



global witness

A FOREIGN AFFAIR

Conflicts of Interest in the
White House and Trump's
Dominican Republic Deal

December 2018



Signed _____ Signed _____

Date _____ Date _____

CONTENTS

PRESIDENT TRUMP: THE BUSINESSMAN	4
THE EXECUTIVE STEPS INTO HIS NEW ROLE	5
GEORGIA: BEHIND THE TOWER	6
INDIA: SELLING ACCESS TO THE TRUMP FAMILY	7
THE TRUMP ORGANIZATION RETURNS TO THE DOMINICAN REPUBLIC	8
HOW TRUMP'S FIRST DOMINICAN PROJECT FAILED	10
RESTARTING A TURBULENT BUSINESS RELATIONSHIP WITH A NEW DEAL	11
DEBUNKING THE TRUMP ORGANIZATION'S CLAIM THAT IT IS NOT A NEW DEAL	11
DOMINICAN REPUBLIC RECORDS CAST FURTHER DOUBT ON TRUMP'S CLAIM	13
HOW TRUMP IS CONFLICTED	14
THE POWERS HIGH UP	14
WHERE DOES THE TRUMP ORGANIZATION END AND THE TRUMP ADMINISTRATION BEGIN?	16
RECOMMENDATIONS	17

“[The Trump brand] is certainly a hotter brand than it was before. But in theory I could run my business perfectly, and then run the country perfectly. And there’s never been a case like this...” President-elect Donald Trump, November 2016

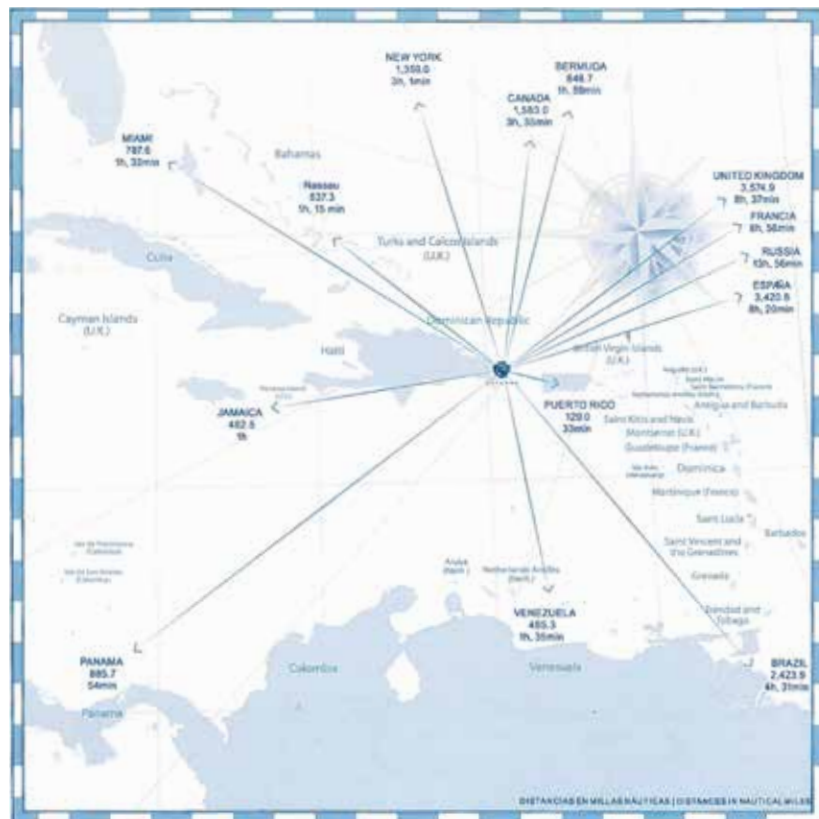
Despite President Donald Trump's pledge to pursue no new foreign business deals while in office, Global Witness' investigation shows that Trump is forging ahead with what appears to be a new real estate deal in the Dominican Republic—regardless of any corruption or conflicts of interest risks.

This follows their failed 2007 real estate deal in the Dominican Republic, which saw investors lose millions of dollars as construction never got off the ground in the midst of the financial crisis.

Trump's company later sued the Hazourys and their company for not paying them the agreed fees in their 2007 licensing deal. They also alleged that the Hazourys committed "text book fraud on such a wide scale." Trump's company later received cash and two pieces of property as in kind payments worth millions under their 2013 Settlement Agreement. The settlement with the Hazourys was on the basis of no admission of liability.

