

Congress of the United States
Washington, DC 20510

August 24, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, DC 20201

Dear Secretary Azar:

As follow-up on our June 15, 2020, letter regarding Dr. Moncef Slaoui’s unusual and ethically troubling arrangement with the U.S. Department of Health and Human Services (HHS) to serve as chief advisor for Operation Warp Speed (OWS),¹ we write to request the contract that HHS has awarded to Advance Decision Vectors, LLC.² Dr. Slaoui is working under this contract as a “consultant” to the federal government, and information included in HHS’ July 30, 2020, response to our June 15 letter raises new questions about this arrangement.³ We seek to more fully understand the nature of Dr. Slaoui’s OWS responsibilities and to investigate the degree to which Dr. Slaoui is permitted to gain financially from his role with OWS. Additionally, we reiterate our demand that—if he is to play any role in the administration’s critical vaccine response—Dr. Slaoui be brought on as a government employee subject to the standard federal ethics law and guidelines applicable to other government employees, which would require him to resolve his glaring conflicts of interest.⁴

Dr. Slaoui’s recent comments on a July 31, 2020, HHS podcast raise even more questions about whether he understands how and why his financial interests raise ethical questions and endanger the outcome of OWS.⁵ During this podcast, referring to questions about his ethics arrangements, Dr. Slaoui said, “I’m amazed that I’m being attacked on a personal basis in a way that frankly distracts my energy and the energy of all the teams we’re working together with to deliver, and therefore decreases our chances or the speed with which we try to help humanity and the country

¹ Letter from Sen. Warren, Sen. Blumenthal, and Rep. Jayapal to HHS Secretary Azar, June 15, 2020, online: <https://www.warren.senate.gov/imo/media/doc/2020.06.15%20Letter%20about%20Operation%20Warp%20Speed%20conflicted%20adviser%20arrangement.pdf>.

² Response letter and enclosure from HHS to Senator Warren, signed by Sarah Arbes, HHS Assistant Secretary for Legislation, July 30, 2020. (“HHS July 30 Response”).
<https://www.warren.senate.gov/imo/media/doc/July%2030%20HHS%20Letter%20to%20Sen%20Warren.pdf>.

³ *Id.*

⁴ 5 U.S.C. §§ 2104 and 2105.

⁵ “Learning Curve” podcast, HHS, July 31, 2020, available online: <https://www.hhs.gov/podcasts/learning-curve/learning-curve-10-dr-moncef-slaoui-operation-warp-speed.html>

resolve and address this issue,” and claimed to be “resentful” of these questions, calling them “wrong...[and] unethical.”⁶

These statements are utterly mystifying, representing an admission by Dr. Slaoui that he cannot answer or address the most basic questions about his financial interests and ethics arrangements without undermining the federal government’s efforts to speed the development of a vaccine for the coronavirus disease 2019 (COVID-19). If this is the case and if Dr. Slaoui truly believes the questions concerning his ethics arrangements – rather than the unusual arrangements themselves — are “wrong...[and] unethical,” then he is revealing himself as unfit for a senior role in the project.⁷

While we appreciate your July 30 response letter regarding Dr. Slaoui’s arrangement, we remain concerned that Dr. Slaoui’s holdings and board positions continue to raise significant and unresolved conflicts of interest. We are also concerned that the steps HHS has taken to respond to Dr. Slaoui’s conflicts are unprecedented, inadequate, and deeply inappropriate because they allow him to avoid addressing his conflicts of interest in full, while still participating in the critical mission of delivering a safe, effective vaccine for COVID-19 to the American people. The failure to resolve Dr. Slaoui’s conflicts appears to serve no purpose other than enriching him personally – and it threatens the integrity and success of, and public confidence in, this critical response to COVID-19.

