

115TH CONGRESS
1ST SESSION

S. CON. RES. _____

Clarifying any potential misunderstanding as to whether actions taken by President-elect Donald Trump constitute a violation of the Emoluments Clause, and calling on President-elect Trump to divest his interest in, and sever his relationship to, the Trump Organization.

IN THE SENATE OF THE UNITED STATES

Mr. CARDIN (for himself, Mr. LEAHY, Ms. WARREN, Mr. CARPER, Mrs. MURRAY, Mr. WYDEN, Mr. DURBIN, Mr. REED, Ms. STABENOW, Mr. BROWN, Mr. CASEY, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. UDALL, Mr. MERKLEY, Mr. BENNET, Mr. FRANKEN, Mr. COONS, Mr. BLUMENTHAL, Ms. BALDWIN, Mr. MURPHY, Ms. HIRONO, Mr. HEINRICH, Mr. MARKEY, Mr. BOOKER, Mr. PETERS, and Mr. VAN HOLLEN) submitted the following concurrent resolution; which was referred to the Committee on

CONCURRENT RESOLUTION

Clarifying any potential misunderstanding as to whether actions taken by President-elect Donald Trump constitute a violation of the Emoluments Clause, and calling on President-elect Trump to divest his interest in, and sever his relationship to, the Trump Organization.

Whereas article I, section 9, clause 8 of the United States Constitution (commonly known as the “Emoluments Clause”) declares, “No title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent

of the Congress, except of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”;

Whereas, according to the remarks of Governor Edmund Randolph at the 1787 Constitutional Convention, the Emoluments Clause “was thought proper, in order to exclude corruption and foreign influence, to prohibit any one in office from receiving or holding any emoluments from foreign states”;

Whereas the issue of foreign corruption greatly concerned the Founding Fathers of the United States, such that Alexander Hamilton in Federalist No. 22 wrote, “In republics, persons elevated from the mass of the community, by the suffrages of their fellow-citizens, to stations of great pre-eminence and power, may find compensations for betraying their trust, which, to any but minds animated and guided by superior virtue, may appear to exceed the proportion of interest they have in the common stock, and to overbalance the obligations of duty. Hence it is that history furnishes us with so many mortifying examples of the prevalency of foreign corruption in republican governments.”;

Whereas the President of the United States is the head of the executive branch of the Federal Government and is expected to have undivided loyalty to the United States, and clearly occupies an “office of profit or trust” within the meaning of article I, section 9, clause 8 of the Constitution, according to the Office of Legal Counsel of the Department of Justice;

Whereas the Office of Legal Counsel of the Department of Justice opined in 2009 that corporations owned or con-

trolled by a foreign government are presumptively foreign states under the Emoluments Clause;

Whereas President-elect Donald J. Trump has a business network, the Trump Organization, that has financial interests around the world and negotiates and concludes transactions with foreign states and entities that are extensions of foreign states;

Whereas Michael Cohen, an attorney for Donald J. Trump and the Trump Organization, initially stated that the Trump Organization would be placed into a “blind trust” managed by Donald Trump’s children, Donald Trump, Jr., Ivanka Trump, and Eric Trump;

Whereas the very nature of a “blind trust” is such that the official will have no control over, will receive no communications about, and will have no knowledge of the identity of the specific assets held in the trust, and that the manager of the trust is independent of the owner, and as such the arrangement proposed by Mr. Cohen is not a blind trust;

Whereas, on November 30, 2016, President-elect Donald J. Trump announced on Twitter that “I will be holding a major news conference in New York City with my children on December 15 to discuss the fact that I will be leaving my great business in total in order to fully focus on running the country in order to MAKE AMERICA GREAT AGAIN!”;

Whereas, on December 12, 2016, President-elect Donald J. Trump abruptly canceled the planned December 15, 2016 news conference, and has provided no set date for a future announcement;

Whereas, on December 12, 2016, President-elect Donald J. Trump stated on Twitter, “Even though I am not mandated by law to do so, I will be leaving my businesses [sic] before January 20th so that I can focus full time on the Presidency. Two of my children, Don and Eric, plus executives, will manage them. No new deals will be done during my term(s) in office”;

Whereas numerous legal and constitutional experts, including several former White House ethics counsels, have made clear that, notwithstanding the problems inherent in temporarily ceding control of the Trump Organization to his children, such an arrangement, in which the President-elect fails to exit the ownership of his businesses through use of a blind trust or equivalent, will leave the President-elect with a personal financial interest in businesses that collect foreign government payments and benefits, which raises both constitutional and public interest concerns;

Whereas Presidents Ronald Reagan, George H. W. Bush, William J. Clinton, and George W. Bush have set the precedent of using true blind trusts, in which their holdings were liquidated and placed in new investments unknown to them by an independent trustee who managed them free of familial bias;

Whereas the continued intermingling of the business of the Trump Organization and the work of government has the potential to constitute the foreign corruption so feared by the Founding Fathers and to betray the trust of America’s citizens;

Whereas the intent of this resolution is to prevent any potential misunderstanding or crisis with regards to whether the actions of Donald J. Trump as President of the

United States will violate the Emoluments Clause of the Constitution, Federal law, or fundamental principles of ethics; and

Whereas Congress has an institutional, constitutional obligation to ensure that the President of the United States does not violate the Emoluments Clause and is discharging the obligations of office based on the national interest, not based on personal interest: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring), That Congress—*

3 (1) calls upon President-elect Donald J. Trump
4 to follow the precedent established by prior Presi-
5 dents and convert his assets to simple, conflict-free
6 holdings, adopt blind trusts managed by an inde-
7 pendent trustee with no relationship to Donald J.
8 Trump or his businesses, or take other equivalent
9 measures, in order to ensure compliance with the
10 Emoluments Clause of the United States Constitu-
11 tion;

12 (2) calls upon President-elect Donald J. Trump
13 not to use the powers or opportunities of his position
14 as President-elect or President of the United States
15 for any purpose related to the Trump Organization;
16 and

17 (3) regards, in the absence of such actions out-
18 lined in paragraph (1) or specific authorization by

1 Congress, dealings that Donald J. Trump, as Presi-
2 dent of the United States, may have through his
3 companies with foreign governments or entities
4 owned or controlled by foreign governments as po-
5 tential violations of the Emoluments Clause.