



United — to Protect — Democracy

June 1, 2017

Mr. Kenneth A. Blanco
Acting Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Dear Mr. Blanco:

On behalf of the 8 million supporters of MoveOn Civic Action across the U.S. and the organization United to Protect Democracy, we are writing to request that the Department of Justice, if it has not already done so, initiate an immediate investigation into whether White House Senior Adviser Jared Kushner committed a federal felony, in violation of 18 U.S.C. §1001, by repeatedly failing to disclose multiple contacts with representatives of the Government of the Russian Federation.

As you know, Mr. Kushner has been granted a security clearance and, in order to obtain that clearance, submitted the Standard Form 86, Questionnaire for National Security Positions. Question 20B.6 of that form calls for disclosure of “any contact with a foreign government, its establishment, ... or its representatives, whether

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inside or outside the U.S.” that the applicant has had in the past seven years and, if there has been any such contact, for disclosure of the date, location of the contact, names of representatives involved, the purpose/circumstances of the contact, and the details of any subsequent contact.

At the top of its first page, the form asks the applicant to affirm that “I understand that if I withhold, misrepresent, or falsify information on this form, I am subject to the penalties for inaccurate or false statement (per U.S. Criminal Code, Title 18, section 1001) . . . ” That statute makes it a federal felony to falsify or conceal a material fact from any agency of the U.S. government.

According to numerous media accounts, Mr. Kushner met with the Russian Ambassador to the U.S. at Trump Tower in New York City in December 2016. *The Washington Post* reported a few days ago that at this meeting, or possibly at another meeting with the ambassador at Trump Tower, Mr. Kushner proposed using Russian diplomatic facilities at the Russian Embassy for secret communications between the Trump transition team and the Kremlin. Ellen Nakashima, Adam Entous & Greg Miller, “Russian ambassador told Moscow that Kushner wanted secret communications channel with Kremlin,” *The Washington Post*, May 26, 2017 https://www.washingtonpost.com/world/national-security/russian-ambassador-told-moscow-that-kushner-wanted-secret-communications-channel-with-kremlin/2017/05/26/520a14b4-422d-11e7-9869-bac8b446820a_story.html?utm_term=.c9c262cef8e1. Yet Mr. Kushner failed to disclose that meeting on his SF 86. J. Becker & M. Rosenberg, “Kushner Omitted Meeting with Russians on Security Clearance Forms,” *The New York Times*, April 6, 2017 https://www.nytimes.com/2017/04/06/us/politics/jared-kushner-russians-security-clearance.html?_r=0. Press reports indicate that he not only failed to disclose this meeting on his original form, but on a revised form as well. If, as reported, Mr. Kushner was trying to “set[] up a secret channel between Trump’s transition team and the Kremlin . . . in an apparent move to shield their pre-inauguration discussion from monitoring,” *id.*, that would appear to provide a powerful motivation for him to conceal, in his submission to the U.S. government for his security clearance, the very meeting at which those secret talks were proposed.

This past weekend, also, *Reuters* reported that Mr. Kushner had at least three *additional* contacts with the Russian ambassador to the U.S. during 2016, including two telephone calls between April and November of 2016. Ned Parker &

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Jonathan Landay, Exclusive: Trump son-in-law had undisclosed contacts with Russian envoy—sources,” Reuters, May 27, 2017 <http://www.reuters.com/article/us-usa-trump-fbi-kushner-exclusive-idUSKBN18N018>. In addition, Mr. Kushner reportedly met with the head of the Russian state-owned bank Vnesheconombank, Sergei Gorkov, reportedly a trained intelligence officer appointed by President Putin, at Trump Tower in December. *Id.* According to public reporting, none of those meetings or calls were disclosed on Mr. Kushner’s SF 86.

The omission of these five significant contacts with top officials of the Russian government—and there may well be more—cannot be assumed to be an inadvertent oversight. The circumstances raise serious concerns as to whether Mr. Kushner deliberately concealed these contacts from the U.S. government on his security clearance application, the SF 86, and thereby committed a serious criminal offense.

The Department of Justice, of course, has prosecuted numerous cases under this statute, 18 U.S.C. §1001, involving far less consequential false statements. *See, e.g., United States v. Riccio*, 529 F.3d 40 (2008) (defendant prosecuted for leaving prior employment at Wal-Mart off his SF-86 form when applying to be a TSA screener). As the Department’s U.S. Attorney’s Manual explains: “The purpose of 18 U.S.C. § 1001 is to prohibit deceptive practices aimed at frustrating or impeding the legitimate functions of government departments or agencies.” U.S. Attorney’s Manual CRM § 904. The U.S. Attorney’s Manual further explains that a false statement is “criminal” if it was (i) material; (ii) within the jurisdiction of a U.S. department or agency, and (iii) made knowingly or willfully. *Id.* § 908. Each of those elements could be satisfied here, if an investigation confirms what has been publicly reported. First, a White House Senior Advisor’s extensive secret contacts with a foreign power would be extremely material to the consideration of the individual’s suitability for a security clearance – that is why the SF-86 explicitly asks for this information. Second, the SF-86 is submitted directly to a federal government agency for review and processing, so is therefore within the jurisdiction of the United States. And third, the SF-86 form explicitly warns that withholding information could subject the individual to liability under 18 U.S.C. § 1001. While we understand that the Department in 2014 adopted the view that the “willfully” element of § 1001 requires establishing the Defendant’s knowledge that his conduct was unlawful, the explicit warning of a § 1001 violation on the Form

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SF-86 coupled with some of the circumstantial evidence publicly reported in this matter, if proven, could satisfy that requirement.

For these reasons, MoveOn.org Civic Action and United to Protect Democracy respectfully request that if such an investigation is not already under way, your office initiate an investigation of Mr. Kushner's failure, on his SF 86 questionnaire, to disclose his numerous contacts with representatives of the Russian government.

Thank you for your time and attention to this critically important matter.

Sincerely yours,



Anna Galland
Executive Director
MoveOn Civic Action



Ian Bassin
Executive Director
United to Protect Democracy