



October 19, 2021

Hon. Emory A. Rounds, III
Director
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005

Re: Request for Investigations of Termination Financial Disclosure Reports

Dear Director Rounds:

This letter follows up on Citizens for Responsibility and Ethics in Washington's ("CREW") September 16, 2021, letter to the Office of Government Ethics ("OGE") requesting an investigation into whether Marc Short, former Chief of Staff for Vice President Mike Pence, failed to file a termination public financial disclosure report when he left the White House in January 2021, and for a review of the process for presidential transitions to collect any missing reports required to be filed by departing White House officials.¹

Days after CREW filed its request, OGE publicly released Mr. Short's 2021 termination report on its official website.² CREW appreciates OGE's efforts to make Mr. Short's termination report publicly available.

However, while Mr. Short's termination report shows that he timely filed it on January 12, 2021, we are nevertheless concerned that OGE officially "declined" to certify his report and did not make it publicly available until September 21, more than eight months after it was filed and more than five months after CREW submitted the first of its six requests for it. We are further concerned that Mr. Short's termination report indicates that White House ethics officials from the Trump administration did not certify it for compliance with applicable ethics laws and regulations prior to their leaving office,³ seemingly leaving it in limbo.

The delay in making Mr. Short's termination report publicly available not only appears to fall outside the 30-day timeframe mandated by the Ethics in Government Act of 1978 ("EIGA"),⁴ but undermines public confidence in government transparency, which is integral to OGE's public financial disclosure system. To prevent similar issues from arising in the future, CREW again urges OGE to review its processes and procedures for making financial disclosure reports publicly available during presidential transitions consistent with OGE guidance:

¹ Letter to OGE Director Emory A. Rounds, III from Noah Bookbinder, Sept. 16, 2021, <https://bit.ly/3abAqT7>.

² Marc Short, Termination Public Financial Disclosure Report, Jan. 12, 2021, <https://bit.ly/3DebRBI>.

³ *Id.*

⁴ See 5 U.S.C. app. § 105(b)(1).

October 19, 2021

Page 2

Financial disclosure is vital to promoting public confidence by increasing accountability and transparency for officials at the highest levels of government. Failure to make reports promptly available in response to appropriate requests significantly undermines this confidence.⁵

To this end, OGE's processes and procedures should ensure that OGE staff are adequately assigned to and have the means to follow up on White House termination reports, particularly when they have not yet been certified by departing White House ethics officials, and to ensure they are released within the 30-day timeframe mandated by EIGA, whether or not they have been certified by OGE or outgoing White House ethics officials.⁶ Moreover, OGE should broadly evaluate whether there are sufficient processes and procedures to track, collect, and maintain a repository of public financial disclosure reports for all qualifying White House officials during presidential transitions.

With regard to Mr. Short, OGE's decision to officially decline to certify his termination report raises the specter that his report may not only contain insufficient information, but indicate more serious conflict of interest concerns.⁷ Because the deficiencies contained in Mr. Short's termination report are not publicly known, we encourage OGE, if it has not already done so, to work with Mr. Short to resolve any technical defects that may have prevented his report from being certified by White House ethics officials and OGE, and if applicable, to refer any material deficiencies or conflicts of interest to the Department of Justice for any appropriate action.⁸

We appreciate your attention to this matter.

Sincerely,



Noah Bookbinder
Executive Director

⁵ Memorandum to Designated Agency Ethics Officials from OGE Director Emory A. Rounds, III, Prompt Release of Public Financial Disclosure Reports, PA-18-03, Dec. 6, 2018, <https://bit.ly/3lfqGhf>.

⁶ *Id.*

⁷ See, e.g. Memorandum to Designated Agency Ethics Officials from OGE General Counsel, Deadlines and Procedures for Annual Public Financial Disclosure Reports of Executive Branch Employees (2021 Filing Cycle), PA-21-02, Apr. 22, 2021, <https://bit.ly/3iTP4U7> (advising agencies that OGE may decline to certify 2021 annual reports for which it has not received sufficient information and for other reasons, "including the filer's unresolved potentially conflicting holding or position, non-compliance with applicable ethics rules, or continued non-compliance with the ethics agreement").

⁸ See 5 U.S.C. app. 4 § 104(a).