



February 23, 2018

Mary L. Kendall
Inspector General
U.S. Department of the Interior
Office of the Inspector General
1849 C Street, NW - Mail Stop 4428
Washington, D.C. 20240

Dear Inspector General Kendall:

The conduct of Interior Secretary Ryan Zinke requires attention. Over the course of Secretary Zinke's first year in office, a concerning pattern has emerged with respect to his compliance with the legal requirements of public service and his stewardship of public funds. The Campaign Legal Center ("CLC") urges you to conduct a full investigation of these matters and refer any adverse findings for appropriate action.

This letter highlights several examples uncovered through Freedom of Information Act requests and media reports. Notably, Secretary Zinke appears to have violated a federal criminal conflict of interest law¹ by assisting a company from his hometown in which he owns stock.² He also appears to have violated the Hatch Act³ by letting political party operatives charge fundraiser attendees for the privilege of taking photos with him. In addition, Secretary Zinke appears to have wasted public funds on questionable expenditures, including a skeet shooting junket with a lobbying organization and the purchase of coins bearing his name.

¹ 18 U.S.C. § 208(a).

² Itai Vardi, *Interior Secretary Ryan Zinke Held Onto Undisclosed Shares In Gun Company*, HUFF. POST (Jan. 22, 2018), <https://goo.gl/UTQ5ju>.

³ 5 U.S.C. § 7323(a)(2).

I. Apparent Violation of 18 U.S.C. § 208

Secretary Zinke's apparent violation of the primary conflict of interest statute⁴ arises in connection with his financial interest in PROOF Research, Inc. ("Proof"). He participated personally and substantially in a particular matter affecting that company's financial interests.

A government contractor,⁵ Proof is a privately held firearms manufacturer and dealer from the Secretary's hometown of Whitefish, Montana.⁶ Secretary Zinke once served as a consultant for the company and continues to hold shares of its stock.⁷ After he was confirmed as Interior Secretary, Secretary Zinke personally met with Proof executives and a lobbyist for the company on April 11, 2017.⁸ It is clear that the meeting was prearranged and not a spontaneous encounter because the meeting is included in his official daily calendar.⁹ According to Proof CEO Larry Murphy, the express purpose of the meeting was to obtain Secretary Zinke's recommendations, advice, or other assistance in securing taxpayer-funded contracts for Proof.¹⁰

Because Secretary Zinke continues to hold Proof stock, the conflict of interest law prohibits him from participating personally and substantially in any particular matter directly and predictably affecting Proof's financial interests,¹¹ unless he qualifies for a regulatory exemption¹² or first obtains a written waiver.¹³ Given these facts, Secretary Zinke's conduct appears to meet all elements of a violation of the conflict of interest statute.

⁴ 18 U.S.C. § 208(a).

⁵ The U.S. Department of Defense awarded Proof an \$11.4 million contract last year. Proof Research, *Proof Research awarded \$11M contract for future weapon systems development*, PROOFRESEARCH.COM (Jan. 26, 2017), <https://goo.gl/6QVVdo>.

⁶ Vardi, *supra* note 2; see also Molly Olmstead, *Small Company With Connections to Trump Administration Wins \$300 Million Puerto Rico Recovery Contract*, SLATEST (Oct. 24, 2017) (noting that Secretary Zinke's hometown is Whitefish), <https://goo.gl/bs84dH>.

⁷ *Id.*

⁸ Vardi, *supra* note 2.

⁹ Secretary Zinke's work calendar, "Brief Update of Proof Research," Apr. 11, 2017, <https://goo.gl/6YfDUr>.

¹⁰ The news report explains, "In a follow-up phone conversation, [Proof CEO Larry] Murphy explained that the company met with Zinke last year mainly because of the 'Montana connection,' in an attempt to determine 'whether the Secretary knew of any needs in the government for the company's products.'" Vardi, *supra* note 2.

¹¹ See 18 U.S.C. § 208(a); see also *infra* note 21 (a shareholder's interest in a company is not limited to the stock price but is coextensive with the company's financial interests); *Ethical Issues Raised by Retention and Use of Flight Privileges by FAA Employees*, 28 Op. O.L.C. 237, 240 (2004) ("direct and predictable effect" requirement).

¹² See 18 U.S.C. § 208(b)(2); 5 C.F.R. § 2640, subpt. B (Exemptions Pursuant to 18 U.S.C. § 208(b)(2)).

