

United States Senate

WASHINGTON, DC 20510

January 13, 2020

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street SE
Washington, DC 20549

The Honorable Heath P. Tarbert
Chairman
Commodities Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Dear Chairman Clayton and Chairman Tarbert:

We are writing to request that the Securities and Exchange Commission (SEC) and Commodities Futures Trading Commission (CFTC) open investigations into whether there may have been any illegal trading in defense company stocks or commodities related to individuals' advance knowledge of the United States attack on January 2, 2020, that killed Iranian Major General Qasem Soleimani.¹

The attack occurred while President Donald Trump was staying at and mingling with guests at his Mar-a-Lago resort.² According to a report released earlier this month, President Trump gave those guests advance knowledge of potential military action:

In the five days prior to launching a strike that killed Iran's most important military leader, Donald Trump roamed the halls of Mar-a-Lago, his private resort in Florida, and started dropping hints to close associates and club-goers that something huge was coming. ... Trump began telling friends and allies hanging at his perennial vacation getaway that he was working on a 'big' response to the Iranian regime that they would be hearing or reading about very 'soon.' [T]he president specifically mentioned he'd been in close contact with his top national security and military advisers on gaming out options for an aggressive action that

¹ New York Times, "U.S. Strike in Iraq Kills Qasim Suleimani, Commander of Iranian Forces," Michael Crowley, Falih Hassan, and Eric Schmitt, January 7, 2020, <https://www.nytimes.com/2020/01/02/world/middleeast/qassem-soleimani-iraq-iran-attack.html>.

² Washington Post, "How Trump decided to kill a top Iranian general," Missy Ryan, Josh Dawsey, Dan Lamothe, and John Hudson, January 3, 2020, https://www.washingtonpost.com/national-security/how-trump-decided-to-kill-a-top-iranian-general/2020/01/03/77ce3cc4-2e62-11ea-bcd4-24597950008f_story.html.

could quickly materialize.³

If this report is true, it raises a number of troubling national security questions regarding President Trump's handling of classified and other sensitive national security information. It also means that individuals who were guests at President Trump's resort may have obtained confidential market-moving information and had the opportunity to trade defense industry stocks or commodities or make other trades based on this information. These private individuals, therefore, would have had the opportunity to obtain significant profits simply by being guests or members at President Trump's private resort. According to reports, "the club's nearly 500 paying members include dozens of real estate developers, Wall Street financiers, energy executives and others whose businesses could be affected by Mr. Trump's policies."⁴

Between January 2, 2020, before the announcement of the attack, and the end of the day on January 3, 2020, Northrop Grumman stock prices increased by over 5%; Lockheed Martin's stock prices increased by 3.6%; and the stock prices of Raytheon, Secretary of Defense Mark Esper's former employer, increased by 1.5%.⁵ Additionally, immediately following the killing of Soleimani, the price of crude oil increased by over 4%.⁶

Tensions between Iran and the United States in advance of the January 2, 2020, attack were not a secret. Secretary of State Mike Pompeo, Secretary of Defense Mark Esper, and Joint Chiefs of Staff Chairman General Mark Milley, provided reporters with a briefing on December 29, 2019 from Palm Beach in which Secretary Pompeo said "we will not stand for the Islamic Republic of Iran to take actions that put American men and women in jeopardy."⁷ President Trump threatened via Tweet that he would hold Iran "fully responsible for lives lost, or damage incurred, at any of our facilities" and that "[t]his is not a Warning [*sic*], it is a Threat [*sic*]."⁸ But according to the report, the information President Trump provided to his Mar-a-Lago guests went beyond the information provided publicly, or even to Members of Congress.⁹

We have no way of knowing which individuals received information from President Trump in advance of the attack, what precise information they received and when they received

³ Daily Beast, "Trump Told Mar-a-Lago Pals to Expect 'Big' Iran Action Soon," Spencer Ackerman, Asawin Suebsaeng, Erin Banco, and Betsy Swan, January 4, 2020, <https://www.thedailybeast.com/trump-told-mar-a-lago-pals-to-expect-big-iran-action-days-before-soleimanis-death>.

