

CREW | citizens for responsibility and ethics in washington

February 9, 2017

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Ave., N.W.
Suite 500
Washington, D.C. 20005

The Honorable Donald F. McGahn
White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Director Shaub and Mr. McGahn:

In a television interview this morning, Counselor to the President Kellyanne Conway improperly endorsed the products of President Trump's daughter, Ivanka Trump. Citizens for Responsibility and Ethics in Washington ("CREW") therefore respectfully requests that U.S. Office of Government Ethics ("OGE") and the White House Counsel's Office investigate this apparent violation of federal law, ethics regulations, and other standards of conduct, and take any necessary disciplinary action.

During an interview on Fox & Friends, Ms. Conway explicitly endorsed Ms. Trump's products. In response to reports that Nordstrom department stores are dropping Ms. Trump's accessories and clothing line and to President Trump's tweet alleging Nordstrom had treated his daughter "so unfairly," Ms. Conway stated: "Go buy Ivanka's stuff is what I would tell you. I hate shopping, I'm going to go get some myself today."¹ Later in the interview, Ms. Conway even more clearly endorsed Ms. Trump's products, asserting: "It's a wonderful line. I own some of it. I fully – I'm going to give a free commercial here. Go buy it today, everybody. You can find it online."²

At the time, Ms. Conway unquestionably was acting in her official capacity. She was introduced as the "special counselor to President of the United States, Kellyanne Conway, who joins us today from the briefing room,"³ and the White House seal is visible behind her during the interview.⁴

¹ See <http://www.mediaite.com/tv/kellyanne-conway-tells-fox-news-viewers-to-go-buy-ivankas-stuff-go-buy-it-today/>.

² *Id.*

³ *Id.*

⁴ See Exhibit A (screenshot of Fox News interview).

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Federal ethics regulations concerning the “use of office for private gain” clearly prohibit any employee from endorsing “any product, service or enterprise.”⁵ Specifically, the regulations provide that “[a]n employee shall not use or permit the use of [her] Government position or title or any authority associated with [her] public office to endorse any product, service or enterprise” except in circumstances clearly inapplicable here.⁶ In fact, one example provided in the regulations states that a government employee “may not appear in a television commercial in which she endorses” a product.⁷ By explicitly endorsing Ms. Trump’s products, Ms. Conway appears to have violated these regulations.

In addition, prior administrations issued policies making clear that these provisions apply to all White House employees, including the president.⁸ It is not known if President Trump has issued a similar policy for his administration, but if he has, Ms. Conway’s endorsement of Ms. Trump’s products also would likely violate it.

Federal law further prohibits the use of public funds for non-official purposes. Under 31 U.S.C. § 1301(a), “[a]ppropriations shall be applied only to the objects for which the appropriations were made.” Appropriations for the Executive Office of the President were not made for the purpose of endorsing commercial products. By endorsing Ms. Trump’s products while acting in her official capacity, Ms. Conway appears to have violated the statute.

As the law makes clear, public officials should not use their offices for either their own private gain or the private gain of others. Government resources should be used for public purposes, not to promote any private party’s products. Ms. Conway appears to have violated both the letter and the spirit of these rules when she used her position to endorse the accessories and clothing line of Ms. Trump, the daughter of the president. Furthermore, we are concerned about what appears to be a pattern developing of the use of official offices, particularly the White House and the Executive Office of the President, to benefit business interests of relatives and supporters of the president; Ms. Conway’s comments appear to be just the latest example of this trend. We hope you will act not only to respond to this apparent violation, but to reverse this pattern. CREW therefore requests that you commence an investigation into Ms. Conway’s conduct and take any necessary disciplinary action against her.

⁵ 5 C.F.R. § 2635.702.

⁶ 5 C.F.R. § 2635.702(c).

⁷ *Id.* (Example 1).

⁸ Isaac Arnsdorf, Trump Tweet on L.L. Bean Would Break White House Rule, *Politico*, Jan. 12, 2017, available at <http://www.politico.com/story/2017/01/trump-llbean-tweet-white-house-rule-233566>.

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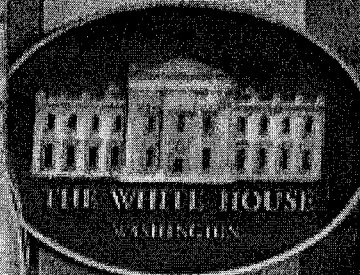
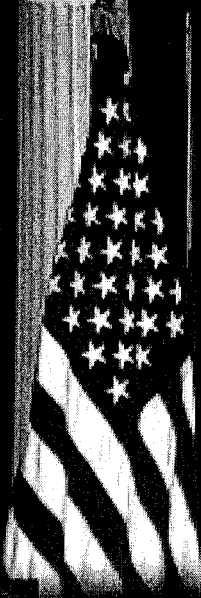
Sincerely,

A handwritten signature in blue ink, appearing to read 'Noah Bookbinder', with a stylized flourish at the end.

Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington

Encl.

EXHIBIT A



FOX NEWS

KELLYANNE CONWAY
COUNSELOR TO PRESIDENT DONALD TRUMP

FOX & friends