¹³ See 18 U.S.C. § 208(b)(1).

For a violation to occur, an employee must participate personally and substantially in a “particular matter.” The term “particular matter” refers to any matter focused on the interests of specific parties or a discrete and identifiable class of persons.¹⁴ Secretary Zinke is an employee for purposes of the statute,¹⁵ and the matter, which centered on “whether the Secretary knew of any needs in the government for [Proof’s] products,”¹⁶ constituted a “particular matter” focused on the interests of one party: Proof.¹⁷ Secretary Zinke unquestionably participated personally and substantially in this particular matter by attending the meeting, and possibly also scheduling the meeting.¹⁸ Any recommendations, advice, or other assistance that Secretary Zinke provided to the company, or to otherwise benefit the company, would constitute further personal and substantial participation.¹⁹

The final element of the conflict of interest law requires a “financial interest” in the meeting with Proof. As discussed above, Secretary Zinke is a shareholder.²⁰ His ownership of company stock gives him a financial interest in any particular matter directly and predictably affecting Proof’s financial interests, whether or not the stock price is ultimately affected.²¹ There is no substantiality requirement with respect to an employee’s financial interest in a matter, such as a minimum dollar threshold needed to trigger coverage of the

¹⁴ 5 C.F.R. §§ 2640.103(a)(1) (“Particular matter”); 2641.201(h) (“Particular matter involving a specific party or parties”).

¹⁵ 5 U.S.C. § 2104 (definition of “officer”); 18 U.S.C. § 208(a) (prohibition is applicable to any “officer or employee of the executive branch”); *see also Application of Conflict-of-Interest Rules to Appointees Who Have Not Begun Service*, 26 Op. O.L.C. 32 (May 8, 2002) (Office of Legal Counsel opinion noting that, because title 18 sets out no definition of “officer” or “employee,” the Department of Justice has looked to the definitions in title 5, United States Code as the most obvious source of a definition for title 18 purposes).

¹⁶ Vardi, *supra* note 2.

¹⁷ *See* 18 U.S.C. § 208(a); *see also* 5 C.F.R. §§ 2640.103(a)(1) (defining “particular matter” as any matter “focused upon the interests of specific persons, or a discrete and identifiable class of persons”), 2640.103(a)(1), example 2 (illustrating that the consideration of a request for a meeting and the decision to hold the meeting are “particular matters”), 2640.103(d)(2), example 1 (illustrating that the meeting itself is a particular matter), 2641.201(h) (defining a particular matter “involving a specific party or parties” as a type of particular matter).

¹⁸ *See* 5 C.F.R. § 2640.103(a)(2) (defining “personal and substantial participation”).

¹⁹ *Id.*; *see also* 18 U.S.C. § 208(a) (“participates personally and substantially as a Government officer or employee, through . . . recommendation, the rendering of advice, investigation, or otherwise”).

²⁰ According to news reports, Zinke was a consultant for Proof until he was elected to Congress in 2014, at which point he stated publicly that “I’ll still maintain stock in Proof because it’s a great company.” Lynette Hintz, *Rep. Elect Zinke Ready to Get to Work*, DAILY INTER LAKE (Nov. 6, 2014), <https://goo.gl/HvR8NR>. Both an Interior Department spokesperson and Proof’s CEO confirmed that Secretary Zinke has retained ownership of his shares. Vardi, *supra* note 2.

²¹ *See Memorandum to Designated Agency Ethics Officials Regarding Waivers Under 18 U.S.C. § 208*, OGE Informal Advisory Op., 07 x 04, 11 (2007) (“Section 208 applies much more broadly to stock ownership than simply to particular matters affecting the stock price itself. Because a stock interest is an ownership interest in the company, section 208 prohibits an employee from participating in particular matters that have an effect on the financial interests of an entity in which he (or anyone whose interests are imputed to him) owns stock.”).

criminal conflict of interest law.²² The value of Secretary Zinke's stock, if it were known, would not affect whether he has a financial interest under the statute.

