



U.S. Department of Justice

Justice Management Division

Washington, D.C. 20530

April 23, 2021

The Honorable Emory A. Rounds, III
Director
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3919

Dear Mr. Rounds:

In accordance with the provisions of Title I of the Ethics in Government Act of 1978 as amended, I am forwarding the financial disclosure report of Kenneth Polite. President Biden has nominated Mr. Polite to serve as United States Assistant Attorney General, Criminal Division. We have conducted a thorough review of the nominee's report and have counseled him on the government ethics rules. The purpose of this letter is to describe the steps that Mr. Polite will take to avoid any actual or apparent conflict of interest in the event that he is confirmed for the aforementioned position. Mr. Polite understands that it is his responsibility to understand and comply with commitments outlined in the agreement.

Although it is not possible to provide for all of the specific circumstances which might give rise to a financial conflict of interest because the work of the Assistant Attorney General, Criminal Division, involves a wide variety of matters involving specific parties, and it is not possible to predict where conflicts will arise until specific parties are identified, we have counseled Mr. Polite on the applicable conflict of interest laws and regulations and, in particular, on the application of the criminal conflicts of interest law at 18 U.S.C. § 208.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), Mr. Polite will not participate personally and substantially in any particular matter in which he knows that he has a financial interest directly and predictably affected by the matter, or in which he knows that a person whose interests are imputed to him has a financial interest directly and predictably affected by the particular matter, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). He understands that the interests of the following persons are imputed to his:

- Any spouse or any minor child of his;
- Any general partner of a partnership in which he is a limited or general partner;
- Any organization in which he serves as officer, director, trustee, general partner or employee; and

- Any person or organization with which he is negotiating or has an arrangement concerning prospective employment.

In determining whether a particular matter has a direct and predictable effect on his financial interests or on those of any other person whose interests are imputed to him, Mr. Polite will consult with Department of Justice ethics officials. As stated in the attachment to the Ethics Agreement, Mr. Polite understands and agrees to comply with the conflict of interest laws and regulations, and to follow the procedures set forth in the agreement.

If Mr. Polite has a managed account or otherwise uses the services of an investment professional during his appointment, he will ensure that the account manager or investment professional obtains his prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), or obligations of the United States.

Mr. Polite will receive a live ethics briefing from Department ethics officials after his confirmation but not later than 15 days after his appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of his confirmation, Mr. Polite will submit his Certification of Ethics Agreement Compliance to Department ethics officials, which documents his compliance with the ethics agreement.

Mr. Polite understands that as an appointee he will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that he will be bound by it. Among other obligations, he will be required to recuse from particular matters involving specific parties involving his former employer or former clients for a period of two years after he is appointed, with the exception of Federal, state, and local government.

Mr. Polite will not modify the ethics agreement without my approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – MORGAN, LEWIS & BOCKIUS LLP

Upon confirmation, Mr. Polite will withdraw from the partnership of Morgan, Lewis & Bockius LLP. At that time, his capital account balance will be used to pay off the outstanding principal for his capital loan. As a result, he will not receive a refund of his capital account. In addition, pursuant to his partnership agreement, he will receive a lump-sum payment representing his *pro rata* partnership income for fiscal year 2021. The total amount of the payment will be calculated as of the date of his withdrawal. He will receive this payment before he assumes the duties of the position. He will not receive a bonus. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after his resignation, he also will not participate personally and substantially in any particular matter involving specific parties in which he knows this firm is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, he will not participate personally and substantially in any particular matter involving specific parties in which he knows a former client of his is a party or represents a party for a period of one year after he last provided service to that client, unless he is first

authorized to participate, pursuant to 5 C.F.R. § 2635.502(d)

SECTION 3 – OTHER RESIGNATIONS

Upon confirmation, Mr. Polite will resign from his positions with the following entities:

- Ochsner Health System
- New Schools for New Orleans
- Youth Empowerment Project
- Lawyers' Committee for Civil Rights under the Law
- Anti-Defamation League - South Central Region
- Crescent City Corps

Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after his resignation or termination of work from each of these entities, he will not participate personally and substantially in any particular matter involving specific parties in which he knows that entity is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 5 – SPOUSE EMPLOYMENT

Mr. Polite's spouse is employed by University of Pennsylvania Health System, in a position for which she receives a fixed annual salary and a bonus tied to her performance. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for as long as his spouse continues to work for University of Pennsylvania Health System, he will not participate personally and substantially in any particular matter involving specific parties in which he knows University of Pennsylvania Health System is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

In addition, Mr. Polite's spouse is a self-employed consultant. For as long as his spouse continues to provide these services, he will not participate personally and substantially in any particular matter that to his knowledge has a direct and predictable effect on his spouse's compensation or contracts, unless he first obtains a written waiver, pursuant 18 U.S.C § 208(b)(1). Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, he also will not participate personally and substantially in any particular matter involving specific parties in which he knows a client of his spouse is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 5 – PUBLIC POSTING

Mr. Polite has been advised that the ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Based on the above agreements and counseling, I am satisfied that the enclosed report presents no conflicts of interest under applicable laws and regulations and that you may so certify to the Senate Judiciary Committee.

Sincerely,

Lee Lofthus Date: 2021.04.23
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Lee J. Lofthus
Assistant Attorney General
for Administration and
Designated Agency Ethics Official

Enclosures

NOMINEE STATEMENT

I have read the Ethics Agreement signed by Lee J. Lofthus, Assistant Attorney General for Administration and Designated Agency Ethics Official on April 23, 2021, and I agree to comply with the commitments outlined in the agreement. In addition, in the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Department ethics officials and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset. I will not modify the ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4). I (including my spouse and any dependent children, if applicable) also will not repurchase any asset I was required to divest without my consultation with Department ethics officials and the U.S. Office of Government Ethics. Finally, I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of Federal, state, and local government.



Kenneth A. Polite

Date: April 23, 2021