Now, nearly a decade later, the Trumps have returned to the Cap Cana resort and may be back in business with the Hazourys. Until now, further details of the Trumps' new business in the Dominican Republic has been unknown. Global Witness went undercover at the Cap Cana resort and discovered that the Trumps are pursuing what appears to be a new deal, in contradiction to Trump's pledge not to. Hallmarks of a new deal include, among others, a potential change in Trump's role as developer instead of licensor, and the fact that the new and previous developments are not even close to one another – they are five miles apart.

All of the subjects in this report were approached by Global Witness for their comment. Responses received at point of publication have been included in this report.



Global Witness' undercover investigation shows that the Trump Organization is engaged in what is apparently a new business deal at the Cap Cana resort in the Dominican Republic – despite corruption or conflicts of interest risks. © Global Witness

While it is not illegal for Trump to run a private business while in office, Cabinet members and senior administration officials are required by law to fully divest from any private financial interests that may intersect with their professional duties. The vice president and president of the U.S. are exempt from these rules.

Trump has placed his business interests under the control of his children through a trust, but can revoke that at any time.

The Trump Organization's business in the Dominican Republic has also spurred questions about the relationship between the U.S. president and Dominican officials. In particular, questions have arisen over whether Dominican officials changed rules so that buildings could be constructed higher to benefit a Trump company project, which could be a potential violation of the U.S. Constitution's Emoluments Clause.

Global Witness' new investigation underscores the need for a comprehensive conflict of interest law that holds both the president and vice president accountable to the American people. As his own lawyer stated ahead of his inauguration: "[A]ny new deal could — and I emphasize could — be perceived as causing a conflict or as exploiting the office of the presidency."

In response to our investigation, the Trump Organization denied that they are involved in any current project in the Dominican Republic.

THE EXECUTIVE STEPS INTO HIS NEW ROLE

A month before his inauguration, President-elect Donald J. Trump took to Twitter to announce that he would be leaving his business to his sons—Don Jr. and Eric—and executives so that he could focus on being President. He asserted that “[n]o new deals will be done during my term(s) in office.”

A month later at a news conference, Trump pledged that no new foreign deals would be made by his company—the Trump Organization—during his presidency to avoid actual or perceived conflicts of interest. As his lawyer Sheri Dillon stated, “any new deal could — and I emphasize could — be perceived as causing a conflict or as exploiting the office of the presidency.”

Yet within weeks of being sworn in as president, the spotlight was back on the Trump Organization as Eric was featured posing with former business partners who the organization once sued, alleging in court documents that they had engaged in “textbook fraud on such a wide scale.” The lawsuit was later settled without any admission of liability from the Hazourys. There Eric stood squinting in the bright coastal sun between two top businessmen in the Dominican Republic’s luxury real estate industry: Ricardo and Fernando Hazoury.

Eric’s visit prompted speculation about the Trump Organization’s interest in developing properties in Cap Cana, a luxury resort in the picturesque eastern part of the Dominican Republic, despite its previous deal there falling through. It also generated questions about what this potential deal meant for President Trump’s pledge to pursue no new foreign business while in office.

Global Witness’ new undercover investigation in the Dominican Republic confirms that the Trump Organization is planning a real estate project in the country. Features of the deal also suggest that contrary to Trump’s pledge to avoid new foreign deals that may present conflicts of interest, the Dominican deal is new.

Under the deal, Trump stands to profit handsomely since he and the Trump Organization should be viewed as synonymous. While his sons currently control the company’s day-to-day operations through a trust he created, Trump never fully divested and can still receive income from the company. He can revoke their authority and retake the assets in the trust at any time.

Global Witness’ investigation shows not only that Trump is contradicting his pledge to Americans but also that he may have violated the Emoluments Clause of the U.S. Constitution, which prohibits the president from accepting emoluments from a foreign official, including a salary, fee or profit from one’s employment or office.

What Trump’s Dominican misadventures perhaps best demonstrate however, is the need to reform U.S. conflict of interest law.

Past U.S. presidents have kept themselves from becoming embroiled in real or perceived conflicts of interest by following customs; for example, by disclosing their tax returns. Every major-party presidential nominee for the past 40 years has released at least some of their tax returns.



A Cap Cana magazine article celebrates Eric Trump’s visit to the resort in February 2017 and the rekindled relationship between the Trump Organization and Cap Cana, S.A. owners and brothers, Ricardo and Fernando Hazoury. © Global Witness



Trump's former Secretary of State and ex-CEO of Exxon Mobil, Rex Tillerson, left the energy company, sold off his millions of shares and put the cash into a trust to be overseen by a third party in order to avoid conflicts of interest while in government. © Jason Janik/Bloomberg via Getty Images



Trump's nominee for Army Secretary, billionaire Wall Street trader Vincent Viola, withdrew his name from consideration after announcing that it would be too difficult to distance himself from his business. © Eliot J. Schechter/NHLI via Getty Images

And most top officials in the executive branch—including senior administration officials and Cabinet members—are subject to ethics rules that require them to separate certain political and private business interests.

