

Congress of the United States
Washington, DC 20510

October 29, 2020

Dr. Moncef Slaoui
Chief Advisor
Operation Warp Speed
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, DC 20201

Dear Dr. Slaoui:

We are writing regarding our continued concerns about your unresolved financial conflicts of interest and the unusual consulting arrangement you have entered into that allows you to avoid disclosing or resolving these conflicts. We again ask that you fully resolve these matters in order to ensure the public's confidence in any vaccines developed by Operation Warp Speed (OWS), the multi-billion-dollar federal government and private sector partnership to rapidly develop a vaccine for the coronavirus disease 2019 (COVID-19).

We wrote to the Department of Health and Human Services regarding this matter on June 15, 2020,¹ and followed up this inquiry on August 24, 2020 with a series of questions for HHS and Advanced Decision Vectors, the company that contracts with you to serve as a chief scientific advisor to Operation Warp Speed.² Neither HHS nor Advanced Decision Vectors has responded to the August 25, 2020 letter.

To summarize what we know at this point: you worked for GlaxoSmithKline (GSK) for decades;³ you hold and refuse to sell your stock in GSK;⁴ you refused to disclose the value of your GSK holding when asked.⁵ These facts create an obvious personal interest for you in

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

² Letter from Sens. Warren and Blumenthal and Rep. Jayapal to the Honorable Alex Azar, Aug. 24, 2020, <https://www.warren.senate.gov/imo/media/doc/2020.08.24%20Letter%20to%20HHS%20re%20Dr.%20Slaoui%202020.0.pdf>; Letter from Sens. Warren and Blumenthal and Rep. Jayapal to the David S. Harris, President and CEO, Advanced Decision Vectors, LLC, Aug. 24, 2020, <https://www.warren.senate.gov/imo/media/doc/2020.08.24%20Letter%20to%20Advance%20Decisions%20Vectors.%20re%20Dr.%20Slaoui.pdf.0.pdf>.

³ 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>.

⁴ 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>.

⁵ *Id.*

GSK's success, which represents a conflict of interest given your current role. In addition to your GSK conflict, you reportedly continue to hold leadership positions with SutroVax, Medixci, and Galvani Bioelectronics, and you previously served on the board of drug manufacturer Moderna, one of the manufacturers of a leading vaccine candidate that has benefited from OWS funding.⁶ We do not know the full breadth of your financial investments in GSK, these additional companies in which you hold or held leadership roles, or other companies potentially impacted by OWS activities because you refuse to disclose the relevant financial information to Congress or to the public. Seemingly in order to avoid having to disclose or resolve these conflicts, you were not hired as a federal employee, with the attendant ethics requirements, but rather you were retained under a highly unusual contract "awarded to Advance[d] Decisions Vectors, LLC," which pays you \$1 per year.⁷ This unusual contractual arrangement appears to be a blatant attempt to skirt federal ethics law so that you can serve in this position without selling, or even disclosing the value of, your financial holdings and other possible conflicts of interest, using a loophole that exempts federal contractors, but not executive branch officers and employees, from relevant ethics laws and regulations.

These are troubling details. But in an October 5, 2020 interview with the New York Times, you made a number of comments that raise additional questions and concerns.⁸

First, you acknowledged that "I completely agree that there could be a conflict of interest and it should be investigated."⁹ You then continued, indicating that you would not divest your GSK stock – and that you were dependent on the dividends from this stock for your retirement. You said that, "regarding GSK ...that's really my retirement. Because GSK shares paid dividend[s]. And I want to use that dividend. I'm not somebody who deals in the market. So for me, a steady income is important."¹⁰

