  
Washington, DC 20515-6216  
One Hundred Fifteenth Congress

May 3, 2017

Abigail Klem, CEO  
Ivanka Trump Collection, LLC  
725 5th Avenue  
New York, NY 10002

Dear Ms. Klem,

We write to express our concern that Ivanka Trump may be using her relationship with President Trump and her position on the White House staff to benefit her and her family's business interests and to obtain relevant information from you concerning these matters. In accordance with federal law and recent guidance from the Office of Government Ethics (OGE), Ms. Trump must recuse herself from any "particular matters affecting her financial interests."<sup>1</sup>

Both before and after Ms. Trump accepted an official position in the White House on March 29, 2017,<sup>2</sup> she participated in meetings with officials from countries in which she has significant financial interests—including pending licensing deals and trademark applications for the Ivanka Trump brand. On at least two occasions, Ms. Trump participated in meetings with foreign leaders with substantial influence over such pending matters.

- On November 17, 2016, Ms. Trump met with President Trump and Japanese Prime Minister Shinzō Abe.<sup>3</sup> The meeting occurred at the same time her company was attempting to complete a licensing agreement with Sanei, a Japanese apparel company.<sup>4</sup> The largest shareholder of Sanei's parent company is the Development Bank of Japan, which is owned entirely by the government of Japan.<sup>5</sup>

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<sup>1</sup> Walter M. Shaub, U.S. Office of Gov. Ethics, "Letter in Response to Senator Warren & Carper's Request for Ethical Rules Applying to Ivanka Trump" (Apr. 25, 2017).

<sup>2</sup> Dan Merica, et al., "Ivanka Trump is Making Her White House Job Official," CNN.com (Mar. 30, 2017), ("I will ... serve as an unpaid employee in the White House Office, subject to all of the same rules as other federal employees.").

<sup>3</sup> Steve Holland & Kiyoshi Takenaka, "Japan's PM Abe Meets Trump, Says Confident Can Build Trust," REUTERS.com (Nov. 18, 2016); Eric Lipton, "Ivanka Trump's Presence at Meeting with Japan Leader Raises Questions," N.Y. Times (Nov. 18, 2016).

<sup>4</sup> Matt Flegenheimer, "Business Since Birth: Trump's Children and the Tangle That Awaits," N.Y. Times (Dec. 4, 2016).

<sup>5</sup> *Id.*

- On April 6, 2017, Ms. Trump met with Chinese President Xi Jinping at Mar-a-Lago.<sup>6</sup> On the same day, the Chinese government granted provisional approval for three pending trademarks for the Ivanka Trump brand—covering jewelry, bags, and spa services.<sup>7</sup>

Moreover, the Trump Organization—which continues to list Ms. Trump as an Executive Vice President of Development & Acquisition<sup>8</sup>—appears to have a number of pending trademark applications in foreign countries. The Trump Organization has at least 157 applications for trademarks pending in 36 different countries.<sup>9</sup> Ms. Trump reportedly filed at least 173 foreign trademarks in 21 countries over the past 10 years.<sup>10</sup> Since the November 2016 election, her company has reportedly applied for at least nine new trademarks overseas.<sup>11</sup> Ms. Trump’s business appears to have 30 trademark applications still pending in China,<sup>12</sup> and 180 pending and registered marks in emerging markets like India, Saudi Arabia, the Philippines, and Turkey.<sup>13</sup>

As you are no doubt aware, Federal employees are subject to 18 U.S.C. § 208,<sup>14</sup> which prevents governmental officers or employees from participating in any official matters in which the individual or his or her family has a direct or indirect financial interest. The statutory provision provides in relevant part that:

whoever, being an officer or employee of the executive branch of the United States Government ... participates personally and substantially as a Government officer or employee, through ... the rendering of advice ... [in a] particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating ... has a

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<sup>6</sup> Neil Connor, “Ivanka Trump Won China Trademarks as She Dined with President Xi Jinping,” *Telegraph* (Apr. 19, 2017).

<sup>7</sup> Erika Kinetz & Anne D’Innocenzio, *Ivanka’s Biz Prospers as Politics Mixes with Business*, *AP News* (Apr. 19, 2017).

<sup>8</sup> <http://www.trump.com/the-next-generation/>.

<sup>9</sup> Sharon LaFraniere & Danny Hakim, “Trump’s Trademark Continues Its March across the Globe, Raising Eyebrows,” *N.Y. Times* (Apr. 11, 2017).

<sup>10</sup> Danny Hakim & Rachel Abrams, “Ivanka Trump’s Global Reach, Undeterred by a White House Job,” *N.Y. Times* (Apr. 18, 2017).

<sup>11</sup> Erika Kinetz & Anne D’Innocenzio, *Ivanka’s Biz Prospers as Politics Mixes with Business*, *AP News* (Apr. 19, 2017).