Through Proof, therefore, Secretary Zinke had a financial interest in the meeting. Proof had a financial interest in the meeting because it sought information about the existence or nonexistence of contracting opportunities—information Proof could use to make decisions about how best to allocate its business development resources.²³ Proof's willingness to enlist the services of a lobbyist for this meeting reflects a determination by the company as to the value of the information. Proof's financial interest in the matter also included salaries of its employees who met with Secretary Zinke, as well as any fee its lobbyist charged.²⁴

Secretary Zinke declared on June 5, 2017 that he has not received a waiver of the conflict of interest law,²⁵ and no regulatory exemption applies.²⁶ A department spokesperson asserted that the value of his shares is low,²⁷ but their value is not relevant because there is no substantiality requirement for an employee's financial interest under the conflict of interest law. Further, while the U.S. Office of Government Ethics has issued a regulatory exemption for certain *de minimis* holdings, that exemption applies only to publicly traded securities and not to the securities of privately held companies.²⁸ Proof's stock is not a publicly traded security, so the exemption does not apply.²⁹

Though it is not necessary to show that Secretary Zinke was on notice of the law in order to establish a violation,³⁰ we note that he *was* on notice of the law. He expressly committed in a January 10, 2017 ethics agreement to comply with the recusal obligation required by 18 U.S.C. § 208(a): he pledged to not “participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter...unless I first obtain a written waiver...or qualify for a

²² OFFICE OF GOV'T ETHICS, Informal Advisory Op., 86 x 3 (1986) (“Under well settled precedent, section 208(a) has no *de minimis* aspect. The operation of that provision may only be ameliorated through the procedures provided for by subsections (b)(1) and (b)(2) of section 208.”); OFFICE OF GOV'T ETHICS, *Report to the President and to Congressional Committees on the Conflict of Interest Laws Relating to Executive Branch Employment* (2006) (“Whereas there was some question whether a financial interest had to be ‘substantial’ in order to be covered by [its predecessor, 18 U.S.C.] section 434, section 208 clearly applies to all matters in which the employee has a financial interest, even if that financial interest is insubstantial.”), <https://goo.gl/EKgzAh>.

²³ Even information as to the lack of opportunities would have been valuable, as it would have informed Proof's high-level business development decisions.

²⁴ See *supra* notes 2 & 19; see also 18 U.S.C. § 208(a).

²⁵ See “Certification of Ethics Agreement Compliance,” Box 7(a), signed by Secretary Zinke on June 5, 2017, <https://goo.gl/sVM6j8>; see also 18 U.S.C. § 208(b)(1).

²⁶ See 5 C.F.R. § 2640, subpart B (Exemptions Pursuant to 18 U.S.C. § 208(b)(2)).

²⁷ This assertion has not been verified, and the stocks are not reported among his disclosures.

²⁸ 5 C.F.R. §§ 2640.102(p), 2640.202.

²⁹ See Vardi, *supra* note 2; see also 5 C.F.R. §§ 2640.102(p) (definition of “publicly traded security”), 2640.202 (Exemptions for interests in securities).

³⁰ See 18 U.S.C. § 208(a).

regulatory exemption.”³¹ Secretary Zinke also later submitted a government form in which he attested to his compliance with this ethics agreement.³² In addition, the government’s ethics regulations required him to complete an ethics briefing with Interior’s ethics officials upon his appointment.³³ They also required him to complete new employee ethics training that specifically covered “financial conflicts of interest.”³⁴

For the foregoing reasons, it appears that Secretary Zinke violated the criminal conflict of interest prohibition against federal employees participating in particular matters affecting their financial interests.³⁵ Even if the asserted low value of his financial interest weighs against criminal penalties, the applicable legal framework leaves room for either civil penalties or disciplinary action instead. Therefore, this apparent violation of law warrants attention—particularly when viewed in context of the broader pattern of misconduct this letter outlines.

II. Apparent Violation of the Hatch Act

Secretary Zinke’s conduct during his first year at the department implicated another ethics-related law, the Hatch Act.³⁶ During the current fiscal year, CLC filed a complaint with the U.S. Office of Special Counsel when Secretary Zinke apparently violated the Hatch Act by soliciting contributions for the Virgin Islands Republican Party at a March 30, 2017 fundraiser.³⁷

That complaint arose after Secretary Zinke scheduled himself to be in the Virgin Islands on the date of the fundraiser, ostensibly for official business. Zinke has longstanding connections to the individuals behind the Virgin Islands Republican Party.³⁸ He has also been known to schedule official travel that coincides conveniently with local

³¹ Letter from Ryan Zinke to Melinda Loftin, Designated Agency Ethics Official and Director, Ethics Office, U.S. Dep’t of the Interior (Jan. 10, 2017), <https://goo.gl/ej9v8x>.