This is a stunning admission, and its implication is a perfect example of why your conflicts of interest are a serious matter: your financial future is intricately linked to GSK, a participant in OWS. You are chief science advisor with substantial influence over OWS decisions. But your dependence upon GSK dividends for your retirement means that you may be – either consciously or unconsciously – unwilling to make decisions that negatively affect GSK's ability to continue paying those dividends. This is a textbook case of a conflict of interest that could affect key decisions and damage OWS's scientific integrity and the race for a vaccine more broadly. Although you have attempted to resolve this conflict by promising to donate any proceeds from gains in GSK stock value that occur under your watch, you will still retain the right to the dividends from this stock.¹¹

⁶ Letter from Sarah Arbs, HHS Assistant Secretary for Legislation, to Sen. Elizabeth Warren, July 30, 2020, <https://www.warren.senate.gov/imo/media/doc/July%2030%20HHS%20Letter%20to%20Sen%20Warren.pdf>

⁷ *Id.*

⁸ New York Times, Interview with Kara Swisher, "The Man Behind America's Race for a Vaccine," October 5, 2020, <https://www.nytimes.com/2020/10/05/opinion/sway-kara-swisher-moncef-slaoui.html?showTranscript=1>

⁹ *Id.*

¹⁰ *Id.*

¹¹ Your agreement to donate these proceeds has been called "toothless" because, among other problems, it does not require you to make any donations during your lifetime or that of your spouse. House Select Subcommittee on the Coronavirus Crisis, Letter to David S. Harris, Advanced Decisions Vectors LLC, September 21, 2020,

This conflict would also be plainly illegal if you had not used loopholes in federal contracting law to evade the otherwise applicable federal ethics requirements. Specifically, you were hired under a contract with Advance Decision Vectors LLC – giving you the status of a contractor rather than a Federal employee. But, to make this loophole work, you cannot perform “inherently government functions” – barring you from a broad category of activities.¹² According to HHS, “[a]s a contractor, Dr. Slaoui will not make decisions with respect to licensing products, awarding grants, or federal contacts,” and “will not make decisions that are reserved to federal officials.”¹³

But the comments you made in your interview raise questions about whether you are meeting those requirements. You were careful to state at the beginning of the interview that you’re “an advisor. I’m not a decision maker.”¹⁴ But as you continued, you described your work in more detail that directly contradicts your self-serving and seemingly hollow disclaimer of decision-making authority. You conceded that you have “significant influence” in your role.¹⁵ You also indicated that before accepting the role, you insisted that you be “empowered with no interference. ... And to not have to deal with the bureaucracy and just drive through it.”¹⁶ You agreed with the interviewer’s assertion that “you have this influence on major government decisions. You have the ability to persuade people to direct money in ways that might benefit you.”¹⁷

And you described your role as a decisionmaker among others in a specific decision process:

We’re sitting together, and we’re making these decisions, these choices. They are principal investigators. This is not something happening in a black box by Moncef Slaoui, who says, OK, this is a choice. Go execute. That’s not how it works. We discuss as scientists. We have rational decisions. We listen to each other. We come to a common view. **We make that decision.** We progress. **I do influence those decisions.**¹⁸

<https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-21.Clyburn%20to%20Harris%20Letter%20to%20ADV%20re%20Subpoena%20%20%281%29.pdf>.

¹² *Id.* 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] its 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.” (*Federal Activities Inventory Reform Act of 1998*, P.L. 105-270)

¹³ Letter from Sarah Arbs, HHS Assistant Secretary for Legislation, to Sen. Elizabeth Warren, July 30, 2020, <https://www.warren.senate.gov/imo/media/doc/July%2030%20HHS%20Letter%20to%20Sen%20Warren.pdf>.

