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WASHINGTON, DC 20510-6275

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August 28, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable John F. Kerry  
Secretary of State  
Office of the Secretary  
United States Department of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Secretary Kerry:

In December 2008, the Clinton Foundation and the Office of the President-Elect executed a memorandum of understanding in an effort to allay conflicts of interest concerns with respect to former President Clinton's activities with the Clinton Foundation should Ms. Clinton be confirmed as Secretary of State.<sup>1</sup> The memorandum stated that the "designated agency ethics official will review and advise her with respect to any activity that may be imputed under 18 U.S.C. 208, or any other applicable law or regulation, to her as a potential or actual conflict of interest."

In addition, in early January 2009, David Kendall sent a letter to James Thessin, the Department of State's Designated Agency Ethics Official, describing the steps that former President Clinton intended to take should Ms. Clinton be confirmed.<sup>2</sup> Specifically, the letter makes clear that former President Clinton was to submit proposed paid speeches and potential consulting arrangements to the Department of State ethics official so as to ensure that any real or apparent conflicts of interest were avoided. And finally, on January 5, 2009, Ms. Clinton sent a letter to Mr. Thessin referencing the protocols outlined in the memorandum and Mr. Kendall's letter and further pledged to go beyond the law and regulations in order to maintain the highest levels of ethical conduct and to avoid even the appearance of a conflict of interest.<sup>3</sup>

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<sup>1</sup> Exhibit A.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

A limited volume of emails produced by the Department as a result of FOIA litigation with Citizens United contains several email threads that do not contain any evidence that the review protocols outlined in the aforementioned letters were followed.

By way of example, in June of 2012, Amitabh Desai, former President Clinton's Foreign Policy Advisor at the Clinton Foundation, emailed Ms. Cheryl Mills, Mr. Jacob Sullivan, and Mr. Michael Fuchs regarding an invitation related to North Korea, writing: "Is it safe to assume USG [the United States Government] would have concerns about WJC [William Jefferson Clinton] accepting the attached invitation related to North Korea?" In response, Ms. Mills directed Mr. Desai to "decline it." However, in reply, Mr. Desai said: "This came via Tony Rodham. So we would be grateful for any specific concerns that we could share, beyond just saying it would be concerning for USG... Tony is seeing WJC in a couple hours." To which Ms. Mills responded, "If he needs more let him know his wife knows and I am happy to call him secure when he is near a secure line." Although the invitation was declined, there is no indication that this information was ever transmitted to the designated ethics official.

In addition, the fact that Secretary Clinton's brother, Mr. Rodham, brought a proposal related to North Korea and the former President raises a number of concerns. Mr. Rodham sought to capitalize on his relationship with former President and Secretary Clinton more than once before. For example, according to a House Oversight and Government Reform report, Mr. Rodham lobbied then-President Clinton to grant pardons to Edgar and Vonna Jo Gregory while receiving approximately \$240,000 in payments and another \$79,000 in loans from them.<sup>4</sup> In addition, the Department of Homeland Security's Inspector General faulted Deputy Secretary Alejandro Mayorkas for favoring Mr. Rodham and now-Governor and Clinton confidante Terry McAuliffe in decisions related to their personal interests in the EB-5 visa requests.<sup>5</sup>

Further emails indicate that in June of 2012, Mr. Desai forwarded an invitation to Ms. Abedin, Ms. Mills, Mr. Fuchs and Mr. Sullivan with respect to a \$650,000 speaking event for former President Clinton to speak in Brazzaville, Congo. Specifically, Mr. Desai, said, "This did not clear our internal vet, but WJC wants to know what state thinks of it if he took it 100% for the foundation." And finally, an email chain again forwarded from Mr. Desai to the same recipients states that former President Clinton was invited to speak at a US/China Energy Summit in San Francisco for \$200,000. Mr. Desai notes, "Would USG have any concerns about WJC taking this and directing proceeds to the Clinton Foundation?"

The above three email chain examples do not contain the designated ethics official or any other ethics official.<sup>6</sup> Thus, it appears that the pattern of conduct for reviewing matters for approval may have excluded the agency ethics official. If that is the case, the failure to involve

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<sup>4</sup> House Report 107-454, "Justice Undone: Clemency Decisions in the Clinton White House," (2002).

<sup>5</sup> Tom Hamburger and Rachel Weiner, "Report: Va. Governor received special treatment from Homeland Security," The Washington Post (March 24, 2015).

<sup>6</sup> Department of State Designated Agency Ethics Officials, 2009-2011: James H. Thessin, 2011-2014: Richard V. Visek, 2014-present: Katherine D. McManus.

the relevant ethics officials directly conflicts with the representations made to Congress and the public that the ethics official would be involved. Further, the emails raise concerns that potentially more speaking, consulting, or other similar opportunities were not subjected to the promised vetting process.

Accordingly, please answer the following:

1. In the email chain regarding the “North Korean invitation” a reference was made to a copy of an attached invitation that was not produced by the Department. Please provide that attachment.
2. Of the email chains attached to this letter as Exhibit B, it appears that the Department of State designated agency ethics official was not included in the decision-making process. Please explain why the ethics official was not included.
3. Please explain the designated agency ethics official’s role in vetting former President Clinton’s potential speaking and consultant arrangements. In addition, please provide all records of the designated agency official relating to reviewing all proposed paid speeches and potential consulting arrangements for former President Clinton.
4. Based on the emails in Exhibit A, it appears that Ms. Mills was the ultimate decision maker for approving or disapproving former President Clinton’s paid speeches. If so, who made that designation and why? If not, why was she making the decisions?
5. Michael H. Fuchs is currently a Department of State official and he was the recipient of a number of emails involving potential speaking engagements for former President Clinton. When the Department searched for relevant records from Mr. Fuchs, please explain the process by which the Department acquired the records from him; did the Department search for the relevant records or did the Department make a request to Mr. Fuchs to provide the relevant records?
6. When searching for records from active Department personnel, is it the Department’s standard operating procedure to search for the relevant records or is that responsibility placed on the current employee to make a decision as to what is and what is not relevant to produce among his or her own records?
7. Did Mr. Fuchs produce the North Korea email in the course of the FOIA process? If so, why did he not produce the attachment as well?

Please number your responses according to their corresponding questions. Thank you in advance for your cooperation with this request. Please respond no later than September 10, 2015. If you have questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary