

ENCLOSURE 1

QUESTIONS PERTAINING TO ISSUES RAISED BY CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON (CREW)

1. *The CREW analysis noted that while President Trump resigned from Trump OPO and Trump Old Post Office Member Corp. on January 19, 2017, "he retained his interest in Trump OPO through The Donald J. Trump revocable Trust ("Trust") which "retains a 77.5% interest in Trump OPO through certain holding companies." CREW additionally noted that public documents and President Trump's attorney state that the President can obtain funds from his Trust at any time upon request. Please explain – and fully document, including through the provision of legal or financial Trust documents, and other documents (including but not limited to emails, letters, telephone logs, memos, and presentations) – GSA's efforts to ensure that funds from Trump OPO cannot be withdrawn by the President from his Trust.*

On or around January 23, 2017, CREW filed Citizens for Responsibility and Ethics in Washington v. Donald J. Trump (in his official capacity as President of the United States of America) with the United States District Court for the Southern District of New York. The complaint, as amended, as well as additional filings related to the case, contain various allegations regarding the validity of the lease between GSA and Trump Old Post Office LLC as well as whether or not the lease (including the way it is structured) is "benefitting" the President in such a way so as to violate the Emoluments Clause of the Constitution. **Given the significant overlap of the issues raised in your question and the allegations contained in the pending CREW lawsuit, it would be inappropriate for GSA to comment further regarding a pending matter in litigation involving the United States. Instead, such inquiries should be directed to the U.S. Department of Justice.**

With the above in mind, and in response to this question, in a letter dated March 20, 2017, Trump Old Post Office LLC (Tenant) specifically agreed "that for the duration of President Trump's term of office, Tenant will not make any distributions to DJT Holdings LLC, or to any other entity in which President Trump has a direct, indirect or beneficial interest."¹ The Landlord's Estoppel Certificate further provides: "This Estoppel Certificate is null and void if Tenant changes the modifications to the operating agreement (as set forth in Tenant's letter dated March 20, 2017) without the written approval of Landlord."²

¹ Letter from Kevin M. Terry to Donald J. Trump, Jr. at Exhibit 1.C (March 23, 2017), available at <https://www.gsa.gov/reference/freedom-of-information-act-foia/electronic-reading-room>.

² Id. at page 2, ¶ 9.

In addition, the lease establishes a number of different reporting requirements and audit rights. In particular, Section 5.3(b) requires the submission of an annual audited financial statement that "shall set forth dates and amounts of...distributions made on account of Equity...the amount of the unreturned Equity of each of the members of Tenant, and use commercially reasonable efforts with respect to each other Person holding Equity, together with an IRR calculation applicable to each Person and its Affiliates who hold (individually or in the aggregate) a Threshold Interest." GSA does not have an annual financial statement that would include the time period from March 23, 2017, to the present. In fact, such a statement will not be available until December 29, 2017. In addition to the annual audited financial statement, Section 5.4 of the lease provides GSA with certain audit rights.

GSA expects that it will be in a better position to evaluate this matter more fully after Tenant submits the annual audited financial statement for the time period in question.

2. *Did GSA verify, through an examination of the Trust or any amendment thereto, that the President's seemingly unlimited ability to withdraw funds from his Trust does not legally extend to funds obtained from Trump OPO or any of its holding companies? If so, please provide me with documents that establish verification. If not, why not, and does GSA stand by its determination that Trump OPO is in full compliance with the conflict of interest provision of the lease?*

On or around January 23, 2017, CREW filed *Citizens for Responsibility and Ethics in Washington v. Donald J. Trump* (in his official capacity as President of the United States of America) with the United States District Court for the Southern District of New York. The complaint, as amended, as well as additional filings related to the case, contain various allegations regarding the validity of the lease between GSA and Trump Old Post Office LLC. Given the significant overlap of the issues raised in your question and the allegations contained in the pending CREW lawsuit, it would be inappropriate for GSA to comment further regarding a pending matter in litigation involving the United States. Instead, such inquiries should be directed to the U.S. Department of Justice.

With the above in mind, the Contracting Officer's March 23 letter provides a chronology of events that is instructive for purposes of answering this question. As more fully set forth therein, beginning in mid-December 2016 and continuing through Inauguration Day, Tenant submitted a series of letters to GSA advising, in one form or another, that its organizational structure was going to change.³ It was not until January 23, 2017, that Tenant definitively wrote to GSA that the transfers related to its new

³ Id. at pages 2-4.

organizational structure had been consummated.⁴ At that point, GSA requested a meeting with Tenant to discuss the newly proposed organizational structure.⁵ Following meetings and discussions with Tenant, it specifically agreed “that for the duration of President Trump’s term of office, Tenant will not make any distributions to DJT Holdings LLC, or to any other entity in which President Trump has a direct, indirect or beneficial interest.”⁶

Regarding your request for documents related to this issue, the documents in GSA’s possession are provided as Exhibit A to this Enclosure 1. (Please note that the redactions to the list of entities from which Ivanka Trump resigned were made prior to submission to GSA. GSA did not make the redactions.) As noted in his letter, the Contracting Officer listed a number of meetings between GSA and Tenant, including a February 7, 2017, meeting during which time “Tenant, through its attorneys, made additional documents available to GSA representatives for review.”⁷ Those documents made available to GSA for review, but which are not in our possession, have not been provided.

