

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Senator RICHARD BLUMENTHAL,
Representative JERROLD NADLER, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States of America,

Defendant.

Civil Action No. 17-1154 (EGS)

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs respectfully notify the Court of a report issued by the Office of Inspector General of the U.S. General Services Administration (GSA). This report discusses the implications under the Foreign Emoluments Clause of President Trump's ownership of the Trump International Hotel in Washington, D.C. A copy of the report is attached as Exhibit A.

The Inspector General examined the process by which GSA addressed whether the President's financial interest in the hotel might violate the hotel's lease with GSA, which owns the Old Post Office Building. Ex. A, at 1. Although GSA officials recognized "that the President's interest in the lease might violate the Foreign Emoluments Clause, and thus constitute a breach of the lease," the officials "decided not to address" the issue. *Id.* at 10.

In concluding that GSA's decision not to address the issue was improper, *id.* at 1, the Inspector General examined whether the Foreign Emoluments Clause "*might* apply to the benefits a government officer or employee receives from private business activities." *Id.* at 10. To that end, the Inspector General "reviewed Founding Era and other sources for the meaning and usage of the term emolument." *Id.* at 4. Examining dictionaries, legal treatises, early Supreme Court

decisions, and statutes enacted by the First Congress, the Inspector General found that the term emolument “had varied meanings at the time of the Constitution’s adoption and ratification,” including “the income or other benefits a public officer receives from private business activities.” *Id.* at 11. Therefore, the report concluded, “the President’s interest in the lease raises potential constitutional issues.” *Id.* at 16; *see, e.g., id.* at 12-13 (citing evidence that “emolument” was used at the Founding to refer to “[i]nterests in property” and the benefits derived from “private office”).

The Inspector General’s findings and supporting evidence are inconsistent with the President’s central claim in this case—that the Foreign Emoluments Clause only prohibits him from accepting rewards for “service to a foreign power in his capacity as President or in a capacity akin to an employee of the foreign power.” Def.’s Mot. to Dismiss Mem. at 18 (Dkt. No. 15-1). Instead, as Plaintiffs have already shown, the Clause’s reach is far broader. Yet for more than two years, the nation’s highest officeholder has been enriching himself with millions of dollars’ worth of financial benefits from foreign governments, at least some of whom may be providing those benefits to influence American foreign policy. *See Am. Compl.* ¶¶ 34-74 (Dkt. No. 14).¹

¹ Indeed, since the Amended Complaint was filed in August of 2017, new reports of possible foreign emoluments accepted by the President have included the following, among others:

- In September 2017, the Malaysian Prime Minister and dozens of diplomatic staff stayed at President Trump’s Washington, D.C., hotel—with the Prime Minister reportedly traveling from the hotel in a motorcade straight to the White House for a meeting with the President. *See Jonathan O’Connell, From Trump Hotel Lobby to White House, Malaysian Prime Minister Gets VIP Treatment*, Wash. Post (Sept. 12, 2017).
- In June 2018, the Philippine Embassy held its independence day event at the President’s Washington, D.C., hotel, where the ambassador told a reporter: “Having it at a hotel that happens to have [Trump’s] name It’s a statement that we have a good relationship with this president.” David A. Fahrenthold & Jonathan O’Connell, *At President Trump’s Hotel in New York, Revenue Went Up This Spring — Thanks to a Visit From Big-Spending Saudis*, Wash. Post (Aug. 3, 2018).
- The nation of Qatar has purchased a \$6.5 million condominium in Trump World Tower in Manhattan, for which it will annually pay thousands of dollars in fees to the Trump

The Inspector General’s findings provide additional reason, if any were needed, to conclude that the convoluted interpretation of the Clause put forward in the President’s Motion to Dismiss is baseless. That motion should be denied, so this case can move forward.

Dated: January 30, 2019

Respectfully submitted,

/s/ Brianne J. Gorod
Brianne J. Gorod

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Organization. See Jon Swaine & Julian Borger, *Trump Set To Benefit as Qatar Buys \$6.5m Apartment in New York Tower*, Guardian (May 4, 2018).

- A Saudi Arabian delegation stayed at the Trump International Hotel in Manhattan in March 2018, and this “five-day stay . . . was enough to boost the hotel’s revenue for the entire quarter.” Fahrenthold & O’Connell, *At President Trump’s Hotel*, *supra*.
- Additional financial payments to Trump properties in the United States have been made by the nations of India, Turkey, Romania, and Poland. See Dan Alexander, *Trump’s Biggest Potential Conflict of Interest Is Hiding in Plain Sight*, Forbes (Feb. 13, 2018); Alex Howard, *Turkish Airlines Event at Trump Golf Course Tees Off Emolumental Problems*, Sunlight Foundation (Sept. 24, 2017); David A. Fahrenthold, *Romanian Consulate Event at Trump Hotel in Chicago Draws Scrutiny*, Wash. Post (Dec. 12, 2018); Fahrenthold & O’Connell, *At President Trump’s Hotel*, *supra*.
- The Chinese government is providing a \$500 million loan to a major development project in Indonesia featuring Trump-branded hotels, golf courses, and residences. See Ben Mathis-Lilley, *Report: China Has Committed \$500 Million to Indonesian Development That Will Include Trump Hotels and a Trump Golf Course*, Slate (May 15, 2018).
- During the Trump presidency, foreign governments “have donated public land, approved permits and eased environmental regulations for Trump-branded developments.” Anita Kumar, *Foreign Governments Are Finding Ways To Do Favors For Trump’s Business*, McClatchy (Jan. 2, 2018) (discussing examples in Indonesia and Panama).

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2019, the foregoing document was filed with the Clerk of the Court, using the CM/ECF system, causing it to be served on all counsel of record.

Dated: January 30, 2019

/s/ Brianne J. Gorod
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