But Trump has not followed the customs of past presidents and the ethics rules that other administration officials are required to adhere to do not apply to the president and vice president. There are no laws prohibiting the president from engaging in private business matters. There are also no laws to keep the president from promoting his business while in office. And, there are no laws to prevent the president from financially benefiting from official acts, short of outright bribery or receiving gifts. This raises serious ethics concerns among some lawmakers and many Americans.

This report shows why U.S. ethics law should be changed. Because if Donald Trump—head of foreign policy for one of the world's most powerful countries—is now doing new deals in a small Caribbean country, how can the American people have faith that he is acting in their best interest and not his own?

GEORGIA: BEHIND THE TOWER

In Batumi—a resort town in the country of Georgia dubbed the “Pearl of the Black Sea”—there is a planned luxury high rise that its local developer previously called a “fake” Trump tower. Trump signed a deal with the developer Silk Road Group (SRG) in 2011 and immediately made nearly \$1 million by licensing his name to this project. Yet despite Trump's enthusiasm for the planned \$250 million project, he backed out weeks before his presidential inauguration, putting an end to his involvement.

The tower developer decided to go ahead with the original Trump building plans anyway, including the décor proposed by Ivanka Trump and adopting the name “T Tower.”

So why back out of the Batumi deal? According to *The New Yorker*, several experts expressed concerns that the deal involved “red flags for bank fraud and money laundering.” Global Witness' November 2017 investigative report, “Narco-a-Lago: Money Laundering at the Trump Ocean Club, Panama” also discussed questionable Trump real estate licensing deals involving warning signs for money laundering. *The New Yorker* also linked the Trump Organization to a “Kazakh oligarch who has direct links to Russia's President, Vladimir Putin.”

Publicly stated reasons for cancelling the project run the gamut. The head of SRG told *Reuters* that Trump dropped the deal to sidestep a conflict of interest. A lawyer for the Trump Organization has given different reasons at different times: That it was part of “normal housekeeping” and not because of potential conflicts of interest, that the project failed to meet the terms of the licensing deal and because of possible future violations of the Emoluments Clause to the U.S. Constitution once Trump became President.

Yet, in an odd turn of events, just after Trump won the 2016 presidential election, SRG reportedly told the press that the project was back on track, only to be contradicted months later and weeks before the presidential inauguration by a joint statement with the Trump Organization announcing the project had ended.

For now, the tower will not officially bear Trump's name but his former business partners in Georgia hope that the old licensing agreement will one day be revived. There is nothing stopping Trump from formally stepping back into this business relationship, especially with deeper political and business relationships so important to the real estate industry.



Donald Trump, before his White House run, shakes hands with former business partner George Ramishvili. Regarding a real estate deal in the country of Georgia, Ramishvili told a *Forbes* reporter, “[t]he tower will be ready for the Trump mark” ... “if the Trump mark is ready to come back to the tower.” © Todd Heisler/The New York Times/Redux

INDIA: SELLING ACCESS TO THE TRUMP FAMILY

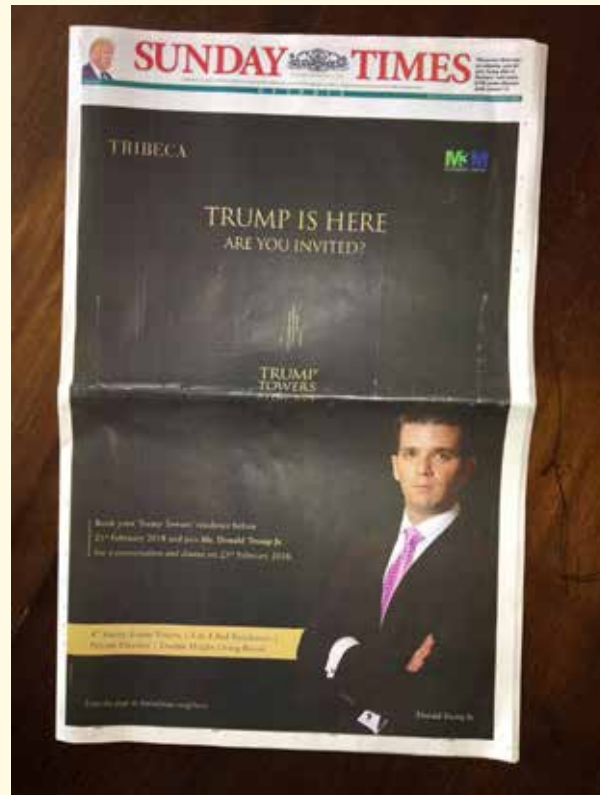
While Trump ended the deal in Georgia, other more lucrative deals are still in the pipeline. One must look no farther than India—the Trump Organization’s biggest market outside of the U.S. With five Trump-branded developments valued at an estimated \$1.5 billion—yielding licensing fees up to \$11 million between 2014 and 2017—it is no surprise Don Jr. and Ivanka prioritized high-publicity visits to the country.