³² See “Certification of Ethics Agreement Compliance,” signed by Secretary Zinke on June 5, 2017, <https://goo.gl/sVM6j8>.

³³ 5 C.F.R. § 2638.305.

³⁴ 5 C.F.R. § 2638.304(e)(1)(i).

³⁵ Moreover, news reports also suggest Secretary Zinke may have participated in other particular matters affecting Proof’s financial interests. Vardi, *supra* note 2. A *Huffington Post* report indicates Secretary Zinke may have participated in “numerous decisions in his first year in office that benefited the hunting and gun industries.” *Id.* CLC has no additional information about this claim, but his participation in any decision or other action in a matter affecting the hunting or gun industries could constitute an additional violation if the matter qualified as a “particular matter.”

³⁶ 5 U.S.C. § 7121, et seq.

³⁷ See Campaign Legal Center, *Complaint to OSC: Ryan Zinke - Hatch Act*, CLC website (Oct. 6 2017), <https://goo.gl/eH3LXq>.

³⁸ See, e.g., Ben Lefebvre & Nick Juliano, *Zinke Funneled Millions to Questionable PACs*, POLITICO (Oct. 24, 2017), <https://goo.gl/bvF22F>.

political events.³⁹ Department officials insist, at least, that he kept his official activities separate from his political activities while in the Virgin Islands.⁴⁰

During the fundraiser, Secretary Zinke appears to have violated the Hatch Act's prohibition on soliciting political contributions.⁴¹ All attendees at the fundraiser paid a \$75 contribution for admission. Only "host committee" members and "Patrons," who respectively contributed \$1,500 and \$5,000 per couple, were entitled to take a photo with him.⁴² This arrangement violated the Hatch Act if, as appears to be the case, Zinke allowed party officials to charge the higher rates partly for the opportunity to pose for photos with him.⁴³

Based on the different rates charged, this sale of access to a cabinet official appears to have been lucrative for the Virgin Islands Republican Party.⁴⁴ However, the Virgin Islands Republican Party has failed to file required reports disclosing the identities of the donors who contributed at the fundraiser—meaning the public remains entirely in the dark as to the identities of individuals to whom Secretary Zinke sold his time.⁴⁵

³⁹ Ben Lefebvre & Esther Whieldon, *Trump's Interior chief 'hopping around from campaign event to campaign event'*, POLITICO (Oct. 5, 2017), <https://goo.gl/oAW99h> (last updated Oct. 11, 2017).

⁴⁰ *Id.*

⁴¹ See 5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.303.

⁴² See Lefebvre & Juliano, *supra* note 38.

⁴³ See 5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.303.

⁴⁴ The Virgin Islands Republican Party ("VIGOP") has long been accused of fraudulent practices, such as routing most of the funds it raises into payments to the consultants who lead the committee and fundraising costs, and spending little to support candidates. See, e.g., Bill Lambrecht, *Group accused of victimizing seniors by using Hurd and others in Congress to raise money*, SAN ANTONIO EXPRESS NEWS (Sept. 24, 2016), <http://bit.ly/2BJTqIv> ("Since late 2013, the Virgin Islands GOP has raised over \$3.9 million, according to the Center for Responsive Politics. But just 21 percent of that money was spent on candidates and campaigns. Critics say elderly donors are victims of fundraising operations like the Virgin Islands GOP's, as are politicians used in appeals."); Derek Willis, *A Mysterious Republican Committee in the Virgin Islands*, N.Y. TIMES (May 6, 2014), <http://nyti.ms/2EKxawW> ("There are a few things you should know about the Virgin Islands Republican Party: It has no full-time staff, has not had regular meetings for nearly two years, and only about 4 percent of the \$200,000 it has raised since last fall has gone to party coffers"); Fredreka Schouten, *Republican Fundraising Intrigue Clouds a Delegate Fight in the Virgin Islands*, USA TODAY (Apr. 13, 2016), <https://usat.ly/2FmXfmN> ("The committee's activities have drawn public rebukes from other top party officials in the islands, and it has spent little of its money directly supporting candidates or engaging in party-building in the territory. Instead, almost all of the \$1.6 million VIGOP had collected through the end of February for the 2016 election was plowed back into operating expenses.").

