



215 Pennsylvania Avenue, SE • Washington, D.C. 20003 • 202/546-4996 • www.citizen.org

July 6, 2020

Office of Inspector General
U.S. Dept. of Health and Human Services
330 Independence Avenue, SW
Washington, D.C. 20201

Office of Inspector General
U.S. Dept. of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Office of Inspector General
U.S. Dept. of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

U.S. Office of Government Ethics
Emory Rounds, Director
1201 New York Avenue, NW #500
Washington, D.C. 20005

RE: Potential Violations of Ethics Executive Order No. 13770

Dear Ethics Officers:

Public Citizen respectfully requests investigations into whether certain former officials in the Trump administration may have violated their ethics pledges under Executive Order No. 13770 that restricts their lobbying activities by political appointees to the administration after leaving public service.

A new report by Public Citizen, entitled “COVID Lobbying Palooza,” documents an extensive network of former campaign staff, inaugural officers, transition team members and administration officials cashing in on their connections to the White House as hired-gun lobbyists. These revolving door lobbyists are employed by corporations and wealthy special interests seeking grants, loans, government contracts and other policy favors in the wake of massive government outlays in an effort to address the COVID-19 pandemic.

Many of these revolving door lobbyists hail from the administration’s inner circles. Some of these revolving door lobbyists may well be flouting their ethics commitments under Trump’s ethics Executive Order *not* to (i) lobby the agency in which they served within 5 years of leaving the administration; and *not* to (ii) engage in lobbying activities with respect to any covered executive branch official for the remainder of the Trump administration.

Lobbying disclosure reports raise serious questions whether at least five former Trump officials are honoring their ethics obligations. These former officials include:

- Courtney Lawrence, former Deputy Assistant Secretary for Legislation, Dept. of Health and Human Services.
- Shannon McGahn, former advisor to the Treasury Secretary Steven Mnuchin.

- Jordan Stoick, former senior advisor to the Department of the Treasury.
- Geoff Burr, former chief of staff to Transportation Secretary Elaine Chao.
- Emily Felder, former director of the Centers for Medicare and Medicaid Services' Office of Legislation

Public Citizen requests that the appropriate ethics officers investigate and determine whether these former officials are in compliance with their binding oaths not to make lobbying contacts or conduct lobbying activities with respect to the agencies in which they served as well as with any covered executive branch official in the Trump administration.

A. Revolving Door Restrictions for Former Senior Administration Officials

In addition to the conflict of interest code 18 U.S.C. 207 that places a one-year prohibition on senior administration officials from making lobbying contacts with their former agencies, President Donald Trump imposed additional revolving door restrictions on officials of his administration under ethics Executive Order No. 13770.

Trump's ethics Executive Order was issued as part of his campaign pledge to "drain the swamp." It is fashioned after a similar executive order issued by former President Barack Obama, in which senior administration political appointees pledge under oath to certain ethics restrictions. These restrictions include mandating recusal from official actions that affect former employers and clients while in office, and prohibiting lobbying their former agencies or the administration altogether for a longer period of time than prescribed under the ethics code after leaving public service.

Of particular concern in the five cases cited above are paragraphs 1 and 3 of Trump's ethics executive order. Political appointees into the Trump administration sign a pledge under oath swearing, in part, that:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency."

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or noncareer Senior Executive Service appointee for the remainder of the Administration."

Paragraph 1 of the ethics pledge extends the statutory revolving door restriction from one year for senior administration officials to five years. Paragraph 3 of the ethics pledge prohibits former senior administration officials from lobbying any "covered official" in the Trump administration for the duration of the administration. This provision extends the revolving door restriction beyond a prohibition against lobbying one's former agency to a prohibition against lobbying decisionmaking officials across the entire Trump administration, from the White House to any agency within the executive branch.

