

November 6, 2018

By First Class Mail

The Hon. Emmet Flood
Acting White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Re: Outstanding Requests for Public Financial Disclosure Reports of White House Officials

Dear Mr. Flood:

Citizens for Responsibility and Ethics in Washington (“CREW”) requests a complete response to our October 8, 2018 requests, made pursuant to the Ethics in Government Act (“EIGA”), for the public financial disclosure reports of various White House officials. CREW requests a response by no later than November 20, 2018. If we receive no response by that date or a response that does not include the requested reports, we will explore all available legal remedies.

On October 8, 2018, CREW requested public financial disclosure reports for 138 White House officials through the White House’s online portal, www.whitehouse.gov/disclosures. On October 21, 2018, CREW received some, but not all, of the requested reports. We write concerning two apparent deficiencies with the White House’s response.

First, the White House has not provided CREW with any periodic transaction reports, OGE Form 278-T (“PTRs”), for any of the 138 officials identified in our requests. In the unlikely event that the White House has received no PTRs from any of these 138 individuals, we request that you so inform us in writing. If, however, these individuals filed PTRs that have been in the White House’s possession for more than 30 days, the White House is required by law to release them immediately to CREW.

Second, the White House has failed to provide CREW with the following new entrant and annual reports, OGE Form 278e, that it most likely has—and, because they were due more than 90 days ago, should have—in its possession:

- John H. Gidley (New Entrant Report)
- Steven A. Groves (New Entrant Report)
- Shahira E. Knight (New Entrant Report)
- Mira Ricardel (New Entrant Report)
- Daniel Scavino (New Entrant Report)
- Ryan M. Kaldahl (2017 Annual Report)
- Andrew D. Koenig (2017 Annual Report)

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If the White House does not in fact have these reports, please so inform us in writing. If it does, they must be released immediately.

EIGA requires most senior executive branch officials, including Presidential appointees in the White House, to file new entrant financial disclosure reports within 30 days of assuming their positions. *See* 5 U.S.C. app. § 101(a). EIGA also requires them to file annual financial disclosure reports by May 15 each year if they served in public filing positions for more than 60 days during the preceding calendar year. *See id.* § 101(d). The Office of Government Ethics has authorized executive branch officials to grant an employee a 45-day extension of the filing deadline and, upon a written showing of good cause, a second 45-day extension, which must be granted in writing. *See* 5 C.F.R. § 2634.201(f).

The STOCK Act separately requires these individuals to file PTRs for covered transactions, including stocks, bonds and other securities, occurring while they serve in positions subject to public financial disclosure requirements by the earlier of 45 days after the transaction or 30 days after receiving notification of the transaction. 5 U.S.C. app. 4 § 103(l).

EIGA directs employees to file their financial disclosure reports “with the designated agency ethics official at the agency by which he is employed.” 5 U.S.C. app. § 103(a). For senior White House appointees,¹ EIGA specifically provides that, after they file their reports with their employer, the reports “shall be transmitted to the Director of the Office of Government Ethics.” *Id.* § 103(c).

EIGA confers on the public a right of access to unredacted copies of public financial disclosure reports. *Id.* § 105(a). Specifically, the employer with which the reports are filed “shall, within thirty days after any report is received” provide the public with access upon receipt of a request for the report. *Id.* § 105(b)(1). The requester must provide his or her name, occupation, and address; the name and address of any other person or organization on whose behalf the report is requested; and state that the requester is aware of “the prohibitions on the obtaining or use of the report.” *Id.* § 105(b)(2). The White House has established an online portal for requesting financial disclosure reports in accordance with the statute’s requirements. *See* <https://www.whitehouse.gov/disclosures/>.

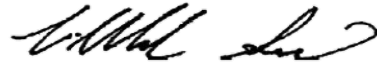
CREW used the White House portal for its October 8, 2018 requests and properly completed the data fields provided. CREW’s requests therefore complied with the EIGA’s requirements for submitting requests. Insofar as the White House has had the requested reports in its possession for 30 days or longer and has not released them, the White House must release the reports immediately pursuant to EIGA. *Id.* §105(b).

Accordingly, we request that the White House provide the reports identified above by no later than November 20, 2018. If it fails to do so, we will explore all available legal remedies.

¹ These are “employees described in section 105 (a)(2)(A) or (B), 106 (a)(1)(A) or (B), or 107 (a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code.” 5 U.S.C. app. § 103(c).

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Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus". The signature is fluid and cursive, with a large initial "N" and a long, sweeping tail.

Nikhel Sus
Staff Counsel, Complaints & Litigation