

April 25, 2017

Mr. Jared Kushner  
Senior Adviser to the President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear Mr. Kushner:

Democracy 21 is writing to express our concerns about the potential conflicts of interest and the appearance of such conflicts that you currently face in your role as Senior Adviser to the President, and to strongly urge you to promptly take steps to address these problems.

In light of the unprecedented policy responsibilities you have been given by President Trump in your role as Senior Adviser to, and confidant of, the President, and the very substantial business interests you continue to hold in your personal capacity, Democracy 21 calls on you to publicly announce now that you are recusing yourself from any involvement in a number of policy areas in order to avoid conflicts of interest and the appearance of such conflicts.

These recusals should include any involvement in all policy areas that could directly affect your business interests or those of your spouse, including real estate, taxes, trade, banking and financial services, and certain foreign policy areas.

This problem would have been best addressed by your making a full divestiture of your business assets into a blind trust that complied with the requirements of the Ethics in Government Act. This remains the best way for you to resolve these issues.

However, you have chosen to make only a partial divestiture and to continue ownership of a vast array of assets, including scores of real estate business interests, in a portfolio that is valued at as much as \$740 million.<sup>1</sup>

Given these circumstances, a prophylactic solution – announcing in advance your recusal from certain issue areas – is called for in order to provide necessary assurances to the American people that your conflicts problems are being avoided and that your public office is not being used for personal financial gain.

According to an article in *The New York Times*, “Although Mr. Kushner has stepped down from his management positions at the more than 200 entities that operated aspects of the family real estate business, he will remain a beneficiary of a vast majority of the business he ran for the past decade, through a series of trusts that already owned the various real estate

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<sup>1</sup> D. Smith, “Ivanka Trump and Jared Kushner retain scores of property assets while in White House,” *The Associated Press* (April 1, 2017).

companies.”<sup>2</sup> The article noted that you are “still the sole primary beneficiary of a majority of the trusts that will retain assets,” with your children named as the secondary beneficiaries.<sup>3</sup>

The *Times* article also stated that your businesses depend “on foreign investment from undisclosed sources, as well as billions of dollars in loans from the world’s biggest financial services firms.” The *Times* article noted that your disclosure reports “do not reveal the names of investors and lenders to ventures that Mr. Kushner is retaining a stake in.”<sup>4</sup>

The *Times* article also stated that the Kushner real estate firm “has borrowed money from the likes of Goldman Sachs, the Blackstone Group, Deutsche Bank and the French bank Natixis.”<sup>5</sup> The article said the firm has “also received loans from Israel’s largest bank, Bank Hapoalim, which is the subject of a United States Justice Department investigation into allegations that it helped wealthy Americans evade taxes using undeclared accounts.”<sup>6</sup>

A subsequent article in *The New York Times* stated that you continue “to hold multimillion-dollar lines of credit from institutions such as Citigroup and Deutsche Bank, while companies he is still a beneficiary of have billions of dollars in additional loans from heavily regulated institutions.”<sup>7</sup>

For purposes of the federal conflict of interest laws, the assets of your spouse, Ivanka Trump, are also attributed to you. Your wife’s assets include valuable trademarks granted by foreign governments.

An *Associated Press* story stated that your spouse recently “won provisional approval from the Chinese government for three new trademarks, giving it monopoly rights to sell Ivanka brand jewelry, bags and spa services in the world’s second-largest economy. That night, the first daughter and her husband, Jared Kushner, sat next to the president of China and his wife for a steak and Dover sole dinner at Mar-a-Lago.”<sup>8</sup>

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<sup>2</sup> J. Drucker, E. Lipton and M. Haberman, “Ivanka Trump and Jared Kushner Still Benefiting From Business Empire, Filings Show,” *The New York Times* (March 31, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

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

<sup>6</sup> *Id.*

<sup>7</sup> E. Lipton and J. Drucker, “Trump Couple, Now White House Employees, Can’t Escape Conflict Laws,” *The New York Times* (April 1, 2017).

<sup>8</sup> E. Kinetz and A. D’Innocenzio, “Ivanka’s Biz Prospers as Politics Mixes with Business,” *Associated Press* (April 18, 2017).

