

April 24, 2019

BY FACSIMILE: 202-622-3895

U.S. Department of the Treasury
FOIA Requester Center
Washington, DC 20220

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of the Treasury (“Treasury”) regulations.

First, CREW requests copies of all ethics advice provided to Secretary Steven Mnuchin on or before April 20, 2017, by Treasury’s Designated Agency Ethics Official as referenced in an April 3, 2019 letter (attached) from Assistant General Counsel Brian J. Sonfield to the Director of the Office of Government Ethics (“OGE”).

Second, CREW requests any ethics advice Secretary Mnuchin received after April 20, 2017, from any Treasury ethics official pertaining to the entity Stormchaser Partners LLC, which Secretary Mnuchin listed as an asset to be divested in his Ethics Agreement submitted during his confirmation process in January 2017.

Third, CREW requests all communications between Treasury and OGE regarding Secretary Mnuchin’s interest or his spouse’s interest in Stormchaser.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc’ed or bcc’ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-

exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and Treasury Department regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

By letter dated April 4, 2019, OGE Director Emory A. Rounds, III advised Chairman Charles E. Grassley of the Senate Finance Committee that OGE was unable to certify Secretary Mnuchin's 2018 annual public financial disclosure report "because he [Secretary Mnuchin] has an imputed interest in Stormchaser Partners LLC, which he agreed to divest." A copy of this letter is enclosed. As Mr. Rounds noted, Secretary Mnuchin initially agreed to divest this interest by selling it to his then-finacée after seeking advice from Treasury's Designated Agency Ethics Official. That official advised Secretary Mnuchin he could retain his imputed interest in Stormchaser "because the asset did not create a potential for a conflict of interest." *Id.* Because Treasury did not advise OGE of this advice, Secretary Mnuchin was able to reacquire an interest in Stormchaser without prior OGE approval. *Id.*

The requested records will shed further light on whether Secretary Mnuchin's actions are consistent with the ethics advice he received and may help explain why Treasury failed to advise OGE of this advice. There is great public interest in ensuring top agency officials follow all applicable ethics rules and regulations and that they are guided by advice that conforms with those rules and regulations.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to

FOIA Officer
April 24, 2019
Page 3

include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or aweismann@citizensforethics.org. Where possible, please produce records in electronic format. Please send the requested records to me either at aweismann@citizensforethics.org or Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W, Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel

encl.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 3, 2019

Brian Sonfield
Assistant General Counsel
(General Law, Ethics & Regulation)
and Designated Agency Ethics Official
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Sonfield:

This letter supersedes my letters dated January 10, 2017 and February 1, 2017 and describes the steps that I will take to avoid any actual or apparent conflict of interest in my position as Secretary of the Treasury.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

As to my imputed interest in Stormchaser Partners LLC (Stormchaser), consistent with the advice of Treasury's DAEO on April 20, 2017, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on my imputed financial interest in Stormchaser Partners LLC, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). This recusal includes particular matters of general applicability involving the film industry which could affect Stormchaser. Stormchaser does not currently own or have an interest in any films being marketed internationally. If while I am Secretary the nature of Stormchaser's business practices or the types of films it owns or produces changes, I will seek further guidance from the Department's ethics official, who will consult with OGE. For example, if, while I am Secretary, Stormchaser begins to market the films it owns or produces internationally I will recuse myself from any particular matters regarding films in any country in which Stormchaser is or is seeking to market its films and seek guidance from my ethics office, which will consult with OGE. My recusal further includes any particular tax matters that would have a direct and predictable effect on the class of independent films to which Stormchaser's holdings belong. In addition, I will not participate personally and substantially in any particular matter involving specific parties in which I know a financial investor in Stormchaser films is a

Accordingly Treasury, with the advice and consultation of OGE, is formally amending the Secretary's Ethics Agreement to reflect the DAEO's April 20, 2017, written authorization and to include specific recusals and consultation requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Sonfield". The signature is fluid and cursive, with a prominent initial "B" and "S".

Brian J. Sonfield
Assistant General Counsel
(General Law, Ethics and Regulation)
& Designated Agency Ethics Official

Attachment

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



April 4, 2019

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

By letter dated January 10, 2017, the Office of Government Ethics (OGE) transmitted to the Committee the financial disclosure report of Steven Mnuchin in connection with his nomination for the position of Secretary, Department of the Treasury. Enclosed are a letter from the Department of the Treasury and a letter from Secretary Mnuchin amending his ethics agreement.

OGE is unable to certify Secretary Mnuchin's 2018 annual public financial disclosure report because he has an imputed interest in Stormchaser Partners LLC, which he agreed to divest. Although he divested this interest by selling it to his then-fiancée, he subsequently reacquired an imputed interest when he later married his fiancée. According to the Department of the Treasury, the Secretary sought advice from the Department of the Treasury's Designated Agency Ethics Official who advised him that he could retain his imputed interest in the entity because the asset did not create a potential for a conflict of interest. However, the Department of the Treasury's ethics officials did not inform OGE of this advice, which had the effect of letting the Secretary reacquire, without prior approval from OGE, a financial interest in an asset he agreed to divest.

Although OGE is unable, given these circumstances, to certify the Secretary's 2018 annual financial disclosure report, OGE is satisfied that commitments reflected in the enclosed modified ethics agreement enable him to continue to hold an imputed interest in Stormchaser Partners LLC and be in compliance with his amended ethics agreement and the applicable conflict of interest laws. Specifically, Secretary Mnuchin has committed to additional recusals and to consult with OGE if the nature of the Stormchaser Partners LLC business were to change.

Sincerely,

A handwritten signature in blue ink that reads "Emory Rounds, III".

Emory A. Rounds, III
Director

Enclosures