⁴ The New York Times, "Trump's 'Winter White House': A Peak at the Exclusive Members' List at Mar-a-Lago," Nicholas Confessore, Maggie Haberman and Eric Lipton, Feb. 18, 2017, <https://www.nytimes.com/2017/02/18/us/mar-a-lago-trump-ethics-winter-white-house.html>.

⁵ Los Angeles Times, "Defense stocks jump after U.S. kills Iranian general," Samantha Masunaga, January 3, 2020, <https://www.latimes.com/business/story/2020-01-03/defense-stocks-qassem-suleimani>.

⁶ Quartz, "Oil prices spike after US assassinates Iranian military leader," Max de Haldevang, January 3, 2020, <https://qz.com/1778998/oil-prices-spike-after-us-assassinates-irans-qasem-soleimani/>.

⁷ White House, "Press Briefing by Secretary of State Mike Pompeo and Secretary of Defense Mark Esper," December 30, 2019, <https://www.whitehouse.gov/briefings-statements/press-briefing-secretary-state-mike-pompeo-secretary-defense-mark-esper-palm-beach-fl/>.

⁸ Tweet from President Trump, December 31, 2019, <https://twitter.com/realDonaldTrump/status/1212121026072592384>.

⁹ Daily Beast, "Trump Told Mar-a-Lago Pals to Expect 'Big' Iran Action Soon," Spencer Ackerman, Asawin Suebsaeng, Erin Banco, and Betsy Swan, January 4, 2020, <https://www.thedailybeast.com/trump-told-mar-a-lago-pals-to-expect-big-iran-action-days-before-soleimanis-death>.

it, or whether they may have made any securities or commodities trades based on that information. Had they made such trades, they may potentially have violated the *Insider Trading Sanctions Act of 1984*, which bars individuals from “purchasing or selling a security [or security-based swap agreement] while in possession of material, nonpublic information.”¹⁰ Violation of these laws may subject individuals to civil penalties “three times the amount of the profit gained or loss avoided”¹¹ and criminal penalties up to \$5,000,000 or 20 years imprisonment or both.¹² Similarly, any oil futures or other commodities “trading on the basis of material, nonpublic information” could violate CFTC market manipulation rules established under the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.¹³

Given the important national security issues at stake, and the threat to the integrity of the markets, it is important that you resolve any questions about whether any of President Trump’s guests may have engaged in profiteering based on inside information obtained from the President at Mar-a-Lago. We therefore ask that you open an investigation to address the following questions:

1. Which members and guests did President Trump meet or have discussions with at Mar-a-Lago in the days leading up to the January 2, 2020 strike against Iranian Major General Qasem Soleimani?
2. What information did President Trump provide to Mar-a-Lago members and guests regarding the January 2, 2020 strike against Iranian Major General Qasem Soleimani?
 - a. To what extent was this information material and non-public?
3. Which members and guests at Mar-a-Lago or other confidants of President Trump received advanced notice about the potential of the January 2, 2020 military action?
4. Did any of these individuals make any trades based on this information, and if so, did these trades violate insider trading laws?

In addition to opening an investigation, we ask that you provide our staff with a briefing on this matter no later than February 13, 2020.

¹⁰ Insider Trading Sanctions Act of 1984, Public Law 98-376.

¹¹ 15 U.S.C. 78u-1(a)(2)

¹² 15 U.S.C. 78ff

¹³ Commodity Futures Trading Commission, Federal Register Notice, “Prohibition on the Employment, or Attempted Employment, of Manipulative and Deceptive Devices and Prohibition on Price Manipulation,” January 14, 2011. <https://www.federalregister.gov/documents/2011/07/14/2011-17549/prohibition-on-the-employment-or-attempted-employment-of-manipulative-and-deceptive-devices-and>.

Sincerely,



Elizabeth Warren
United States Senator



Chris Van Hollen
United States Senator

cc: Office of Government Ethics