

Congress of the United States
Washington, DC 20510

June 15, 2020

Scott Gast
Deputy Counsel to the President
Deputy Assistant to the President
Designated Agency Ethics Official
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. Gast:

We write to express our concerns regarding financial interests of Vice President Pence’s Chief of Staff, Marc Short, that appear to present conflicts of interests and may interfere with his ability to assist with the administration’s response to the coronavirus disease 2019 (COVID-19) pandemic in a neutral manner.

According to his public financial disclosures,¹ Mr. Short “owns between \$506,043 and \$1.64 million worth of individual stocks in companies doing work related to the Trump administration's pandemic response.”² These stocks include companies that manufacture personal protective equipment, including much-needed N95 respirators; companies that make COVID-19 tests; pharmacies; health insurance companies; and pharmaceutical manufacturers involved in the development of COVID-19 medical countermeasures, including vaccines.³

Experts on federal government ethics law have raised concerns that Mr. Short may be “participating in the government’s coronavirus pandemic response while holding significant conflicting financial interests,” and have provided extensive documentation of his participation in these matters.⁴ According to these experts, the White House has not been forthcoming about information that would allow the public to determine if Mr. Short has resolved the apparent conflicts of interest by divesting the conflicting stock, or if he has received any ethics waivers.⁵

¹ U.S. Office of Government Ethics, “Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278E); Short, Marc,” January 2019, <https://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2020/04/17193131/Short-Marc-final278-1.pdf>

² NPR, “Pence Chief Of Staff Owns Stocks That Could Conflict With Coronavirus Response,” Tim Mak, May 28, 2020, <https://www.npr.org/2020/05/28/860927054/pence-chief-of-staff-owns-stocks-that-could-conflict-with-coronavirus-response>.

³ *Id.*

⁴ Citizens for Responsibility and Ethics in Washington, “Does the Vice President’s Chief of Staff Have a Coronavirus Conflict of Interest?,” Walter Shaub and Meredith Lerner, April 23, 2020, <https://www.citizensforethics.org/marc-short-coronavirus-stocks-conflict-of-interest/>; Letter from Noah Bookbinder and Walter M. Shaub, Jr. to Christopher A. Wray, June 3, 2020, <https://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2020/06/03204649/2020-6-3-FBI-Short-conflict-of-interest.pdf>.

⁵ *Id.*

On June 3, 2020, the Trump administration “selected five companies as the most likely candidates to produce a vaccine” for COVID-19.⁶ Mr. Short and his wife hold substantial amounts of stock in three of these five finalists, owning between \$101,000 and \$340,000 in Johnson & Johnson, Pfizer, and Merck collectively.⁷ These companies stand to benefit substantially from federal grant money that Mr. Short could have a hand in directing; Johnson & Johnson has already received a \$456 million award to develop a COVID-19 vaccine.⁸ It is likely that billions more will be allocated through Operation Warp Speed, the Trump administration’s project to accelerate the development and distribution of COVID-19 medical countermeasures.⁹

Because the Vice President is in a key decision-making role as leader of the Trump administration’s COVID-19 task force,¹⁰ it is unacceptable for his Chief of Staff to have a financial stake in companies that could profit based on actions taken in response to the COVID-19 pandemic, whether in the development of vaccines or any other component of the response. As the COVID-19 pandemic wreaks havoc on Americans’ health and economic well-being, it is critical that the effort to respond and to develop countermeasures be guided by science and data—not by an intent to profit. The American public must have full faith that officials such as Mr. Short have no conflicting investments that would prevent them from acting in the country’s best interest.

Federal criminal conflicts law prohibits Mr. Short or any officer or employee of the executive branch from participating “personally and substantially” in any “particular matter” in which he has a financial interest.¹¹ Violation of this law could result in a fine or imprisonment.¹² We have introduced the *Coronavirus Oversight and Recovery Ethics Act*, legislation that would further address and eliminate conflicts of interest related to the federal pandemic response, in part by specifically requiring officials involved in pandemic response such as Mr. Short to address and eliminate any conflicts of interest.¹³ We intend to continue working to make this bill law, but Mr. Short’s financial interests raise serious questions about his compliance with *current* criminal law.

⁶ New York Times, “Trump Administration Selects Five Coronavirus Vaccine Candidates as Finalists,” Noah Weiland and David E. Sanger, June 3, 2020, <https://www.nytimes.com/2020/06/03/us/politics/coronavirus-vaccine-trump-moderna.html>.

⁷ NPR, “Pence Chief Of Staff Owns Stocks That Could Conflict With Coronavirus Response,” Tim Mak, May 28, 2020, <https://www.npr.org/2020/05/28/860927054/pence-chief-of-staff-owns-stocks-that-could-conflict-with-coronavirus-response>.

⁸ Forbes, “The U.S. Just Signed A \$450 Million Coronavirus Vaccine Contract With Johnson & Johnson,” Thomas Brewster, March 30, 2020, <https://www.forbes.com/sites/thomasbrewster/2020/03/30/the-us-just-signed-a-450-million-coronavirus-vaccine-contract-with-johnson--johnson/#34aa79242946>.

⁹ New York Times, “Trump Administration Selects Five Coronavirus Vaccine Candidates as Finalists,” Noah Weiland and David E. Sanger, June 3, 2020, <https://www.nytimes.com/2020/06/03/us/politics/coronavirus-vaccine-trump-moderna.html>.

¹⁰ NPR, “For Pence, Coronavirus Task Force Is A High-Profile Assignment With Political Risk,” Tamara Keith, April 29, 2020, <https://www.npr.org/2020/04/29/847580759/for-pence-coronavirus-task-force-is-a-high-profile-assignment-with-political-ris>.

¹¹ 18 USC 208

¹² 18 USC § 216

¹³ Senators Elizabeth Warren, Richard Blumenthal, and Chris Coons, and Representatives John Sarbanes and Pramila Jayapal, “Warren, Blumenthal, Coons, Jayapal, Sarbanes Officially Introduce the CORE Act,” press release, June 15, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-blumenthal-coons-jayapal-sarbanes-officially-introduce-the-core-act>.

In order to evaluate whether his compliance with federal criminal conflicts of interest law, we request answers to the following questions no later than June 29, 2020.

1. Please describe Mr. Short's involvement with the administration's response to the COVID-19 pandemic.
2. Has Mr. Short participated in discussions or decisions about companies in which he holds investments? Has he recused himself from any such discussions or decisions? Please provide details on any such participation or recusal, including any opinions or guidance issued to Mr. Short by your office.
3. Has Mr. Short sold or traded any stocks or securities associated with companies with COVID-19-related business (including their direct competitors), since the filing of his most recent financial disclosure? If so, has he submitted, or is he in the process of submitting, a revised Public Financial Disclosure Report or periodic transaction report?
4. Has Mr. Short been granted any waivers exempting him from federal conflict of interest laws? Please provide copies of any such waivers and indicate on what date(s) they were issued.
5. Please provide documentation related to any other ways that Mr. Short has mitigated, or plans to mitigate, potential or actual conflicts of interest related to the COVID-19 pandemic response.

Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Pramila Jayapal
Member of Congress

CC: Hon. Emory Rounds, Director, U.S. Office of Government Ethics