

**THE WHITE HOUSE**

WASHINGTON

February 28, 2017

The Honorable Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW  
Suite 500  
Washington, DC 20005

Dear Mr. Shaub:

Thank you for your letter of February 13, 2017, regarding the Administration's compliance with the Standards of Official Conduct for Employees of the Executive Branch ("Standards of Conduct"). Please accept this correspondence as a continuation of my February 9, 2017 telephone conversation with Mr. David J. Apol, General Counsel of the U.S. Office of Government Ethics after I was unsuccessful in my initial efforts to reach you by telephone.

As we have previously discussed, this Administration is committed to complying with the ethical obligations set forth in the Standards of Conduct. We note initially that although many regulations promulgated by the Office of Government Ethics ("OGE") do not apply to employees of the Executive Office of the President, the Office of the White House Counsel has instructed all such employees to abide by 3 CFR § 100.1 which provides: "Employees of the Executive Office of the President are subject to the executive branch-wide standards of ethical conduct at 5 CFR Part 2635, and the executive branch-wide financial disclosure regulations at 5 CFR Part 2634."<sup>1</sup>

To that end, the Office of the White House Counsel continues to work to provide all employees of the Executive Office of the President with direct instruction on the standards they are expected to follow during their employment at the White House. We have been providing

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<sup>1</sup> The Ethics in Government Act of 1978 states that the Director of the OGE is authorized only to provide overall direction of Executive branch policies related to officers and employees "of any executive agency, as defined in section 105 of title 5, United States Code." See 5 U.S.C. App. § 402(a). Thus, while employees of the White House Office are not agency "employees" as referred to in 5 C.F.R. § 2635.702(c) and as defined by 5 CFR § 2635.102(h), the Office of the White House Counsel has instructed all employees of the White House Office that they are still subject to 5 CFR Part 2635 by operation of 3 CFR § 100.1.

specialized training to individual components within the Executive Office of the President on disclosure issues, conflicts of interest, gifts, travel, the Presidential Records Act, the STOCK Act, use of official resources and position (personal and political), the Hatch Act, outside income, and post-employment issues. We are also continuously advising employees on an individual basis as questions arise in the course of their official duties.

In addition, on January 28, 2017, the President issued an Executive Order on Ethics Commitments by Executive Branch Appointees (EO 13770), which imposes significant additional ethical obligations on those who join the Administration. This office has also issued written guidance to all employees of the Executive Office of the President on a number of issues including the Standard of Conduct's prohibition on using one's official position to endorse any product, service, or enterprise.

The Office of the White House Counsel also takes seriously its role in reviewing allegations of purported individual violations of the Standards of Conduct and recommending appropriate corrective or disciplinary action as it deems appropriate. Consistent with this commitment to ethical compliance, the Office of White House Counsel immediately undertook a review of the facts and circumstances surrounding comments made by Counselor to the President Kellyanne Conway, relating to the business interests of the President's daughter Ivanka Trump, during a February 9, 2017 appearance on a news program.<sup>2</sup> As part of the subsequent review, I have personally met with Ms. Conway to review the Standards of Conduct that employees of the Executive Office of the President are expected to follow, including the provisions relating to the appropriate use of one's official position.


Upon completion of our inquiry, we concluded that Ms. Conway acted inadvertently and is highly unlikely to do so again. It is noted that Ms. Conway made the statement in question in a light, off-hand manner while attempting to stand up for a person she believed had been unfairly treated and did so without nefarious motive or intent to benefit personally. Both before and after receiving your letter, I personally met with Ms. Conway and advised her that her comments regarding Ms. Trump's products implicated the prohibition on using one's official position to endorse any product or service. Ms. Conway has acknowledged her understanding of the Standards and has reiterated her commitment to abiding by them in the future.

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<sup>2</sup> You will recall, and Mr. Apol will confirm, that at approximately 9:45 am on the morning of February 9, shortly after Ms. Conway's statement, our office contacted Mr. Apol to advise OGE that the Office of the White House Counsel was aware of Ms. Conway's comments and would be reviewing the matter internally.

We look forward to continuing to work with you and the Office of Government Ethics to ensure compliance with the highest ethical standards throughout Government.

Sincerely,



Stefan C. Passantino  
Deputy Counsel to the President,  
Compliance and Ethics

cc: The Honorable Jason Chaffetz  
The Honorable Elijah E. Cummings  
Ms. Kellyanne Conway