But, behind the luxury there are warning signs seen across many of Trump’s branding deals. A recent investigation published by *The New Republic* shows the Trump Organization’s business partners in India were under government investigation for illicit activities. According to the investigative journalist, these business ties leave the Trump Organization vulnerable to potential violations of the U.S. Foreign Corrupt Practices Act.

Despite the corruption risks, the deals live on. In February 2018, Don Jr. visited India and in anticipation, a local developer ran ads in Indian newspapers offering anyone making a deposit on a Trump-branded apartment the opportunity to join him for a conversation over dinner. *The Washington Post* reported that, according to a local developer, over \$100 million worth of real estate had been sold in the towers—\$15 million of which within days after the offer appeared in newspapers.

**“I’m here as a businessman...
I’m not representing anyone.”**

Donald Jr. Trump, Global Business Summit
in New Delhi, India, February 2018



A full, front page advertisement placed by a local developer in several Indian newspapers in anticipation of Don Jr.’s visit to promote the Trump Towers development near Delhi asked: “Trump is here, Are you invited?” and “Trump has arrived. Have you?”. © @PATRICKFRENCH

Don Jr.’s visit came just three months after his sister, Ivanka, also visited India to speak at a high profile business summit. This visit raised questions in the U.S. about overlaps between her representation of the Trump brand and her role as a senior White House official.

A retired planning official in the Indian city where two major Trump developments are planned told the investigator for *The New Republic* that right after Ivanka’s trip (and before Don Jr.’s February visit) final permits for the project were rushed through.

As this example shows, the Trump brand thrives in part because of the access afforded to and by the President’s children. Not only is there a significant financial incentive for Don Jr. to sell access to his family as a proxy of the White House in exchange for real estate deals, but Ivanka’s official visit and increased brand recognition likely contributed to the Trump Organization’s successful real estate sales in India.



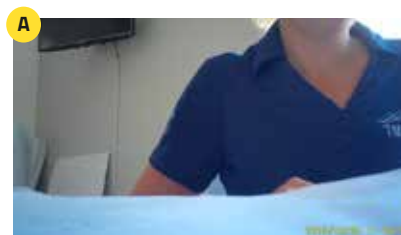
At a January 2017 press conference, Trump and his lawyer lay out his plan to avoid conflicts of interest, including his pledge to do no new foreign deals while in office, as his children, Don Jr., Ivanka and Eric look on with Vice President Mike Pence (left to right). © TIMOTHY A. CLARY/AFP/Getty Images

THE TRUMP ORGANIZATION RETURNS TO THE DOMINICAN REPUBLIC

In January 2017, standing before a conference table covered with manila folders and documents, President-elect Trump announced that he would not take on any new foreign deals while in office. This was just one of many pledges he made to separate himself from his business and to address conflicts of interest.

In the end, Trump appears not to have stuck to this pledge, as we discovered in our latest investigation. In October 2018, an undercover investigator for Global Witness met with a sales representative at the vast Cap Cana resort currently under development in the Dominican Republic.¹ Our investigator was posing as a representative for a wealthy business man looking to buy properties.

During this meeting which we captured on video, the sales representative started to pitch condominiums in a section of the Cap Cana resort called “Juanillo Beach.” According to the sales representative, the project involved Trump: “and then here we’re [going to] have a new development with the Trump Organization of apartments and [a] commercial area”



A. Global Witness’ undercover investigator meeting with a sales representative and exclusive broker at the Cap Cana resort at the office of 7Mares luxury tower construction site. © Global Witness



B. A view towards Trump’s Juanillo Beach project (center-right), Sanctuary Cap Cana (right) and the Hyatt twin towers under construction (left) from the top of the 7Mares building site. © Global Witness



C. Cap Cana sales representative points toward Eden Roc at Cap Cana and Farallón Estates also at the resort (far right corner). © Global Witness



D. Cap Cana sales representative showing Global Witness’ undercover investigator through Eden Roc. © Global Witness

¹ In one day, Global Witness’ undercover investigator met with two representatives holding senior positions at Inversiones Aides Dominicana S.A., or Aides Real Estate Cap Cana, the resort’s exclusive brokerage firm. One representative was present for the entire meeting and the other joined by phone on two occasions. Global Witness’ undercover investigator was given an extensive tour of the Cap Cana resort by the sales representative.