According to your July 30 response, “HHS procured Dr. Slaoui’s expertise via a government contract in order to support [OWS] federal leaders as a scientific and medical advisor,” and that “Dr. Slaoui is working under a contract awarded to Advance Decisions Vectors, LLC.”⁸ This unusual and complicated contractual arrangement for Dr. Slaoui appears to be a blatant attempt to skirt federal ethics law so that he can serve in this position without selling, or even disclosing the value of, his financial holdings and other possible conflicts of interest, using a loophole under which federal contractors are generally not subject to the same ethics laws and regulations that executive branch officers and employees must follow.⁹

As we outlined in our June 15 letter, here is what we know about just some of Dr. Slaoui’s conflicts: he worked for GlaxoSmithKline (GSK) for decades;¹⁰ he holds and refuses to sell his stock in GSK;¹¹ he refused to disclose the value of his GSK holding when asked;¹² and he said he would not take the position if he had to sell the stock.¹³ In addition to his GSK conflicts, Dr.

⁶ BuzzFeed News, “Trump Vaccine Adviser Warns That Scrutiny Of Him Will Delay Arrival Of Coronavirus Vaccine,” Paul McLeod, August 3, 2020, Online at: <https://www.buzzfeednews.com/article/paulmcleod/trump-vaccine-adviser-warns-delay>.

⁷ *Id.*

⁸ HHS July 30 Response.

⁹ 18 U.S.C. § 208.

¹⁰ U.S. Health and Human Services, “Trump Administration Announces Framework and Leadership for ‘Operation Warp Speed,’” press release, May 15, 2020, <https://www.hhs.gov/about/news/2020/05/15/trump-administration-announces-framework-and-leadership-for-operation-warp-speed.html>.

¹¹ New York Times, “Trump’s Vaccine Chief Has Vast Ties to Drug Industry, Posing Possible Conflicts,” Sheila Kaplan, Matthew Goldstein and Alexandra Stevenson, May 20, 2020, <https://www.nytimes.com/2020/05/20/health/coronavirus-vaccine-czar.html>.

¹² *Id.*

¹³ *Id.*

Slaoui continues to hold leadership positions with SutroVax, Medixci, and Galvani Bioelectronics, and he previously served on the board of drug manufacturer Moderna.¹⁴ We do not know the full breadth of Dr. Slaoui's investments because he refuses to disclose them to Congress or to the public.

All of this means that Dr. Slaoui – while serving as chief advisor of OWS – at minimum has a direct pecuniary interest in GSK's financial position, and the financial positions of other GSK competitors, while GSK and its competitors have vaccine candidates that could benefit from OWS' work and investments.

According to your July 30 response, “[t]he contract [with Advance Decisions Vectors, LLC]...contains specific language to address potential conflicts of interest, and to ensure that Dr. Slaoui will not be in a position to gain financially from his participation as a consultant.”¹⁵ Your response also indicated that this contract includes “terms relating to protecting sensitive information.”¹⁶ And while your response states that “the contract through which Dr. Slaoui is serving contains robust supplemental contract provisions addressing personal financial conflicts of interest for contractors working on OWS,”¹⁷ you refused to provide us with a copy of the actual contract or any contractual language regarding conflicts of interest or the restrictions regarding sensitive information, including material nonpublic information that could affect the value of individual companies' stocks. Moreover, Dr. Slaoui's continued financial conflicts clearly indicate that these contractual provisions are wholly insufficient. In fact, any contractual provisions related to conflicts of interest or sensitive information that are weaker than the standards established in federal ethics laws and guidelines for federal employees are inadequate and fail to resolve Dr. Slaoui's intolerable conflicts of interest.

Your response also make a series of dubious claims about Dr. Slaoui's role. According to the response, “[t]he terms of the contract [with Advance Decisions Vectors, LLC] provide that the contractor and its employees shall not perform inherently governmental functions.”¹⁸ Your response continues, “[a]s a contractor, Dr. Slaoui will not make decisions with respect to licensing products, awarding grants, or federal contacts,” and that “[h]e will not make decisions that are reserved to federal officials.”¹⁹

The definition of an “inherently government function” is broad: it includes “bind[ing] the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise,” and “determin[ing], protect[ing], and advance[ing] United States economic, political...or other interests by ... contract management, or otherwise,” as well as actions that “significantly affect the life, liberty, or property of private persons.”²⁰ It is simply impossible to

¹⁴ ABC News, “Coronavirus vaccine czar to divest some holdings amid conflict concerns,” Soo Rin Kim and Katherine Faulders, May 18, 2020, <https://abcnews.go.com/Health/coronavirus-vaccine-czar-divest-holdings-amidconflict-concerns/story?id=70753267>.