A *New York Times* story notes that your wife already has “at least 23 trademarks for everything from swimwear to wedding dresses” in China.<sup>9</sup> Another *Associated Press* story stated that your spouse’s company, Ivanka Trump Marks LLC, applied for 36 trademarks in China between March and July of last year.<sup>10</sup>

Your formally assigned duties as Senior Adviser to President Trump include heading a new White House Office of American Innovation that has a mandate to reorganize the federal government and that reports directly to President Trump. Your duties also include reforming the treatment of veterans, solving the opioid crisis, and foreign policy matters involving China, Canada, Mexico and the Middle East, including brokering peace between Israel and the Palestinians. According to *The Washington Post* you also are “the primary point of contact for presidents, ministers and ambassadors from more than two dozen countries.”<sup>11</sup>

The principal statutory protection against conflicts-of-interest, 18 U.S.C. § 208, makes it illegal for an employee of the United States to participate “personally and substantially” in any “particular matter” in which he or his family “has a financial interest.”

Under regulations adopted by the Office of Government Ethics (OGE), 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 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 “the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter.” 5 C.F.R. § 2635.502.

According to published reports, you “will abide by all the appropriate recusal requirements of the ethical guidelines.”<sup>12</sup> Democracy 21 assumes this means that you will comply with the conflict of interest provisions of section 208 and 5 C.F.R. § 2635.502 and will recuse yourself when particular matters are likely to have a direct effect on your business and financial matters or those of your spouse.

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<sup>9</sup> D. Hakim and R. Abrams, “Ivanka Trump’s Global Reach Undeterred by a White House Job,” *The New York Times* (April 19, 2017).

<sup>10</sup> E. Kinetz and Anne D’Innoncenzio, “Ivanka Trump’s Brand Ramped up China Trademark Work in 2016,” *Associated Press* (April 21, 2017)

<sup>11</sup> A. Parker and J. Wagner, Kushner Has a Singular and Almost Untouchable Role in Trump’s White House,” *The Washington Post* (April 3, 2017) .

<sup>12</sup> D. Kurtzleben, “Trump Names Son-in-Law Jared Kushner As White House Senior Adviser,” *NPR* (January 9, 2017).

In the case of your spouse's business interests in China, including her valuable trademarks and pending trademark applications, we believe you are required by the law and regulations to recuse yourself from all matters dealing with China in carrying out your responsibilities.

Because the Chinese government exercises complete control over all foreign business interests in the country, we believe that any actions you take or any policy advice you give on any matter dealing with China is "likely" to affect your spouse's business interests, and would cause "a reasonable person with knowledge of the relevant facts to question [your] impartiality in the matter."

With regard to other matters, and in light of your unprecedented White House portfolio, your role as adviser to President Trump, your relationship with the President as his son-in-law and your family's very substantial domestic and foreign business interests, more is required of you to avoid conflicts of interest and the appearance of such conflicts than simply adhering to the letter of section 208 and its implementing regulations.

Your commitment to abide by the law's conflicts of interest provisions is necessary but not sufficient to address the multitude of potential conflicts of interest and the appearance of such conflicts that you face in light of the unique role you are playing in the Trump Administration. Your approach is also inadequate as a means of assuring the American public that your White House office is not being used to benefit your personal financial holdings, or those of your spouse.

For example, given the unique role that you are playing with President Trump, there is no way for the public to know which policy matters you are discussing with the President and how they relate to your family business holdings.

And, as noted above, your financial disclosure reports do not meaningfully inform the public of the identity of a multitude of the business partners, investors, banks or other lenders which are involved in your dozens of business enterprises. Without knowing the identity of your business partners or the lenders to whom you are obligated, it is impossible for the public to assess whether your actions as Senior Adviser to the President are affecting those partners or lenders, and inuring to your financial benefit.

The American people are entitled to know that with business holdings worth as much as \$740 million, you are avoiding all actual and apparent conflicts of interest and that you are not using your unique role in the Trump Administration for personal financial gain. In addition to satisfying the standards of section 208 and its implementing regulations, this requires broad, prophylactic recusals on your part in a number of policy areas.

Accordingly, given your unique role in the Trump Administration, Democracy 21 calls on you to publicly announce now that you are recusing yourself from participating in all policy matters that relate to your vast business interests, including real estate, taxes, trade, banking and financial services. We also call on you to recuse yourself from all policy matters relating to China and to other foreign countries where your wife has substantial business interests.

These steps are necessary to protect the integrity of our government and the interests of the American people whom you have chosen to serve.

Sincerely,

/s/ Fred Wertheimer

Fred Wertheimer  
President