1. Centro de Información y Ventas
(Information and Sales Office)
2. Heritage School
3. Unibe Cap Cana
4. AISol Luxury Village
5. AISol Tiara

6. Marina Cap Cana
7. Secrets Cap Cana
8. Juanillo Beach
9. Sanctuary at Cap Cana
10. AISol del Mar
11. Punta Espada Golf Club

12. Eden Roc at Cap Cana
13. Eden Roc Beach Club
14. Los Establos
15. Scape Park at Cap Cana

A map used to explain to Global Witness' undercover investigator that the Trump Organization's project will be located between Sanctuary at Cap Cana (9) and twin Hyatt hotel towers (H) under construction on Juanillo Beach (8).
© Global Witness



"So here is what I was telling you about the new development that [we are going to] have, [it will be] like ... Las Ramblas street [where you have] the street in the middle and buildings on both sides.... [A]nd then it will come into this beach, which is Juanillo Beach."
Cap Cana sales representative,
October 2018



The Cap Cana sales representative compared the Trump Organization's project to the famous Las Ramblas pedestrian boulevard in Barcelona, where tourists and locals alike flock to see and be seen. © iStock



Today, Farallón Estates at Cap Cana is empty dirt lots as seen in the above photo taken by a Global Witness investigator in August 2018 with a picturesque view of the Atlantic Ocean. © Global Witness

and “it’s right on the sea.” A December 2017 *Dominican Today* news report links a Dominican project called “Condos de Playa Juanillo” to Trump’s company.

According to the representative, the Juanillo Beach project will include stores, restaurants and condominiums. It will be located between a hotel called “Sanctuary Cap Cana” and two Hyatt hotels that are currently under construction. And, as soon the development was ready to sell, our investigator would be the first to know. Later in the discussion, the representatives were more circumspect that this project is a new deal for Trump, ultimately referring Global Witness’ undercover investigator to the Trump Organization.

The Cap Cana resort, which includes Juanillo Beach, as well as the Sanctuary, Secrets and the Hyatt hotels, covers a swath of the Dominican Republic’s eastern coast that is larger than Manhattan. The resort also offers polo grounds and a Jack Nicklaus-designed golf course.

The Cap Cana resort developer and operator is Cap Cana, S.A., owned by the powerful and wealthy Dominican family, the Hazourys.

HOW TRUMP’S FIRST DOMINICAN PROJECT FAILED

The Juanillo Beach project is not the first time the Trump company has tried to do a deal in the Dominican Republic. Indeed, it is not even the first time the company has tried to do a deal in the Cap Cana resort with the Hazourys.

In 2007, through his company Trump Marks Real Estate LLC (Trump’s company),² Trump licensed his name to a “super-luxury project,” that included Trump Farallón Estates at Cap Cana.³ Before it failed, this project was supposed to include 68 lots for mansions overlooking the Atlantic Ocean. A number of property buyers were left with nothing and lost millions when the development failed to get off the ground.

In May 2007, Trump, Eric and Ivanka traveled to the Cap Cana resort to sell pieces of “paradise.” Potential buyers paid top dollar then to gain entrance to an exclusive party for the chance to buy a lot at the Trump Farallón Estates at Cap Cana. Hopes were high as sales reached record levels: More than \$300 million in one day.

The high did not last long. Soon after the 2008 financial crisis, the Trump Farallón Estates project failed. According to a businessperson with experience working with Cap Cana, S.A., “[The Hazourys, owners of the company] had created a monster that was impossible to maintain” around the same time they were negotiating the 2007 licensing deal with Trump. Even using millions in bonds and other financing would not have been enough to dig them out of their hole, according to the same source. For the Hazourys, potential profits from Farallón Estates were seen as a lifeline.

After the project’s collapse the relationship between the Hazourys and Trumps deteriorated. In 2012, Trump’s company filed a lawsuit against the Hazourys and Cap Cana, S.A. alleging in a court document that they had committed “text book fraud on such a wide scale” and that they failed to pay them over \$14 million in fees under their 2007 licensing agreement for Trump Farallón Estates.

² Here in after referred to as “Trump’s company.” Donald Trump owns both Trump Marks Real Estate LLC and the Trump Organization.

³ In this case, licensing one’s name is to obtain permission from a company (licensor) to use one or more products (the Trump name) within a defined market area. In exchange, the company that obtains the rights (licensee) agrees to pay royalty fees to the licensor or original owner for the use of the product(s).

