

CREW | citizens for responsibility and ethics in washington

March 23, 2018

John P. Cronan
Acting Assistant Attorney General, Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Request for Investigation of Use of Presidential Seal for Commercial Purposes

Dear Mr. Cronan:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Department of Justice (“DOJ”) investigate whether the Trump Organization improperly displayed the likenesses of the seal of the President of the United States in violation of federal law.

The Trump Organization, which owns and/or manages more than a dozen commercial golf courses, recently displayed golf tee markers bearing a replica of the Presidential Seal at one or more of its courses. Federal criminal law prohibits the use of the Presidential Seal to falsely convey government endorsement or approval.¹ This law is designed to preserve the integrity of the Presidential Seal as an official government symbol, and past presidential administrations have vigorously policed unauthorized use of the seal. The Trump Organization’s use of the Presidential Seal in support of its commercial endeavors falsely conveys the impression of government sponsorship or approval of its commercial interests and should be investigated to determine if it violates the law.

Ordinarily, CREW would address these concerns to the White House Counsel’s Office, which historically has policed the improper use of the Presidential Seal. However, as this potential violation involves entities owned by President Trump, CREW requests that in this instance DOJ’s Criminal Division examine the Trump Organization’s use and display of the seal.

Background

The Trump Organization owns and/or manages twelve Trump-branded golf courses in the United States and four courses abroad.² Golf courses and resorts are one of the largest revenue sources for the Trump Organization’s brand portfolio, earning more than \$345 million in revenue

¹ 18 U.S.C. § 713.

² See Trump Organization website, “Trump Golf” page, available at <https://www.trump.com/golf/>; Trump Golf website, “Our Properties” page, available at <https://www.trumpgolf.com/Our-Courses>. See also <http://online.wsj.com/public/resources/documents/TrumpProperties.pdf>.

between January 2015 and May 2016.³ While President Donald J. Trump asserted he would turn over management of the Trump Organization when he became president, he continues to own the individual entities operating under the umbrella of the Trump Organization through the Donald J. Trump Revocable Trust.⁴ Since assuming the presidency, President Trump has repeatedly sought to promote his commercial properties, including his golf clubs, as centers of presidential power and influence. For example, President Trump has delivered official addresses from Trump Tower in New York, and President Trump and members of his White House staff frequently refer to Trump National Golf Club – Bedminster, N.J. as the “Summer White House.”⁵ President Trump also has frequently promoted Trump-branded properties in official speeches and during official appearances.⁶

According to recent news reports, a client identified as “Trump International” commissioned golf tee markers bearing a 12-inch replica of the Presidential Seal from Eagle Sign and Design, a sign and metalworking company with offices in New Albany, Indiana and Louisville, Kentucky.⁷ Golf courses use tee markers to indicate where golfers should stand to tee off for each hole.⁸ The owner of Eagle Sign and Design acknowledged manufacturing the tee markers, stating, “We made the design, and the client confirmed the design.”⁹ Eagle Sign and Design also posted a picture on their Facebook page, since deleted, showing over two dozen replicas of the Presidential Seal in an album with the caption “Trump International Golf Course.”¹⁰ An order form for the tee markers reviewed by *ProPublica* and WNYC identified the client as “Trump International,” and the owner of Eagle Sign and Design acknowledged they were made for a Trump International golf course.¹¹ “Trump International” appears to be

³ John Morgan, Walker Davis, and Maya Gold, *5 Graphics to Help You Understand President Trump’s Conflicts of Interest, Citizens for Responsibility and Ethics in Washington*, Feb. 22, 2017, available at <http://bit.ly/2DkPLOW>.

⁴ Julie Bykowicz and Chad Day, *New Documents Show Trump Retains Direct Tie to Business*, *Associated Press*, Feb. 4, 2017, available at <http://bit.ly/2oUocWT>; Donald J. Trump, Public Financial Disclosure Report, June 14, 2017 (“Trump OGE 278e”), available at <https://oge.app.box.com/s/kz4qvbdscfrzq16msuo4zmth6rerh1c>.

⁵ See *Remarks by President Trump on Infrastructure*, Aug. 15, 2017, available at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-infrastructure/> (transcript of remarks by President Trump at Trump Tower on infrastructure and Charlottesville protests); Dan Scavino Jr. (@Scavino45), Twitter post, Aug. 7, 2017, 12:51 p.m. (White House Social Media Director referring to President Trump’s private golf club in Bedminster, N.J. as “the summer White House”), available at <http://bit.ly/2p18Lwv>.