More importantly, Paragraph 3 of the ethics executive order prohibits former senior officials from conducting any “lobbying activities” designed to influence covered officials in the Trump administration, not just “lobbying contacts.” This is a critical distinction. The term “lobbying activities” is clearly defined in the Lobbying Disclosure Act (2 U.S.C. 1601 et seq.) as engaging in “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.”

Thus, far more than banning lobbying contacts with senior administration officials, Trump’s ethics executive order also prohibits former officials from conducting lobbying activities intended to facilitate a lobbying contact, including strategic consulting, planning, research and coordination with a lobbying team for the purpose of influencing official actions.

Of course, Trump’s ethics executive order comes with caveats. Prohibited lobbying activities by former officials does not include efforts to influence rulemaking or licensing by the administration.¹ Rulemaking or licensing includes such actions, for example, as attempting to influence FDA approval of a vaccine. But perhaps the greatest caveat is whether Trump’s executive order is enforced. There is ample evidence that Trump’s ethics executive order is little more than a hollow gesture to fulfill a campaign promise.²

Nevertheless, the executive order should have the rule of law, and its provisions should be enforced by ethics officers and administration officials. As such, it is incumbent upon Public Citizen to point out potential violations and request that the administration ensure compliance with the laws and rules of ethical behavior, including those prescribed by ethics Executive Order No. 13770.

B. Request for Investigations of Potential Revolving Door Violations

In the course of documenting extensive revolving door abuses in which former Trump campaign staff, transition team members and administration officials cash in on their connections to executive branch officials for Public Citizen’s report, “COVI Lobbying Palooza,” concerns have been raised whether five former officials are not only cashing in on their connections, but may have run afoul of Paragraphs 1 and 3 of the ethics executive order.

¹ Executive Order No. 13770. Sec. 2. Definitions. (n) “Lobbying activities” has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 et seq.

² Public Citizen alone has filed more than 30 ethics complaints for likely violations of Executive Order No. 13770 and all complaints were either rejected by administration officials or ignored altogether.

<https://www.citizen.org/news/public-citizen-files-30-ethics-complaints-for-likely-violations-of-trumps-own-ethics-rules/> See also, Craig Holman, “The curious case of President Trump’s ethics executive order,” The Hill (march 15, 2017), available at: <https://thehill.com/blogs/pundits-blog/the-administration/323619-the-curious-case-of-trumps-ethics-order>

As such, Public Citizen requests that the Inspector General’s office and administration officials take a closer look as to whether the following former officials have violated Executive Order No. 13770 by either (i) making lobbying contacts with their former agencies or covered officials in the executive branch or (ii) conducting “lobbying activities” facilitating such lobbying contacts by others as part of a coordinated lobbying campaign.

- **Courtney Lawrence.** Lawrence served as deputy assistant secretary for legislation in the Department of Health and Human Services in 2017 and 2018. She became a lobbyist for Cigna in 2018.³

Cigna’s lobbying disclosure reports for the third and fourth quarters of 2018, all four quarterly reports in 2019, and the most recent first quarter report in 2020, show that Lawrence or her colleagues lobbied both houses of Congress, the Department of Commerce, the Department of the Treasury, and Lawrence’s former employer, the Department of Health and Human Services.⁴

- **Shannon McGahn.** McGahn worked in 2017 and 2018 as an advisor to Treasury Secretary Steven Mnuchin. Immediately after her public service, she joined the National Association of Realtors as its top lobbyist.⁵ The National Association of Realtors’ fourth quarter report in 2018, all quarterly reports in 2019 and the first quarterly report of 2020 indicates that McGahn or her colleagues lobbied both houses of Congress, plus six executive branch agencies, including the U.S. Department of Treasury.⁶
- **Jordan Stoick.** Stoick served in the Trump administration as a senior advisor in the Treasury Department through 2017. After leaving public service, Stoick became vice president of government relations at the National Association of Manufacturers (NAM).⁷ Stoick’s biography on NAM’s web site describes him as “NAM’s lead lobbyist in Washington.”⁸