In a related court document, Eric wrote that the “biggest shock” came when he learned that Cap Cana, S.A. did not have the money to continue paying them agreed licensing fees despite having collected millions in sales. The Trumps demanded compensation amounting to \$5.8 million and the parties eventually settled in June 2013 for payments in cash and in kind. Fulfilling the settlement agreement, Cap Cana, S.A. gave Trump’s company cash and two property lots located in what was supposed to be the Trump Farallón Estates as in kind payments.

Today the Farallón Estates are nothing more than squares of dust with occasional wooden platforms propped up throughout—platforms that were once meant to simulate for prospective buyers the view from a luxurious bathroom or kitchen overlooking the blue sea. Not a single mansion was ever built.

A number of property purchasers who initially bought stakes in the doomed enterprise, including some who invested their life savings and pooled money with friends to be able to afford the investment, were left with nothing and lost millions.



An unfinished, abandoned structure at Farallón Estates at Cap Cana in the Dominican Republic. © Rose Marie Cromwell for Bloomberg Businessweek

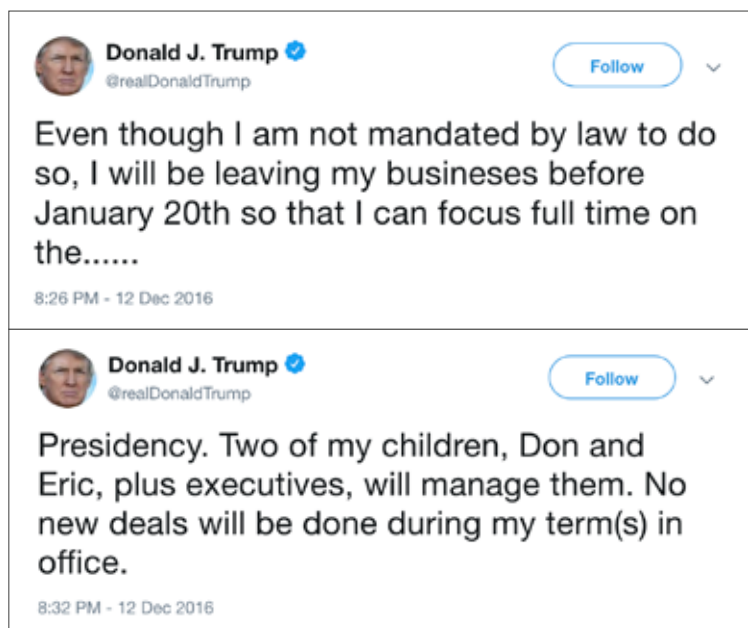
Some attributes of the 2007 project at the Cap Cana resort are consistent with other Trump-branded properties. As Global Witness revealed in “Narco-a-Lago, Money Laundering at the Trump Ocean Club, Panama,” many of Trump’s licensing arrangements bear similar concerning hallmarks. Many include partnerships and associations with questionable or even criminal figures with shadowy connections. Some projects have gone bust amid lawsuits and disputes between developers, owners or tenants. Yet Trump has frequently come out on top even when others have lost out.

RESTARTING A TURBULENT BUSINESS RELATIONSHIP WITH A NEW DEAL

Today, despite this sordid history, representatives of the Trump Organization, the Hazourys and Cap Cana sales representatives swear that their past is just that, in the past. However, with reports swirling in the American and Dominican media about a potential new Trump project in the Cap Cana resort, they have also been careful to stress that they are just continuing the 2007 project. Our research and undercover investigation suggest otherwise.

It is likely that the Trump Organization and the Hazourys continue to emphasize that the deal is not new so that Trump does not appear to contradict his pledge to pursue no new foreign deals while he is in office. Yet this pledge appears only to be a construct of Trump and his team; a dishonest sales pitch to the American people about what he will and will not do while in office that as we demonstrate in this report, can have real consequences.

DEBUNKING THE TRUMP ORGANIZATION’S CLAIM THAT IT IS NOT A NEW DEAL



In these December 2016 evening Tweets, President-elect Trump made public some of his planned attempts to separate himself from his business to avoid conflicts of interest.



Trump has used the term “new” in his pledge to do no new foreign deals while in office in order to avoid conflicts of interest. Trump should know that in the U.S. there are actually no established standards by which a real estate project can be squarely characterized as “new” within the context of conflicts of interest.

When asked about Trump’s December 2016 Tweets pledging to do no new deals by *The New York Times*, Richard W. Painter, a White House ethics advisor under President George W. Bush, stated, “[i]t makes no sense to say ‘no new deals.’”

Despite Trump’s pledge—and his company’s assertions that the project is a continuation of the 2007 deal—our investigation shows that Trump’s Juanillo Beach project bears certain hallmarks of a “new” development. Below we set out features that collectively suggest that Trump’s current project in the Dominican Republic can be viewed as a new deal.