⁴⁵ As a federal political committee (ID:C00553560), VIGOP files monthly campaign finance reports with the Federal Election Commission disclosing its monthly receipts and disbursements. See VIGOP, Federal Election Comm'n. website, <https://www.fec.gov/data/committee/C00553560/>. VIGOP's reports show that it reimbursed the department for Zinke's costs associated with the event. VIGOP, November Monthly, FEC Form 3X, at 54 (filed Nov. 18, 2017), <https://goo.gl/iTq9fZ>. However, VIGOP's reports do not disclose the identities of any of the individuals who paid for a photo with Secretary Zinke or otherwise contributed at the fundraiser. See e.g., VIGOP, Individual

III. Other Allegations of Misconduct

Numerous investigations, watchdog complaints, and media reports have chronicled other questionable conduct on the part of Secretary Zinke. Your office is said to be looking into some of these issues. Secretary Zinke allegedly threatened to block energy projects in Alaska after one of its Senators voted against a Republican health care bill.⁴⁶ He appeared to violate merit systems principles when he mass reassigned dozens of Senior Executive Service members, an unprecedented move affecting more than 20 percent of Interior's senior executive corps.⁴⁷ A government watchdog group filed a complaint with your office, alleging that he has violated the Federal Vacancies Reform Act⁴⁸ by installing allies in positions requiring Senate confirmation for longer than the law permits.⁴⁹ Secretary Zinke's official travel has continued to raise questions and led the U.S. Office of Special Counsel to investigate one of the trips, which featured his delivery of a speech to a professional hockey team that a major political donor owns.⁵⁰ As these examples illustrate, Secretary Zinke persistently blurs the line between official business and purely personal or political activity.

Moreover, Secretary Zinke's travel habits, which also mix personal and political purposes with official purposes, have been well-documented in media reports and even prompted an investigation by your office.⁵¹ This includes regular use of military and

Contributions, March 1, 2017-April 30, 2017, <http://bit.ly/2Gaf3AE>. After CLC filed its Hatch Act complaint, the Virgin Islands GOP claimed the fundraiser was not for the *federal* committee, but was actually for the *territorial* Virgin Islands GOP committee, and that the territorial committee would file a report with Virgin Islands authorities identifying the contributors at the end of 2017. Ben Lefebvre, *Interior reimbursed for Zinke Virgin Island fundraiser, but contributions unaccounted for*, POLITICO (Dec. 19, 2017), <https://goo.gl/GQWmf1>. However, the territorial committee has yet to file a campaign finance report disclosing the identities of the individuals who donated at the fundraiser; in fact, it has *never* filed a campaign finance report with territorial authorities. Moreover, if the March 30, 2017 event was indeed a fundraiser for the territorial committee, those individuals who contributed \$1,500 or \$5,000 for a photo with Secretary Zinke would have exceeded territorial contribution limits. See 18 V.I.C. § 907(a) (\$1,000 contribution limit for Virgin Islands political committees). As a result, CLC filed the additional complaints with the FEC and the Virgin Islands Election System. Campaign Legal Center, Virgin Islands GOP Complaint to FEC - Secretary Zinke, CLC website (Feb. 22, 2018), <https://goo.gl/fERMZ1>.

⁴⁶ David Henry, *Interior watchdog launches 'preliminary investigation' into Zinke calls*, THE HILL (Aug. 3, 2017), <https://goo.gl/2VmMvR>.

⁴⁷ Joe Davidson, *Interior's 'unusual' transfer of senior executives spurs official probe*, WASH. POST (Sept. 12, 2017), <https://goo.gl/6NXUJt>.

⁴⁸ 5 U.S.C. §§ 3345-3349.

⁴⁹ Charles S. Clark, *Environmental Group Charges Interior with Illegally Filling Top Vacancies*, GOVERNMENT EXECUTIVE (Feb. 14, 2018), <https://goo.gl/ba6SJq>.

⁵⁰ Campaign for Accountability, *Complaint Against Interior Secretary for Possible Violations of Hatch Act, Conflict of Interest Laws*, CAMPAIGNFORACCOUNTABILITY.ORG (Sept. 29, 2017), <https://goo.gl/rBT12Z>; see also Jaqueline Thomsen, *Zinke under federal investigation for speech to NHL team: report*, THE HILL (Oct. 4, 2017), <https://goo.gl/G34c49>.