¹⁵ HHS July 30 Response.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Federal Activities Inventory Reform Act of 1998*, P.L. 105-270.

conceive of how Dr. Slaoui can meaningfully perform his role as a “chief scientist”²¹ or “chief advisor”²² for OWS without performing any of those duties.

Furthermore, the federal ethics standard established in Title 18, U.S. Code Section 208 (also known as the criminal conflict of interest statute) does not depend on whether a federal officer or employee is in a decision making capacity regarding a particular matter.²³ The legal standard hinges on whether an officer or employee, including a special government employee, “participates personally and substantially...through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a... particular matter in which, to his knowledge, he...has a financial interest...”²⁴ It is difficult to believe that Dr. Slaoui, as “chief scientist” or “chief advisor” for OWS, is not making *any* decisions reserved for federal officials. And this distinction is irrelevant given that Dr. Slaoui’s conflicts would *still* be inexcusable if he were being held to the appropriate federal ethics standard.

Finally, your July 30 response details an extremely unusual arrangement that Dr. Slaoui has agreed to, under which he will supposedly donate “any increase” to the value of this pharmaceutical and other conflicted holdings based on an opaque and undisclosed formula.²⁵ According to your response, “any increase in value will be calculated when he completes his service as a contractor.”²⁶ This arrangement is unprecedented and almost laughable in its failure to mitigate or address Dr. Slaoui’s real or perceived conflicts of interest. It does not appear to take into account stock value increases that occur after Dr. Slaoui has left OWS, even if those increases are set in motion by decisions he makes while serving in the role. It is not clear how this arrangement will be enforced. And, it is currently impossible for Congress or anyone outside the administration to verify whether this formula accurately determines any increases in the value of Dr. Slaoui’s conflicted investments or whether Dr. Slaoui will even fully comply with this unusual agreement.

Dr. Slaoui’s arrangement means that Congress and the American people are blocked from fully understanding the value or nature of Dr. Slaoui’s conflicts and financial holdings as he plays a central role in the search for a safe and effective vaccine. This lack of transparency, and the clear existence of unresolved conflicts, threaten to undermine Americans’ confidence in OWS entirely. Any lack of confidence in the integrity of OWS risks contributing to apprehension or uncertainty around the administration’s efforts to deliver a safe, effective, and reliable COVID-19 vaccine to 300 million Americans and therefore represents an immediate, grave threat to public health.

Dr. Slaoui’s complicated arrangement is a clear attempt to circumvent federal ethics laws and allow him to maintain investment that would otherwise be illegal if he were properly brought into federal service. It is outrageous that Dr. Slaoui still refuses to address his conflicts of

²¹ President Donald J. Trump, “Remarks by President Trump on Vaccine Development,” May 15, 2020, online at: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vaccine-development/>.

²² HHS, “Fact Sheet: Explaining Operation Warp Speed,” June 16, 2020, online at: <https://www.hhs.gov/about/news/2020/08/07/fact-sheet-explaining-operation-warp-speed.html>.

²³ 18 U.S.C. § 208.

²⁴ *Id.*

²⁵ HHS July 30 Response.

²⁶ *Id.*

interest – and insults those who point them out – even as those conflicts risk the integrity of OWS. Dr. Slaoui must be brought on as a special government employee subject to federal ethics law and guidelines, including all recusal and divestment requirements. His continued refusal to be held to the same ethical standards as every other government employee would make it crystal clear that Dr. Slaoui is not prepared for public service and should immediately step down.

The American people deserve better. They deserve to have full faith and confidence that federal officials responsible for responding to the worst pandemic in modern history and finding a desperately needed vaccine are working for them and their families, not to line their own pockets. Please provide a response, including the contract HHS has awarded to Decision Vectors, LLC, under which Dr. Slaoui is working, by no later than September 7, 2020.

Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Pramila Jayapal
Member of Congress

CC: Elizabeth J. Fischmann, Designated Agency Ethics Official, Department of Health and Human Services