First, one indicator of a new project is the role of Trump’s company in the deal. For example, during our undercover investigation, the Cap Cana sales representative told Global Witness that the “Trump Organization” is going to be the “developer” of the Juanillo Beach project. This stands in contrast to the Trump company’s 2007 deal in which Trump licensed the use of his name for projects at the resort. In the same 2007 agreement with Trump’s company, it was Cap Cana, S.A. that was listed as “developing a luxury resort,” not Trump. If Trump is now a developer, then he would appear to need a new agreement.

Second, assessing whether two projects are physically contiguous, or actually touching or connected, is a determinant of a new and separate project. This is further supported when the same person or entity does not own the land between those two projects. The locations of Trump’s old Farallón Estates and new Juanillo Beach projects are different. The two are separated by other properties that are for sale, some of which have been sold to third parties. They are not even particularly close to one another, about a five-mile drive.

Third, under provisions in the 2013 Settlement Agreement with Trump’s company, Cap Cana, S.A. gave two plots of land from Farallón Estates to Trump’s company as an in kind payment. Global Witness analysis, based on consultation with a legal expert, suggests that such a “carve-out”



Satellite photo showing the locations of Farallón Estates at Cap Cana and the location of a new Trump Organization project on Juanillo Beach.



View from the 7Mares tower under construction toward the Hyatt hotels also being developed and the Trump Organization's planned Juanillo Beach project (the white beach center-right) at the Cap Cana resort captured by Global Witness' undercover investigator's hidden camera. © Global Witness

interrupted the continuation of the agreed project, including Farallón Estates.

More specifically, under the Settlement Agreement (sections 4hh and 5b), Cap Cana, S.A. carved out two plots of land for Trump's company as an in kind payment that could be developed by it independently, or sold. These plots were originally part of the larger project at Farallón Estates. But because the plots were given to Trump's company, the Settlement Agreement also gave it access to certain amenities afforded to the rest of the lots in Farallón Estates (e.g., utilities and road access).

This amounted to a kind of legal separation of the two plots from the rest of Farallón Estates. According to a legal expert, the existence of such separation suggests that any subsequent Trump project within the Cap Cana resort could be treated as distinct or different from the Farallón Estates project, and would not be a continuation of their original project plans.

While none of the above is conclusive, a determining factor of whether Trump's latest Dominican deal is indeed new could be found in Trump's tax returns. Through his tax returns one could see the extent to which Trump companies originally doing business at the Cap Cana resort and the entities now doing business there are related for tax purposes. Unfortunately, Trump has famously refused to disclose his tax returns, despite 40 years of precedent.

DOMINICAN REPUBLIC RECORDS CAST FURTHER DOUBT ON TRUMP'S CLAIM

A look at these projects from the Dominican perspective also helps demonstrate that Trump's project at Juanillo Beach should be seen as new and separate from the original 2007 projects.

For example, those working on developments in the Dominican Republic such as Cap Cana resort, can be approved by the Ministry of Tourism for tax incentives and exemptions. Many large tourism projects in the country seek this approval demonstrating how important it is.

With this context, it is worth exploring whether, and if so when projects that may be associated with Trump's company have obtained the Ministry of Tourism's approval, since this may suggest that his Juanillo Beach project is a new deal.

According to Ministry of Tourism records, between 2002 and June 2018, no project with the Trump name on it received final approval for tax breaks.

However, in December 2017, Cap Cana, S.A. received a new provisional tax break approval for the project, "Condos de Playa Juanillo." This was less than one year after Eric reunited with the Hazourys at the Cap Cana resort and his father took office as the President of the United States. In

July 2018, Cap Cana, S.A. received final tax break approval for Condos de Playa Juanillo.

Condos de Playa Juanillo is described in Dominican records as having three residential and three mixed blocks, as well as one commercial block. The Cap Cana sales representative, when meeting Global Witness' undercover investigator, described several projects that are planned in the area but only one that will have mixed residential and commercial blocks. The representative stated that this project will be a "new development with the Trump Organization of apartments and [a] commercial area."

By July 2018 Condos de Playa Juanillo, a project likely associated with Trump, received its final tax break approval which suggests that the project is not a continuation of the 2007 deal.

HOW TRUMP IS CONFLICTED

In January 2017 when Trump announced at a news conference that he would not pursue new foreign business deals, his lawyer Sheri Dillon, who was tasked with structuring the trust agreements concerning his businesses, specified that:

- Trump's trust would continue to hold pre-existing assets, including Trump-branded and -operated commercial rental property, resorts, hotels and rights to royalties from pre-existing licenses of Trump marks.
- Through the trust agreement President-elect Trump ordered all pending deals be terminated.
- The trust agreement specifies that "no new foreign deals will be made whatsoever during the duration of President Trump's presidency."