NAM’s lobbying disclosure reports for all four quarters in 2018, the first three quarters of 2019 and the most recent quarter in 2020 indicate that Stoick or his colleagues lobbied both houses of Congress plus at least five executive branch agencies, including the Treasury Department.⁹

³ <https://projects.propublica.org/trump-town/staffers/courtney-austin-lawrence>

⁴ See, for example, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=256A0F49-71D7-4EA6-991B-440792F3D782&filingTypeID=51>

⁵ <https://www.politico.com/newsletters/politico-influence/2018/10/02/national-association-of-realtors-names-shannon-mcgahn-as-top-lobbyist-359937>

⁶ See, for example, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=178DC4FE-0A7C-4728-BDFC-23ADEA97007D&filingTypeID=51>

⁷ <https://www.nam.org/staff-leadership/jordan-stoick>

⁸ <https://www.nam.org/staff-leadership/jordan-stoick/>

⁹ See, for example, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=42D67452-2824-4E8F-B96E-F00B7F2F1370&filingTypeID=51>

- **Geoff Burr.** Burr served as chief of staff to U.S. Department of Transportation Secretary Elaine Chao through 2018. Immediately afterward, Burr joined Brownstein Hyatt Farber Schrek as the firm's policy director of government relations. Brownstein Hyatt's lobbying disclosure reports for the fourth quarter of 2019 and the first quarter of 2020 show Burr or his colleagues at the firm contacting both houses of Congress, the Executive Office of the President and the Department of State.¹⁰
- **Emily Felder.** Felder served in the Trump administration as director of the Centers for Medicare & Medicaid Services' Office of Legislation from 2017 to 2019. She later joined the lobbying firm Brownstein Hyatt Farber Schrek. Brownstein Hyatt's lobbying disclosure reports for the fourth, second and first quarters of 2019, and the first quarter of 2020, list Felder or her colleagues contacting both houses of Congress, plus the Executive Office of the President or the Office of the Vice President and the Department of Health and Human Services.¹¹

In each of these cases, the lobbying disclosure reports indicate that the former officials worked with a team of lobbyists in making lobbying contacts with their former agencies or other agencies in the executive branch, which would constitute a violation of either Paragraphs 1 or 3, or both, of Executive Order No. 13770. It is certainly possible that the lobbying reports misrepresent whom the former officials actually contacted. For example, others on the lobbying team may have contacted agencies of the executive branch while the former officials only contacted Congress. That seems unlikely but it cannot be conclusively determined by the public record.

Nevertheless, these former officials appear to have participated as a team in a specific lobbying campaign, and the team did indeed make lobbying contacts with their former agencies or other agencies in the executive branch. Thus, even if actual lobbying contacts in violation of Paragraph 1 of the executive order were not made by the former officials, it would appear that these former officials conducted lobbying activities in coordination with the lobbying team to facilitate such lobbying contacts in violation of Paragraph 3 of the executive order.

Public Citizen therefor requests that the Inspector General's office, the White House counsel and the Office of Government Ethics examine whether these former officials, and perhaps others, are flouting their legal obligations under Executive Order No. 13770 by cashing in on inappropriate revolving door influence peddling.

¹⁰ See, for example, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=DA9CA84A-558F-40B0-ABA0-9FC24A28F568&filingTypeID=51>

¹¹ See, for example, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=E13BE6C0-F25D-437B-ACA9-11DD189CA2FE&filingTypeID=51> and <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=B85820B2-08F1-4281-9BEC-A5DB446B4398&filingTypeID=51>

Respectfully Submitted,

Craig Holman, Ph.D.
Government affairs lobbyist
Public Citizen
215 Pennsylvania Avenue SE
Washington, D.C. 20003
TEL: 202-454-5182
cholman@citizen.org

cc: Office of the White House Counsel
Pat Cippolone
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500