¹⁴ New York Times, Interview with Kara Swisher, “The Man Behind America’s Race for a Vaccine,” October 5, 2020, <https://www.nytimes.com/2020/10/05/opinion/sway-kara-swisher-moncef-slaoui.html?showTranscript=1>

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Emphasis added. New York Times, Interview with Kara Swisher, “The Man Behind America’s Race for a Vaccine,” October 5, 2020, <https://www.nytimes.com/2020/10/05/opinion/sway-kara-swisher-moncef-slaoui.html?showTranscript=1>

Put simply, these are not the descriptions of a mere outside consultant in an advisory position. They indicate that you are playing a significant and influential role in OWS decisions, which would appear to mean that you are acting in a fashion that is not consistent with federal contracting rules or the requirements of your consulting contract. Moreover, it calls into question the truthfulness of the July 30 letter to Senator Warren from HHS, which stated, “Dr. Slaoui will not make decisions with respect to licensing products, awarding grants, or federal contracts. He will not make decisions that are reserved to federal officials.”¹⁹

Dr. Slaoui, we have no personal animosity towards you, and our belief that you should resolve your financial conflicts is not a personal attack on your character or motivations. We appreciate you using your expertise to help the country and the world address the horrific impacts of the ongoing pandemic. But you are working on an initiative funded by the American people, and you are not above the law. Your ability to comply with conflict of interest requirements is not an academic matter – as you have indicated, it has significant financial implications for you, and more importantly, your failure to address your conflicts places the entire OWS enterprise at risk, raising questions about every decision in which you are involved in your role as chief scientist. We would have no objections to your serving in this role and contributing your expertise if you simply resolved your obvious and impermissible financial conflicts. But if you are unwilling or unable to address your conflicts, then you should not be serving as part of OWS.

There is still time to address these matters, and in your interview with the *New York Times* you indicated that you are willing to do so. You stated that “people deserve the opportunity to explain. ... If somebody asked me a question, I’ll give you the answer.”²⁰ We appreciate your offer, and hope you will address questions about your conflicts fully recusing from any conflicted holdings, and by answering the following questions:

1. Please provide a complete, current list of all of your financial holdings, and any plan to divest from or otherwise address any financial conflicts of interest.
2. Please explain your contractual arrangement with Advanced Decisions Vectors (ADV).
 - a. Please provide a full and complete copy of your contract with the company.
 - b. What are your specific responsibilities under this contract?
 - c. Which individuals at HHS were responsible for arranging and agreeing to this contract?
 - d. What is your annual pay under this contract, and how was this pay determined?
 - e. What are your conflict of interest requirements under this contract, and who at ADV is responsible for enforcing these requirements?
3. What are your specific responsibilities with OWS? To what extent have you been involved in any discussions or decisions that affect GSK or the GSK’s competitors?
4. Which officials at HHS are responsible for ensuring that you do not perform “inherently government functions,” or “make decisions with respect to licensing products, awarding

¹⁹ Letter from Sarah Arbs, HHS Assistant Secretary for Legislation, to Sen. Elizabeth Warren, July 30, 2020, <https://www.warren.senate.gov/imo/media/doc/July%2030%20HHS%20Letter%20to%20Sen%20Warren.pdf>.

²⁰ New York Times, Interview with Kara Swisher, “The Man Behind America’s Race for a Vaccine,” October 5, 2020, <https://www.nytimes.com/2020/10/05/opinion/sway-kara-swisher-moncef-slaoui.html?showTranscript=1>

grants, or federal contacts,” or “make decisions that are reserved to federal officials.”²¹
How are your activities reviewed to ensure compliance?

5. Which HHS or Office of Government Ethics officials have you consulted with regarding your consulting arrangement and your financial conflicts of interest?

We ask that you respond to my questions no later than November 11, 2020.

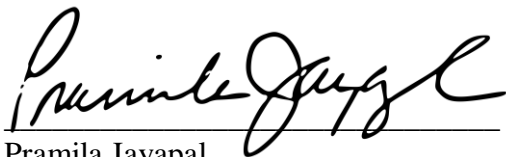
Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Pramila Jayapal
Member of Congress



Katie Porter
Member of Congress

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

²¹ Letter from Sarah Arbs, HHS Assistant Secretary for Legislation, to Sen. Elizabeth Warren, July 30, 2020, <https://www.warren.senate.gov/imo/media/doc/July%2030%20HHS%20Letter%20to%20Sen%20Warren.pdf>.