⁵¹ Ben Lefebvre, *Interior watchdog opens investigation into Zinke's travel*, POLITICO (Oct. 2, 2017), <https://goo.gl/hFYrXV>.

chartered aircraft, even when cheaper commercial flights are available.⁵² Among other things, he once used taxpayer-funded helicopters to accommodate his political events schedule, costing taxpayers more than \$14,000.⁵³ He also chartered a \$12,375 flight from Las Vegas to Montana aboard a plane belonging to an oil and gas executive, despite the availability of commercial flights for as little as \$300.⁵⁴

Yet your office's inquiry into the matter was stymied by Secretary Zinke's inadequate record-keeping practices.⁵⁵ Notably, your office's finding of "absent or incomplete documentation" for Secretary Zinke's travel activities, coupled with an internal process that provides no "consistent cost analysis to justify use of non-commercial travel,"⁵⁶ has not resulted in any official approbation from the White House.

In your recent management advisory on the investigation of Secretary Zinke's travel, you noted that the department's process provides inadequate "analysis conducted to distinguish between personal, political, and official travel."⁵⁷ Illustrative of this problem is Secretary Zinke's three-day trip to the Women's Leadership Summit at the Four Seasons Resort and Club in Dallas, Texas.⁵⁸ The event's sponsor was the National Rifle Association (NRA), a supporter of Secretary Zinke's political campaigns.⁵⁹

Secretary Zinke's speech at the NRA's summit was the official reason given for the trip, but his schedule and other documents obtained through a Freedom of Information Act Request reveal that he spent considerable time in Dallas with political supporters.⁶⁰ For example, he attended a luncheon with NRA "community leaders," many of whom are active

⁵² See, e.g., Aaron Blake, *Interior Secretary Ryan Zinke's private plane travel looks pretty . . . swampy*, WASH. POST (Sept. 29, 2017), <https://goo.gl/t33d92>; Rene Marsh & Gregory Wallace, *Zinke's travel continues to raise ethical questions*, CNN (Oct. 12, 2017), <https://goo.gl/wmQGuC>.

⁵³ Ben Lefebvre, *Zinke booked government helicopters to attend D.C. events*, POLITICO (Dec. 7, 2017), <https://goo.gl/scqqJy>.

⁵⁴ Drew Harwell & Lisa Rein, *Zinke took \$12,000 charter flight home in oil executive's plane, documents show*, WASH. POST (Sept. 28, 2017), <https://goo.gl/cwHvu7>.

⁵⁵ Lisa Rein & Drew Harwell, *Watchdog says Interior Secretary Ryan Zinke failed to properly document travel*, WASH. POST (Nov. 16, 2017), <https://goo.gl/QfxPCh>.

⁵⁶ OFFICE OF INSPECTOR GENERAL, U.S. DEPT OF THE INTERIOR, MGMT. ADVISORY, INCOMPLETE DOCUMENTATION IDENTIFIED DURING INVESTIGATION (Nov. 2017).

⁵⁷ *Id.*

⁵⁸ Official Travel Schedule of the Secretary, Missouri and Texas, U.S. DEPT OF THE INTERIOR, 12-14 (PDF pages 578-580), Sept. 22, 2017, <https://goo.gl/TJ95RA>.

⁵⁹ Secretary Zinke received over \$79,000 from gun lobbying groups in 2016, including the NRA, the second-highest amount received by a member of the House of Representatives. Tyler Fisher, Sarah Frostenson, & Lily Mihalik, *The gun lobby: See how much your representative gets*, POLITICO (Oct. 2, 2017), <https://goo.gl/a3T1eZ>. See also, e.g., Chris W. Cox, *NRA: Confirmation of Ryan Zinke a Sound Move*, ROLL CALL (Feb. 14, 2017), <https://goo.gl/Yuv1ku>; NRA ILA, *NRA strongly supports secretary Zinke's land management plans*, NRA-ILA (Sept. 15, 2017), <https://goo.gl/o5CsgX>.