<sup>12</sup> Sharon LaFraniere & Danny Hakim, “Trump’s Trademark Continues Its March across the Globe, Raising Eyebrows,” *N.Y. Times* (Apr. 11, 2017).

<sup>13</sup> Erika Kinetz & Anne D’Innocenzio, *Ivanka’s Biz Prospers as Politics Mixes with Business*, *AP News* (Apr. 19, 2017). Both domestic and international trademark registrations can bestow financially valuable benefit to the trademark holder. *See B&B Hardware*, 135 S. Ct. 1293, 1300 (2015); *Park ’N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 199–200 (1985). *See also, In Re Simon Shiao Tam* (Fed. Cir. 2015). Trademarks represent a significant financial investment and a strategic tool for corporations attempting to establish a commanding global presence, and often serve as precursors to lucrative licensing deals and establishing important legal rights.

<sup>14</sup> 18 U.S.C § 208 (2016).

financial interest—Shall be subject to [fines of up to \$50,000 per offense and up to five years imprisonment].

The legislative history of this provisions suggests, and the longstanding interpretation of the statute by the Department of Justice confirms, that this prohibition applies to all government matters, including general policy making.<sup>15</sup> Such matters may range from agency rulemaking and general policymaking to specific investigations, contracts, negotiations with specific parties, and an official's past, present, and future financial interests. Disqualification or recusal is the statutorily required method of dealing with present and future conflicts of interest, and federal regulations further expand the recusal requirement to any employee whose "interests may be imputed" by the official work.<sup>16</sup>

In a letter dated April 25, 2017 and made public May 1, 2017, OGE concludes that federal ethics rules and regulations will apply to Ms. Trump in her role as a White House Advisor—including, of course, the prohibition described in 18 U.S.C. § 208. OGE Director Shaub explains that "the primary criminal conflict of interest statute prohibits Ms. Trump from participating in particular matters affecting her financial interests, including the financial interests of Trump family businesses and other companies in which she has an ownership interest. The conflict of interest statute also covers her spouse's financial interests, which are imputed to her."<sup>17</sup> Although we understand Ms. Trump no longer manages the day-to-day control of her namesake company, she remains the sole beneficiary of the business, has not instituted a blind trust, retains a veto authority on the company's business dealings, and only maintains a voluntary arrangement to minimize conflicts.<sup>18</sup>

Trademarks and licensing deals in foreign countries are likely "particular matters" with "a predictable effect" on Ms. Trump's financial interest. The courts have held that trademark registration bestows a significant and financially valuable benefit within the meaning of the

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<sup>15</sup> See *Hearings on Federal Conflict of Interest Legislation before Subcommittee No. 5 of the House Judiciary Committee*, 87<sup>th</sup> Cong., 1<sup>st</sup> sess. 38 (1961); *Advisory Committees—Food and Drug Administration—Conflicts of Interest* (18 U.S.C § 208) June 29, 1978, 2 Op.O.L.C 151, 154 (1978) ("The clear implication is that general rulemaking and the formulation of general policy would be covered in the absence of the reference to specific parties"); Jack Maskel, Cong. Research Serv., RL31822, *Entering the Executive Branch of Government* "Potential Conflicts of Interest with Previous Employments and Affiliations", 8-9 (2007), 10-11 & n.48 ("The statutory disqualification requirement need not involve specific or identified parties, and therefore may apply to any 'discrete and identifiable matter' such as 'general rulemaking' or proposed regulations." (2 Op.O.L.C. 153-154; 5 C.F.R. § 2635.402(b)(3))).

<sup>16</sup> See 5 C.F.R. §§ 2635.401-.03; 5. C.F.R. §§ 2635.501-.503. See also Maskell at 10-11. Federal employees are required to recuse themselves from any negotiation, meeting, or other matter that will have a "predictable effect" on the financial interests of the employee, the employee's family, and any organizations with which the employee is affiliated. See 5 C.F.R. § 2635.502; Maskell 8-13; 18 U.S.C § 208.

<sup>17</sup> Walter M. Shaub, U.S. Office of Gov. Ethics, "Letter in Response to Senator Warren & Carper's Request for Ethical Rules Applying to Ivanka Trump" (Apr. 25, 2017).

<sup>18</sup> Rachel Abrams, "Despite a Trust, Ivanka Trump Still Wiolds Power Over Her Brand," N.Y. Times (Mar. 20, 2017).

statute.<sup>19</sup> Accordingly, Ms. Trump's participation in meetings involving countries in which her company, the Trump Organization, or Kushner Companies have pending trademark and licensing deals presents a potential violation of the ethics rules detailed in OGE's letter.

