

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 21, 2017

Donald F. McGahn
White House Counsel
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20501

Dear Mr. McGahn,

We write to request information regarding the financial interests that Trump Administration officials may have in the EB-5 Regional Center Program. That program provides visas, and eventually citizenship, in exchange for foreign investments in the U.S. It is due for reauthorization on April 28, 2017, and overdue for serious reform. As Congress considers the program and engages the Administration on its views, it is important to understand how President Trump and senior advisor Jared Kushner have personally benefitted and may continue to benefit from EB-5 investments.¹

Many of the projects funded by the EB-5 Regional Center program are large real estate developments² – the cornerstone of both the Trump and Kushner business empires. As public reporting indicates, the potential for conflict is real. For example, Bloomberg News has reported that, as chief executive officer of the Kushner Companies, Jared Kushner built a Trump-branded luxury tower in New Jersey that relied on \$50 million of EB-5 dollars from wealthy Chinese investors.³ Additionally, according to *Bloomberg*, Kushner Companies is reportedly seeking \$850 million in EB-5 funding for redevelopment of their marquee Manhattan

¹ See, e.g., Tal Kopan, “Congress takes aim at visa program that benefited Trump family businesses,” *CNN* (Mar. 9th, 2017), available at <http://www.cnn.com/2017/03/08/politics/congress-eb5-investor-reform-trump/>; see also,

David Kocieniewski and Caleb Melby, “Kushners May Get \$400 Million From Chinese on Tower,” *Bloomberg* (Mar. 13th, 2017), available at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>.

² See, e.g., Government Accountability Office, *Immigrant Investor Program* at 11 (2016) (figure 5) (the GAO found that over two thirds of EB-5 petitioners in the fourth quarter of 2015 invested in real estate projects).

³ Jesse Drucker, “Trump Tower Funded by Rich Chinese Who Invest Cash for Visas,” *Bloomberg* (Mar. 6th, 2016), available at <https://www.bloomberg.com/politics/articles/2016-03-07/trump-tower-financed-by-rich-chinese-who-invest-cash-for-visas>.

skyscraper at 666 Fifth Avenue.⁴ This would mark the largest single EB-5 investment in the history of the program.⁵

A White House spokesperson has said that Mr. Kushner is committed to recusing himself from EB-5 policy discussions.⁶ He has also divested from his family's property at 666 Fifth Avenue.⁷ But these steps may not be sufficient to cure the potential conflicts posed by the sprawling financial interests Mr. Kushner retains in his family's real estate empire. Recent White House financial disclosures indicate that Mr. Kushner "will remain a beneficiary of the vast majority" of his family's real estate assets, with a stake worth as much as \$740 million.⁸ The disclosures reveal that Mr. Kushner is retaining a \$5 million interest in the Trump tower that he built in New Jersey using substantial EB-5 investments.⁹

These disclosures do not provide the names of investors or lenders to this and other ventures in which Mr. Kushner retains a financial interest, making it impossible to know the extent to which any of these properties may be relying on EB-5 investor money. This is troubling because it is precisely "real estate projects like the Kushner Companies' deals" that have become a "magnet for opaque foreign money" like EB-5 investments.¹⁰

In order to gain a better understanding of the extent of this potential problem – for Mr. Kushner and President Trump – and before Congress can engage the White House in substantive discussions about the future of the EB-5 Regional Center Program, we ask that you provide the following information:

⁴ David Kocieniewski and Caleb Melby, "Kushners May Get \$400 Million From Chinese on Tower," *Bloomberg* (Mar. 13th, 2017), available at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Jesse Drucker, Eric Lipton, and Maggie Haberman, "Ivanka Trump and Jared Kushner Still Benefiting From Business Empire, Filings Show," *New York Times* (Apr. 4th, 2017), available at <https://www.nytimes.com/2017/03/31/us/politics/ivanka-trump-and-jared-kushner-still-benefiting-from-business-empire-filings-show.html>.

⁹ *Id.*

¹⁰ Eric Lipton and Jesse Drucker, "Trump Couple, Now White House Employees, Can't Escape Conflict Laws," *New York Times* (Apr. 1st, 2017), available at https://www.nytimes.com/2017/04/01/us/politics/ivanka-trump-jared-kushner-conflicts-business-empire.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region®ion=top-news&WT.nav=top-news&_r=1.