⁶⁰ Official Travel Schedule of the Secretary, *supra* note 58.

donors to his political party.⁶¹ He visited the Dallas Gun Club with the NRA⁶²—a registered lobbying organization⁶³—for a three-hour round of clay shooting.⁶⁴

Not all of Secretary Zinke's misuse of taxpayer resources has been travel-related. He notoriously commissioned personalized commemorative coins to give to staff and visitors.⁶⁵ Presenting employees with engraved coins to reward superior performance is not unprecedented, but his decision to engrave his own personal name on the coin was a strange variation on the practice—one that will lead to waste if the coins are not used during his tenure as Secretary.⁶⁶ Also, federal appropriations law prohibits the distribution of such coins to visitors as souvenirs. Due to the lack of transparency, it is not known how large a bill the taxpayers have had to foot for these wasteful vanity trinkets.⁶⁷

The public expects and deserves more from the head of the federal agency that controls most of the nation's federally-owned land.

IV. Conclusion

In his short time in office, Secretary Zinke's boundary-pushing—and, apparently, boundary-crossing—conduct has set a poor ethical example for the department's staff. He appears to have violated ethics-related laws and regulations on several occasions and

⁶¹ *Id.* Attendees included Trevor Ahlberg, who gave maximum contributions to a number of Republican campaign committees including President Trump's, and Gentry Beach, who gave the Republican National Committee \$5,000 in July 2016. *See* Federal Election Commission Receipts for Trevor Ahlberg, <https://goo.gl/toF8Wd>; Federal Election Commission Form 3X for the Republican National Committee at 7914 <https://goo.gl/uqfkyB>.

⁶² Official Travel Schedule of the Secretary, *supra* note 58.

⁶³ *See, e.g.*, Lobbying Disclosure Report of the National Rifle Association for Quarter 4, Calendar Year 2017, <https://goo.gl/pnpW99> (Senate) and <https://goo.gl/KM1c2D> (House).

⁶⁴ It is not known who paid the fees for this afternoon of shooting, but the lobbyist gift ban would have prevented him from allowing the NRA to pay. *See* Executive Order 13770, sec. 1, par. 5 (Jan. 28, 2017).

⁶⁵ Lisa Rein, *Where's Zinke? The interior secretary's special flag offers clues.*, WASH. POST (Oct. 12, 2017), <https://goo.gl/hqgxy5>.

⁶⁶ *Id.*

⁶⁷ Comptroller General decisions have made clear that agencies may not use appropriated funds for trinkets unless there is specific statutory authority to do so or if it is a necessary expense of the agency. *See e.g., IRS Purchase of T-Shirts for Employees Contributing Certain Amounts to the Combined Fed. Campaign*, 70 Comp. Gen. 248, 248 (Feb. 8, 1991); *HUD Gifts, Meals, & Entm't Expenses*, 68 Comp. Gen. 226, 226 (Feb. 3, 1989); *Purchase of Caps for Distribution to Nat'l Weather Serv. Volunteer Observers*, Comp. Gen. Dec. No. B-201488 (Feb. 25, 1981); *Payment for Sun Day Buttons Purchased by Gen. Servs. Administration*, Comp. Gen. Dec. No. B-192423 (Aug. 21, 1978); *In Matter of the Novelty Garbage Cans Distributed by Env'tl. Prot. Agency*, 57 Comp. Gen. 385 (Mar. 29, 1978); *To the Sec'y of Commerce*, B-151668 (Dec. 5, 1963) (cuff links for foreign visitors).

wasted taxpayer funds on frivolities. As a cabinet-level official, he owes more to the public he serves.⁶⁸

Therefore, CLC asks that you investigate whether Secretary Zinke violated the primary criminal conflict of interest law by reportedly meeting to discuss contracting opportunities with executives and a lobbyist for a company in which he is invested; whether he violated the Hatch Act by impermissibly soliciting campaign contributions at a political fundraiser in the Virgin Islands for a dubious group who has kept secret those donors who gave at the fundraiser; and whether he has otherwise misused taxpayer resources and blurred official and political business.

CLC further requests that you report any adverse findings for appropriate action.

Sincerely,



Brendan M. Fischer
Director, Federal and FEC Reform



Delaney N. Marsco
Ethics Counsel

cc. David J. Apol
Acting Director
U.S. Office of Government Ethics

⁶⁸ See, e.g., 5 C.F.R. §§ 2638.103 (“Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates.”), 2638.107 (“The agency head is responsible for, and will exercise personal leadership in, establishing and maintaining an effective agency ethics program and fostering an ethical culture in the agency.”).