⁶ See, e.g., Jessica Estepa, *President Trump Makes a Plug for His Tower During UN Speech*, *USA Today*, Sept. 18, 2017 (referring to Trump World Tower condominium and office building), available at <https://usat.ly/2G2naAq>; Diana Stancy Correll, *Trump Praises His New Jersey Golf Club, Korean Golfers During Speech to National Assembly in Seoul*, *Washington Examiner*, Nov. 7, 2017, available at <http://washex.am/2tlnLdY>; Wayne Washington, *At Trump International, President Trump Praises Coast Guard*, *PalmBeachPost.com*, Dec. 29, 2017, available at <http://pbpo.st/2F13J4y>.

⁷ Katherine Sullivan, *‘Trump Inc.’ Podcast Extra: The Trump Organization Ordered Golf Course Markers With the Presidential Seal. That May Be Illegal.*, *ProPublica*, Mar. 5, 2018, available at <http://bit.ly/2Fg7A71>.

⁸ See Rules of Golf, United States Golf Association, “Teeing Ground” definition and Rule 11, available at <http://www.usga.org/content/usga/home-page/rules/rules-and-decisions.html>.

⁹ Sullivan, *ProPublica*, Mar. 5, 2018.

¹⁰ *Id.* (showing photograph of the tee markers).

¹¹ *Id.*; Thomas Novelty, *Louisville area company is making presidential seals for Trump’s golf course. Is it legal?*, *Louisville Courier-Journal*, Mar. 5, 2018, available at <http://cjky.it/2FEWvgi>.

shorthand for one or more of the Trump Organization's four golf courses that have the word "International" in their title.¹²

Although the Trump Organization has declined to identify where the Presidential Seal golf tee markers had been used, *ProPublica* reported that they were used at Trump International Golf Club in West Palm Beach, Florida,¹³ which is located "five minutes" from President Trump's Mar-a-Lago Club.¹⁴ The *ProPublica* story also indicates the Presidential Seal markers may have been used as yard markers. According to the report, an Instagram account, since deleted, contained photos of the Presidential Seal marker at a golf course, captioned, "My shot landed at the 45-yard marker on 10 at Mar A Lago. Not too shabby. #golf #maralago #potus".¹⁵

Asked about the markers, a Trump Organization spokesperson issued the following statement: "The plaques [golf tee markers] were presented to the club by a small group of members, who are incredible fans of the President, in honor of Presidents Day weekend. They were temporary and have since been removed."¹⁶

Past administrations, through the White House Counsel's Office, have vigorously policed misuse of the Presidential Seal. For example, in 2005 the satirical newspaper *The Onion* published a reproduction of the Presidential Seal on its website alongside a parody of then-President Bush's weekly radio address.¹⁷ In response, Associate White House Counsel Grant M. Dixon wrote to *The Onion* asking that the reproduction be removed, stating that the Presidential Seal "is not to be used in connection with commercial ventures of products in any way that suggests presidential support or endorsement."¹⁸ As detailed below, the misuse of the Presidential Seal described in this letter certainly meet or exceed the misuse that garnered enforcement against *The Onion*.

Potential Violation

18 U.S.C. § 713

Federal criminal law governs the use of official government seals, including the Presidential Seal. Both the commercial manufacture or sale of the Presidential Seal, and the use and display of the Presidential Seal in any way that would convey a false impression of government approval or sponsorship, are expressly prohibited.¹⁹ Notably, while the prohibition

¹² See Trump Organization website, "Trump Golf" page.

¹³ Katherine Sullivan, *Trump's Company Removes Presidential Seal from Golf Course*, *ProPublica*, Mar. 6, 2018, available at <http://bit.ly/2HuyAtP>.

¹⁴ Mar-a-Lago Club website, "Trump Golf" page, available at <http://bit.ly/2FDKXFJ>.

¹⁵ Sullivan, *ProPublica*, Mar. 6, 2018.

¹⁶ See Stephanie Ebbs and Alexander Mallin, *Trump Organization Removes Copies of Presidential Seals from Golf Course After Reports They May Be Illegal*, *ABC News*, Mar. 6, 2018, available at <http://abcn.ws/2Fz0IkE>.

