MEMORANDUM

TO: Donald F. McGahn II
Counsel to the President

FROM: Elizabeth Fischmann
Designated Agency Ethics Official
Associate General Counsel

DATE: April 24, 2017

SUBJECT: Request for limited waiver of Executive Order 13770

Pursuant to Executive Order 13770, Section 3, (January 28, 2017) (the Executive Order) you have been delegated authority by the President to grant a waiver. Mr. Lance Leggitt, Chief of Staff, United States Department of Health and Human Services (HHS), requires a limited waiver of Section 1, paragraph 7 of the Executive Order to enable him to effectively carry out the full range of duties of his HHS position. On behalf of Mr. Leggitt, I request your consideration of this limited waiver.

Prior to his service at HHS, Mr. Leggitt worked at the law firm of Baker Donelson as an attorney in the firm's health law practice group, where he served as the Chair of Federal Health Policy. During the course of his practice, and within the two years before the date of his HHS appointment, he advised clients on matters that required him to register under the Lobbying Disclosure Act. Absent this limited waiver, by the terms of the Executive Order, Mr. Leggitt would be restricted for two years after his appointment date, from participating in any particular matters on which he lobbied within the two years before the date of his appointment; moreover, he would be restricted from participating in the specific issue areas in which those particular matters fall.

The information provided to me indicates that Mr. Leggitt brings a unique blend of substantive health care expertise to HHS. Prior to being appointed at HHS, he had extensive health care experience working for both state and federal government entities. He worked as the Senior Health Policy Advisor in the White House from 2005 to 2006 where he was a member of the President's Domestic Policy Counsel, responsible for advising the President on policy issues related to HHS, the Department of Veterans Affairs, Department of Labor, and Department of Defense. From 2001 to 2005, he worked as a Counselor to the Deputy Secretary at HHS. His state government experience includes serving as a Special Counselor to the Governor of Virginia and as an Assistant Attorney General in the Virginia Attorney General's Office.

The Chief of Staff is at the center of HHS's public health and safety related missions. The successful accomplishment of these HHS missions relies on extensive, open, and collaborative communications within HHS and with external stakeholders and other government officials. The Chief of Staff is needed to facilitate these collaborative communications, to oversee management issues within HHS, to coordinate policy across HHS, and to facilitate any Department-wide response to a public health emergency, among many other duties. Granting this limited waiver will allow Mr. Leggitt to freely carry out the full responsibilities of his office rather than requiring him to continue to recuse from particular matters on which he lobbied and the specific issue areas in which those particular matters fall.

As you consider the merits of granting this limited waiver, it is important to note that Mr. Leggitt has no personal financial interest in his former employer, former clients, or in the particular matters on which he lobbied or the specific issue areas in which those particular matters fall. He will continue to recuse pursuant to 5 C.F.R. § 502 and Section 1, paragraph 6, of the Executive Order, for the time frames dictated by those restrictions, from participation in any particular matters involving specific parties where his former employer or former clients are parties or party representatives.

Moreover, in order to avoid potential conflicts of interest during his appointment as Chief of Staff, he has agreed that neither he, his spouse, nor any minor children of his will acquire any direct financial interest in entities involved, directly or through subsidiaries, in the following industries: (1) research, development, manufacture, distribution, or sale of pharmaceutical, biotechnology, or medical devices, equipment, preparations, treatment, or products; (2) veterinary products; (3) healthcare management or delivery; (4) health, disability, or workers compensation insurance or related services; (5) food and/or beverage production, processing or distribution; (6) communications media; (7) computer hardware, computer software, and related internet technologies; (8) wireless communications; (9) social sciences and economic research organizations; (10) energy or utilities; (11) commercial airlines, railroads, shiplines, and cargo carriers; or (12) sector mutual funds that concentrate their portfolios on one country other than the United States. In addition, he will not acquire any interests in sector mutual funds that concentrate in any of these sectors.

LIMITATIONS

This limited waiver will not affect the application of any other provision of law, including any other provision of the Ethics Pledge; the Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. part 2635); or the criminal bribery, graft and conflict of interest statutes (18 U.S.C. 201-209). In particular, as noted above, Mr. Leggitt will remain restricted by the Executive Order, Section 1, paragraph 6, from participating in any particular matter involving specific parties that is directly and substantially related to his former employer or former clients. Accordingly, although this limited waiver permits him to participate in the specific issue areas in which particular matters on which he lobbied fall, he is still required to recuse from any particular matter involving specific parties that is directly and substantially related to his former employer or former clients.

LIMITED WAIVER ISSUANCE

After consideration of the information provided above, please indicate your final decision concerning a limited waiver for Mr. Lance Leggitt by signing below.

Please do not hesitate to contact me if you have any questions or need further information.

A limited waiver pursuant to Section 3 of Executive Order 13770 (January 28, 2017), as described in detail above, is granted to Mr. Lance Leggitt.

Donald F. McGahn II
Counsel to the President

26 April 2017
Date