At best, Ms. Trump's involvement in such meetings creates the appearance of a conflict of interest. At best, the swift and subsequent approval of foreign trademarks after these meetings creates the appearance of a quid pro quo. It is also possible, however, that Ms. Trump has violated applicable federal law. Of additional concern, Ms. Trump's conduct appears to fit a larger pattern of behavior—where the Trump Administration takes some official action, and the Trump Organization subsequently profits.<sup>20</sup>

We expect that Ms. Trump will take immediate steps to mitigate this problem, including but not limited to her recusal from any other meetings that might pose a conflict of interest. We also request that you provide us with the following information:

- Since she assumed her official role on March 29, 2017, has Ivanka Trump recused herself from any meeting, negotiation, or other official matter because of a potential conflict of interest?
- Does the White House, the Trump Organization, IT Collection LLC, or Ivanka Trump Marks LLC have any written or other policy concerning Ms. Trump's recusal from official business matters? If so, please provide us with the written policy, or a description of it if it has not been reduced to writing.

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<sup>19</sup> *B&B Hardware*, 135 S. Ct. 1293, 1300 (2015); *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 199–200 (1985). *See also*, *In Re Simon Shiao Tam* (Fed. Cir. 2015).


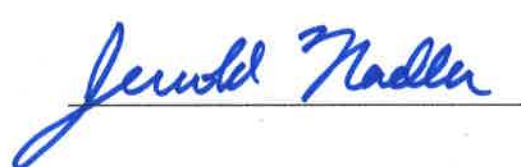
<sup>20</sup> For example, although he spent much of the campaign railing against China, President Trump quickly shifted course after taking office. On February 10, 2017, he placed a phone call to President Xi to reaffirm the United States commitment to honoring the "One China" policy. "Trump Agrees to Honour 'One China' Policy Despite Threats," BBC News (Feb. 10, 2017). On February 27 and March 6, China granted provisional approval to 38 trademark applications—some held by the Trump Organization, most held by President Trump in his personal capacity. Simon Denyer, "China Grants Trump 38 Trademarks, Reopening Debate About Conflicts of Interest," Washington Post (Mar. 9, 2017). According to public documents, these trademarks will pave the way for the Trump family to develop branded businesses in China that range from hotels to insurance companies to bodyguard and escort services. In a similar pattern, President Trump excluded from his Immigration Ban Executive Order any Muslim-majority country in which he has business interests, such as Egypt, Saudi Arabia, Turkey, and Azerbaijan. Joseph Hincks, "These Countries with Business Links to Trump Aren't Part of His Immigration Ban," Fortune Int'l (Jan. 26, 2017). President Trump's public and private admiration of Turkey's President Recep Erdogan and the Philippines' President Rodrigo Duterte are additional examples of how Trump business interests are potentially impacting American foreign policy. Trump congratulated Erdogan's autocratic consolidation of power in the recent Turkish elections and for the Erdogan's response during the post-2016 coup crackdown of dissidents. Trump's business partners in the country are pro-Erdogan and his company launched Trump Towers in Istanbul. President Trump appointed his business partner in Manilla, Jose E. B. Antonio, as the U.S. trade envoy to the Philippines, and has also been openly supportive of President Duterte, despite the Filipino leader's brutal crackdown on drugs and alleged human rights abuses. *See* Richard C. Paddock, "Trump Business Partner is Philippines' 'New Trade Envoy to U.S.," N.Y. Times (Nov. 9, 2016); Mark Lander, "Trump's 'Very Friendly' Talk with Duterte Stuns Aides and Critics Alike," N.Y. Times (Apr. 30, 2017).

- Does the White House, the Trump Organization, IT Collection LLC, or Ivanka Trump Marks LLC have any written or other policy concerning the participation of any other Trump family members or associates serving as non-official executive branch staff in official government business? If so, please provide us with the written policy, or a description of it if it has not been reduced to writing.
- Since President Trump's election, has Ms. Trump participated in any meetings, negotiations, or other official matters with a foreign official or representative of a foreign government? Please provide us with a list and nature of such matters.
- Since President Trump's inauguration and Ms. Trump's appointment as a White House official, has Ms. Trump participated in any way in the management or business development of IT Collection LLC or Ivanka Trump Marks LLC, including any decisions to expand the presence of those corporations in any foreign market?
- Since President Trump's inauguration and Ms. Trump's appointment as a White House official, has Ms. Trump continued to participate in any way in the management of the Trump Organization? If not, then why is she listed as a manager of the acquisition and development team?

We request that you reply to this letter by no later than May 17, 2017. Thank you for your prompt attention to this matter.

Sincerely,

Ivanke Jozyl

Aed Deutch

Zee Loh

Ted W. Lien

David N. Cielline

Becky Scott Schenker

Hank Johnson

Paula J. L.

Kerban

Eric S. J. J.

Ivanka V. Trump

8-22-17

Mr. Jensen

cc: Walter M. Shaub, Director, U.S. Office of Government Ethics  
cc: Rep. Robert Goodlatte, Chairman, House Committee on the Judiciary