1. Please provide, for the “other assets and income” identified under Section 6 of Jared Kushner’s Public Financial Disclosure Report (OGE Form 278(e)) (publicly released on March 31, 2017):¹¹
 - a. For each real estate asset listed, the total amount of investment, funding, or other capital that was provided through the EB-5 Regional Center Program;
 - b. The identity and nationality of each investor, lender, or business partner for each real estate asset;
 - c. For each such investor, lender, or business partner, the amount of investment, loan, or other capital provided and the amount (if any) that was provided through the EB-5 Regional Center Program;
 - d. For each real estate asset that used EB-5 investment capital, whether such project was designated a high unemployment targeted employment area and, if so, a listing of the census tracts, blocks, or groups relied upon to meet the statutorily required unemployment rate.
2. President Trump’s real estate holdings are vast, and recent news reports confirm that he can draw money at will from the revocable trust being run by his sons for his benefit.¹² This raises the possibility that the President’s positions on EB-5 could be colored by his potential for profit through the program.
 - a. Please provide a detailed list of all real estate assets or holdings within President Trump’s trust, including any real estate projects that utilized the Trump brand via a license agreement, that previously relied on, are currently financed by, are actively seeking funds, or plan to seek funds from the EB-5 Regional Center Program; and

¹¹ Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278(e)), Jared Kushner (Mar. 31st, 2017), available at <http://www.documentcloud.org/documents/3534177-Kushner-Jared.html>.


¹² Drew Harwell, “Trump can quietly draw money from trust whenever he wants, new documents show,” *Washington Post* (Apr. 3rd, 2017), available at https://www.washingtonpost.com/politics/trump-can-quietly-draw-money-from-trust-whenever-he-wants-new-documents-show/2017/04/03/7f4c0002-187c-11e7-9887-1a5314b56a08_story.html?utm_term=.324571a7a2b0.

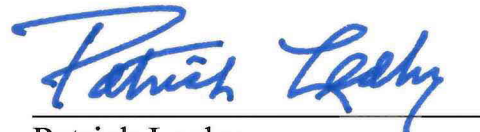
- b. For each such real estate asset or holding, the amount of EB-5 funding previously obtained, currently financing, or actively being sought, including the nationality of all EB-5 investors, as well as any marketing materials used, or prepared for use, in connection with such investment.
- 3. Mr. Kushner has stated that he will recuse himself from all EB-5 policy matters during his tenure at the White House. However, it is unclear when this recusal was adopted or whether the scope of this recusal is broad enough to cover the potential conflicts of interest involved.
 - a. Please provide the date when the recusal was first implemented and explain the scope and terms of the recusal and how Mr. Kushner's compliance with the agreement will be monitored and memorialized.
 - b. Is this recusal agreement set forth in writing? If so, please provide copies.
 - c. Does Mr. Kushner's recusal from EB-5 policy matters prohibit his involvement in any and all meetings and interactions with current and potential EB-5 investors, even where the EB-5 program is not a central focus of such interactions? If not, why not and how will compliance with the recusal agreement be monitored in these circumstances?
 - d. Does Mr. Kushner's recusal cover whether his name can be used in connection with EB-5 investment offerings by his family?
- 4. Have there been EB-5 related meetings or discussions at the White House since President Trump took office? If so, please provide a list of all such meetings, including:
 - a. A list of all White House officials in attendance at such meetings, along with a description of their official roles within the White House; and
 - b. A list of all outside attendees at such meetings, along with a description of their professional affiliations.

5. Since the election on November 8, 2016, has either President Trump or Mr. Kushner made any representations regarding the administration's position or anticipated plan on EB-5 policy matters to any developer, regional center, lobbyist, business association, trade group, or other stakeholder associated with the EB-5 program?

We appreciate your prompt attention to this request and, given the upcoming sunset of the EB-5 Regional Center program, ask that you provide the requested information no later than April 25, 2017. We look forward to your response and appreciate your cooperation in this important matter.

Sincerely,


Dianne Feinstein
United States Senator


Patrick Leahy
United States Senator


Mazie K. Hirono
United States Senator