3. *The CREW analysis also notes that any improvements made to Trump Hotel would enhance its value, attract more hotel guests, and further increase the “the value of other Trump Organization properties and the amount the Trump Organization can charge for its licensing, management, and other services (“the Trump brand”),” which in turn enriches President Trump by virtue of its financial interest in “hundreds of companies that comprise the Trump Organization.” Does GSA dispute that this potential financial benefit to President Trump exists? If so, please explain the basis upon which GSA disputes the existence of this benefit (and provide any Supporting documentation). If not, does GSA stand by its determination that Trump OPO is in full compliance with the conflict of interest provision of the lease?*

On or around January 23, 2017, CREW filed Citizens for Responsibility and Ethics in Washington v. Donald J. Trump (in his official capacity as President of the United States of America) with the United States District Court for the Southern District of New York. The complaint, as amended, as well as additional filings related to the case, contain various allegations regarding the validity of the lease between GSA and Trump Old Post Office LLC as well as whether or not the lease (including the way it is structured) is “benefitting” the President in such a way so as to violate the Emoluments Clause of the Constitution. Given the significant overlap of the issues raised in your question and the allegations contained in the pending CREW lawsuit, it would be inappropriate for GSA to comment further regarding a pending matter in litigation involving the United States.

⁴ Id. at page 4.

⁵ Id. at page 4.

⁶ Id. at Exhibit 1.C.

⁷ Id. at page 2.

Instead, such inquiries should be directed to the U.S. Department of Justice.

It is worth noting, however, that as part of the agency's review of whether Tenant was in compliance with Section 37.19 of the lease, GSA requested from Tenant a written statement providing Tenant's position and analysis regarding its business structure and how Tenant was in compliance with the lease, including Section 37.19.⁸ Tenant's responses to that agency request asserted, among other things, that by the terms of the clause, Section 37.19 did not apply to elected officials previously admitted to the lease, or to owners or other entities when the lease was for the benefit of that entity.⁹ In other words, Tenant maintained that "the plain language of Section 37.19 does not prohibit a person who is admitted to a share or benefit of the Lease from continuing to hold and enjoy that share or benefit after becoming an elected official."¹⁰ GSA's Contracting Officer considered these arguments, among other things, in reaching his determination that Trump Old Post Office LLC was in full compliance with Section 37.19 of the lease.¹¹ GSA stands by this determination.

4. *The CREW analysis also notes that funds from Trump OPO can be used for any "business activities and purposes," which could include the purchase of wine from Trump Vineyards Estates LLC or coffee or other food products that may be owned or licensed by Trump family businesses (such as Trump Mark Fine Foods LLC). President Trump would be expected to benefit financially from such purchases as well. Does GSA dispute that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?*

On or around January 23, 2017, CREW filed Citizens for Responsibility and Ethics in Washington v. Donald J. Trump (in his official capacity as President of the United States of America) with the United States District Court for the Southern District of New York. The complaint, as amended, as well as additional filings related to the case, contain various allegations regarding the validity of the lease between GSA and Trump Old Post Office LLC as well as whether or not the lease (including the way it is structured) is "benefitting" the President in such a way so as to violate the Emoluments Clause of the Constitution. Given the significant overlap of the issues raised in your question and the allegations contained in the pending CREW lawsuit, it would be inappropriate for GSA to comment further regarding a pending matter in litigation involving the United States.

⁸ Id. at Exhibit 1.A.

⁹ Id. at Exhibits 1.B and 1.C.

¹⁰ Id. at Exhibit 1.B.

¹¹ There was no determination prior to issuance of the Contracting Officer's March 23, 2017 letter regarding Tenant's compliance with Section 37.19 of the lease.

Instead, such inquiries should be directed to the U.S. Department of Justice.

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5. *The CREW analysis also notes that if funds from the DJT Holdings capital account are used to pay down the Trump OPO loan from Deutsche Bank, this would reduce the chances of default on the loan, and could also shield the President from personal liability for this loan if he guaranteed it with his personal assets. Does GSA disagree that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response, including through the provision of the Deutsche Bank loan documentation and GSA's analysis thereof)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?*

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¹² Id. at Exhibit 1.A.

¹³ Id. at Exhibits 1.B and 1.C.

¹⁴ Id. at Exhibit 1.B.

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6. *The CREW analysis also notes that any remaining funds in the DJT Holdings capital account at the end of the President's tenure from Trump OPO will be returned to the President's Trust once he leaves office, and these funds clearly benefit the President. Does GSA disagree that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?*

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¹⁶ Id. at Exhibit 1.A.

¹⁷ Id. at Exhibits 1.B and 1.C.

¹⁸ Id. at Exhibit 1.B.

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7. *The CREW analysis also notes that the President regularly dines at the Hotel restaurant, and several Cabinet officials also stay or dine there. It is unclear whether the President pays for his meals when he eats there. Additionally, the possibility of eating at a restaurant that is owned and operated by the President while the President is also eating there can reasonably be expected to attract additional restaurant guests. Does GSA disagree that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?*

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²¹ Id. at Exhibits 1.B and 1.C.

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²⁵ Id. at Exhibits 1.B and 1.C.

²⁶ Id. at Exhibit 1.B.

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