

February 17, 2017

The Honorable Jeff Sessions  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington, D.C. 20530

Dear Attorney General Sessions,

We are writing to call on you to promptly recuse yourself from all Department of Justice investigations and actions regarding any interactions between President Donald Trump, his campaign staff or other individuals supporting his campaign and Russian actors during Trump's 2016 presidential campaign, any Russian interference with the 2016 presidential election, the activities of former National Security Adviser Michael Flynn and Russian actors, and any leaks concerning these matters.

Published reports indicate that the FBI and intelligence agencies are already investigating matters dealing with Russia and the 2016 presidential campaign as well as Flynn's post-election communications with Russian actors.

The Code of Federal Regulations requires that you recuse yourself from the matters described above. Per 28 CFR § 45.2(a):

(a) .... no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:

(1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or

(2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

Your history of personal and political affiliation with President Trump and his presidential campaign, and with White House staff, clearly meet 28 C.F.R. § 45.2's definition of a political or personal relationship.<sup>1</sup>

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<sup>1</sup> 28 CFR §45.2(c) defines those terms:

(1) Political relationship means a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof; and

(2) Personal relationship means a close and substantial connection of the type normally viewed as likely to induce partiality. An employee is presumed to have a personal relationship with his father, mother, brother,

- You were the first Senator to endorse then-candidate Donald Trump in February 2016.<sup>2</sup> In fact, you were the only Senator to endorse him up until he clinched the Republican nomination in the summer of 2016.<sup>3</sup>
- You were chosen to formally nominate Donald Trump as the Republican candidate for the presidency at the Republican National Convention.<sup>4</sup>
- You participated in at least nine Trump campaign rallies<sup>5</sup> and attended at least 45 campaign events.<sup>6</sup> You also made numerous press appearances for the Trump campaign and were considered a surrogate for him.
- According to numerous press reports, you had a critical role in the campaign:
  - “A source close to the campaign [said] Trump only truly consults one person, Alabama Republican senator Jeff Sessions: ‘When Jeff Sessions calls, Trump listens.’”<sup>7</sup>
  - President Trump’s Chief Strategist, Stephen Bannon told *The Washington Post* that you are “‘the clearinghouse for policy and philosophy’ in Trump’s administration, saying he and [you] are at the center of Trump’s ‘pro-America movement’ and the global nationalist phenomenon. ‘Throughout the campaign, Sessions has been the fiercest, most dedicated, and most loyal promoter in Congress of Trump’s agenda.’”<sup>8</sup>
  - Paul Manafort, President Trump’s campaign manager during part of 2016, told the press that you had become a “very close personal friend and adviser” to Trump.<sup>9</sup>
  - “‘Sessions brings heft to the president’s gut instincts,’ said Roger Stone, a longtime Trump adviser. He compared Sessions to John Mitchell, who was attorney general under Richard M. Nixon but served a more intimate role as a counselor to the president on just about everything.”<sup>10</sup>

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sister, child and spouse. Whether relationships (including friendships) of an employee to other persons or organizations are “personal” must be judged on an individual basis with due regard given to the subjective opinion of the employee.

<sup>2</sup> Eli Stokols, “Sen. Jeff Sessions endorses Trump,” *Politico*, February 28, 2016.

<http://www.politico.com/story/2016/02/sen-jeff-sessions-endorses-trump-219939>

<sup>3</sup> Aaron Bycoffe, “The Endorsement Primary,” *FiveThirtyEight.com*, June 7, 2016.

<https://projects.fivethirtyeight.com/2016-endorsement-primary/>

<sup>4</sup> Joel Gehrke, “Jeff Sessions to make formal nomination of Trump,” *The Washington Times*, July 19, 2016.

<http://www.washingtontimes.com/news/2016/jul/19/jeff-sessions-put-donald-trumps-name-nomination-tu/>

<sup>5</sup> They were: [Mobile, AL](#) (8/21/15); [Madison, AL](#) (2/28/16); [Austin, TX](#) (8/23/16); [Tampa, FL](#) (8/24/16) [Everett, WA](#) (8/30/16); [Phoenix, AZ](#) (8/31/16); [Bangor, ME](#) (10/15/16); [Portsmouth, NH](#) (10/15/16); [Windham, NH](#) (11/5/16)

<sup>6</sup> Senator Dianne Feinstein, *Congressional Record*, February 7, 2017 at S827.

<sup>7</sup> Gabriel Sherman, “Inside Operation Trump, the Most Unorthodox Campaign in Political History,” *New York magazine*, April 3, 2016. <http://nymag.com/daily/intelligencer/2016/04/inside-the-donald-trump-presidential-campaign.html>

<sup>8</sup> Philip Rucker and Robert Costa, “Trump’s hard-line actions have an intellectual godfather: Jeff Sessions,” *The Washington Post*, January 30, 2017. [https://www.washingtonpost.com/politics/trumps-hard-line-actions-have-an-intellectual-godfather-jeff-sessions/2017/01/30/ac393f66-e4d4-11e6-ba11-63c4b4fb5a63\\_story.html?utm\\_term=.c2677f874965](https://www.washingtonpost.com/politics/trumps-hard-line-actions-have-an-intellectual-godfather-jeff-sessions/2017/01/30/ac393f66-e4d4-11e6-ba11-63c4b4fb5a63_story.html?utm_term=.c2677f874965)

<sup>9</sup> Gehrke, *op cit*.

<sup>10</sup> Rucker and Costa, *op cit*.