¹⁷ Katharine Q. Seelye, *Protecting the Presidential Seal. No Joke.*, *New York Times*, Oct. 24, 2005, available at <https://nyti.ms/2FiFrZc>.

¹⁸ *Id.*

¹⁹ 18 U.S.C. § 713(a)-(b).

on manufacture and sale contains an exception for instances “authorized under regulations promulgated by the President and published in the Federal Register,”²⁰ the prohibition on use and display of the seal to falsely convey government sponsorship contains no such exception:

Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President . . . or any facsimile thereof, in, or in connection with, any advertisement, poster . . . or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States . . . shall be fined under this title or imprisoned not more than six months, or both.²¹

By displaying golf tee markers bearing a replica of the Presidential Seal, the Trump Organization, through its Trump-branded golf courses, appears to have violated this provision. The 12-inch markers are a form of “advertisement” for the golf club, including through social media posts such as the Instagram account’s photos of the Presidential Seal marker at a golf course reported on by *ProPublica*. In addition, it appears the golf tee markers have been or are being used in connection with a “building” that would include the golf club and its surrounding courses.

The Trump Organization’s display of the Presidential Seal tee markers also appear to be reasonably calculated to convey a false impression of sponsorship or approval by the United States government. Other than a small handful of instances, the Presidential Seal is only used in official government settings, such as on side of Air Force One and in the Oval Office,²² and its use has been vigorously policed. The Trump-branded golf courses, however, are private businesses with no claim to government approval or sponsorship, and the placement of 12-inch replicas of the Presidential Seal at the beginning of each hole of golf misleadingly lends them a government imprimatur.

There also is no question that the Trump Organization displayed the Presidential Seal markers. The Trump Organization’s own statement confirms that the markers were, in fact, used over Presidents’ Day weekend. Further, as federal law prohibits the “knowing[] display” of the Presidential Seal, the Trump Organization’s assertion that the golf tee markers were commissioned by third parties is immaterial. In addition, neither the temporariness nor the fact

²⁰ 18 U.S.C. § 713(b). The ban on manufacture of items bearing a replica of the Presidential Seal provides that exceptions may be authorized by “regulations promulgated by the President and published in the Federal Register.” The sole regulations on point were promulgated by President Nixon and amended by President Ford. Executive Order No. 11649, 37 F.R. 3625 (Feb. 16, 1972), as amended by Executive Order No. 11916, 41 F.R. 22031 (May 28, 1976). These regulations allow for use of the Presidential Seal in educational and news settings, at monuments to former presidents, at presidential libraries, and in other similar educationally or historically significant circumstances. The regulations also provide for “other uses for exceptional historical, educational, or newsworthy purposes as may be authorized in writing by the Counsel to the President.” *Id.* at (g).

²¹ 18 U.S.C. § 713(a).

²² See, e.g., <https://www.mercurynews.com/2017/01/26/photos-president-trumps-first-ride-on-air-force-one/>; <https://timedotcom.files.wordpress.com/2017/02/kellyann-trump.jpg>.

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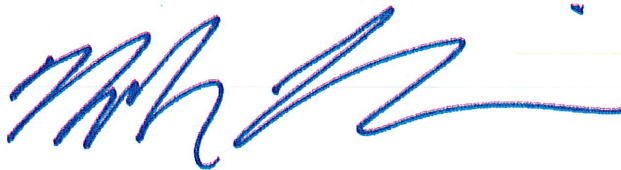
that the markers have been removed ends the need for action. Absent investigation, there is nothing stopping the Trump Organization from using the Presidential Seal golf tee markers in the future.

As a result, it appears that the Trump Organization, through its Trump-branded golf courses, has violated 18 U.S.C. § 713(a).

Conclusion

As the statutory text makes plain, 18 U.S.C. § 713 is intended to protect the integrity of the Presidential Seal by prohibiting the use of the Presidential Seal “in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States.” A false impression of government approval or sponsorship is precisely what placement of the Presidential Seal golf tee markers at Trump-branded golf courses tends to do. Accordingly, CREW respectfully requests that DOJ investigate whether the Trump Organization violated 18 U.S.C. § 713 and take appropriate action.

Sincerely,

A handwritten signature in blue ink, appearing to read 'NB', followed by a long, horizontal, wavy line.

Noah Bookbinder
Executive Director

cc: Hon. Donald F. McGahn, White House Counsel
Allen Weisselberg, Chief Financial Officer, the Trump Organization