- According to press reports, you continued to play a critical role in the transition after the election:
  - “Sessions became a daily presence at Trump Tower in New York, mapping out the policy agenda and making personnel decisions.”<sup>11</sup>
  - The *Post* went on to report that you “lobbied for a ‘shock-and-awe’ period of executive action that would rattle Congress, impress Trump’s base, and catch his critics unaware, according to two officials involved in the transition planning.”<sup>12</sup>
- After President-elect Trump stated he would nominate you to be Attorney General, you appeared at a post-election rally for him. At that rally you told the crowd that the Trump campaign was “more than a normal campaign, but a movement,” and you thanked President-elect Trump for “the opportunity to participate in a movement that I believe can help make America great again.”<sup>13</sup>
- Several of your former employees and individuals with whom you have personal relationships work at the White House. Current White House deputy chief of staff Rick Dearborn worked for you as your chief of staff.<sup>14</sup> Senior Advisor to President Trump, Stephen Miller, worked as your communications director.<sup>15</sup> According to press reports, you have a long-standing relationship with Cliff Simms, who directs White House message strategy.<sup>16</sup>

Cumulatively, these examples overwhelmingly demonstrate that you have a “close identification with an elected official . . . a political party, or a campaign organization, arising from service as a principal adviser thereto” under 28 C.F.R. § 45.2(c). Most significantly, these facts clearly demonstrate that you have a close identification with President Trump.

Last year, you were part of a group of former U.S. Attorneys who called on then-Attorney General Loretta Lynch to recuse herself from investigating possible wrongdoing by former Secretary of State Hillary Clinton. You called on Lynch to recuse herself because she had a brief private meeting with Secretary Clinton’s husband.<sup>17</sup>

By contrast, you endorsed and served as a principal adviser to President Trump during his campaign and have continued to play a key role advising the Trump administration. Events related to this presidential campaign are part of the FBI investigation under the jurisdiction of the Justice Department that you now lead.

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Feinstein, *op cit.*

<sup>14</sup> Alex Isenstadt and Matthew Nussbaum, “Trump adds deputy chiefs of staff,” *Politico*, January 3, 2017.

<http://www.politico.com/blogs/donald-trump-administration/2017/01/trump-adds-two-additional-deputy-chiefs-of-staff-233122>

<sup>15</sup> Julia Ioffe, “The Believer,” *Politico*, June 27, 2016. <http://www.politico.com/magazine/story/2016/06/stephen-miller-donald-trump-2016-policy-adviser-jeff-sessions-213992>

<sup>16</sup> Rucker and Costa, *op cit.*

<sup>17</sup> Rudy Giuliani, “Giuliani, Sessions, Keating, et al: Time for Loretta Lynch to appoint a Special Counsel,” Foxnews.com, November 5, 2016. <http://www.foxnews.com/opinion/2016/11/05/giuliani-sessions-keating-et-al-time-for-loretta-lynch-to-appoint-special-counsel.html>

Upon being nominated to serve as Attorney General, you stated, “I look forward to fulfilling my duties with an unwavering dedication to fairness and impartiality.”<sup>18</sup>

“Unwavering dedication to fairness and impartiality” requires that you recuse yourself from all of the matters described earlier in the letter. Under 28 C.F.R. § 45.2, no individual who played such a key role on the Trump presidential campaign and has served as a key adviser to Trump and members of his administration—establishing, at a minimum, a political relationship to those entities as defined by 28 C.F.R. § 45.2(c)(1)—could participate in investigations into contacts between the Trump campaign and Russian actors, Russian interference in the 2016 presidential election, the activities of former National Security Adviser Michael Flynn, or leaks concerning any of these matters. These persons clearly have “a specific and substantial interest that would be directly affected by the outcome of the investigation[s].” 28 C.F.R. § 45.2(a)(2).

The only exception to the requirement of recusal set out at 28 C.F.R. § 45.2(a) would require that “The employee's participation would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.” 28 C.F.R. § 45.2(b)(2). Given the high-profile nature of your endorsement of the President’s candidacy and depth of public involvement, there is no question that this condition cannot be satisfied.

In conclusion, your well-established and widely known affiliation with President Trump and his campaign and White House staff clearly meet 28 C.F.R. § 45.2(c)’s definition of a political or personal relationship. That relationship precludes any possibility of avoiding the appearance of a conflict of interest. We call on you to promptly recuse yourself from all matters described in this letter. Your immediate and complete recusal from these matters is vital to ensure ongoing public confidence in the impartiality and fairness of the Justice Department.

The signers to this letter include:

Bus Federation  
 Campaign Legal Center  
 Center for American Progress  
 Center for Media and Democracy  
 Common Cause  
 CREDO Action  
 CREW  
 Demand Progress  
 Democracy 21  
 Demos  
 Every Voice  
 Institute for Science and Human Values  
 Mi Familia Vota  
 National Action Network  
 National Center for Lesbian Rights  
 Norman Eisen, chief White House Ethics lawyer 2009-2011

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<sup>18</sup> Fred Lucas, “Who Is The New Attorney General Pick, Jeff Sessions?” *Newsweek*, November 21, 2016. <http://www.newsweek.com/who-new-attorney-general-jeff-sessions-523460>

Norman Ornstein

People For the American Way

Public Citizen

Represent.Us

Revolving Door Project

Richard Painter, chief White House ethics lawyer, 2005-2007

The National Center for Lesbian Rights

Thomas Mann

Win Without War