Dillon explained that Trump would have no direct knowledge of the business' strategic moves. She also stated that he would have no role in taking any new deals forward in order to avoid even the perception of a conflict of interest or any impression that the president's office was being exploited.

As described further below, regardless of whether the Trump's Juanillo Beach project is "new," Trump-affiliated business at the Cap Cana resort represents a conflict of interest that highlights the need for legal reform in the U.S.

But our investigation also shows that Trump's Dominican business partners have obtained legally-dubious building permits from the highest ranks of the Dominican government. At the same time, the government may also have changed its building rules in a way that would benefit both Trump and his partners. As a result, it is possible that Trump has violated the U.S. Constitution's Emoluments Clause.

THE POWERS HIGH UP

In October 2018, the Cap Cana sales representative told Global Witness' undercover investigator that the Trump Organization could take the Juanillo Beach project forward and that the project had all the necessary permits.

"[T]he Trump Organization can do this... and so, yeah, they're [going to] do it... very soon."
Cap Cana sales representative, October 2018

In 2007 the Ministry of Tourism gave Cap Cana, S.A.—in other words, the Hazourys—the right to bypass normal building requirements when developing the resort. So long as Cap Cana, S.A. followed a "master plan" that the tourism ministry had approved, the company had all the permits it needed.⁴

However, according to the Cap Cana sales representative interviewed by Global Witness' undercover investigator, it is actually the Dominican president who grants important building permits.

Regardless of which senior official granted Cap Cana, S.A. permits, the arrangement has been controversial. According to a regional environmental government official,

⁴ As of 2007, the Cap Cana resort is developed under a master plan filed with the Ministry of Tourism. When asked by Global Witness, the Department of Planning at the Dominican Ministry of Tourism said that Cap Cana, S.A. is allowed to use the land as it relates to the master plan. A Department representative also told Global Witness that Cap Cana, S.A. decides who sees the master plan. One other large project in the country's eastern region, Punta Cana, has also been developed under its 2011 master plan.



According to a local biologist and geologist, the development of towers along the eastern coast of the Dominican Republic will negatively impact the environment, including damage to mangroves, wetlands, lagoons, beaches and caverns. © iStock

Hochi Echavarria, Cap Cana, S.A.'s deal with the Ministry of Tourism sidestepped important oversight and was illegal.

Global Witness requested a comment from the Ministry of Tourism about the illegality of such permits and received no response.

Echavarria is not alone in his concern. "Permits granted to Cap Cana and similar projects create a separate jurisdiction that is a violation of the Dominican Constitution and land use regulations," according to Carlos Morel, a legal expert at the Instituto de Investigación Social para el Desarrollo, a local think tank.

According to Morel, "this arrangement also creates problems with transparency, access to information, environmental protection and urban planning." Morel also clarifies that "this is more than a legal problem—it affects the model of sustainable development that a modern state should have. In Cap Cana, the Hazourys are left to do business as they would like, without fear of any serious repercussions."

It is not only Trump's Dominican associates who have gotten breaks under Dominican law, it is also possible that the government has newly "clarified" the building laws to benefit President Trump himself.

In October 2017—the first year of Trump's presidency and eight months after Eric's most recent trip—the Ministry

of Tourism issued a "clarification" to building laws. The changes allowed developments in Macao, a town just north of the Cap Cana resort, to reach as high as 22-stories which is far higher than original height restrictions of four to five stories.

Some suspect the height change was pushed through to favor certain developers. An aide in the Dominican tourism ministry told *Fast Company* that "[o]f course, it's on everyone's mind—that this will help Cap Cana and help Trump." For example, Cap Cana, S.A. received tax approvals for 17 towers at its resort under its master plan also to reach as high as 22-stories, and as such, legal precedent establishing in a nearby tourist town is likely to help quell challenges to the Hazourys' development plans at the Cap Cana resort.

Moreover, Bernardo Vega, a former Dominican ambassador to the U.S., has claimed that the Dominican president and minister of tourism's office have used the Trump name to pressure the private sector to support its height regulation change.

Fast Company also reported that in some meetings with regional politicians and hotel industry leaders, Dominican government officials referred to the Cap Cana resort generally as "the Trump project." However, when asked by the outlet, the Tourism Minister denied that "the Trump Organization had anything to do with the height increase."

If it is the case, as Dominican officials suggest, that height restriction rules were changed to benefit Trump's business at the Cap Cana resort, this raises question as to whether the U.S. Constitution's Emoluments Clause has been



At a November 2018 event hosted by the Dominican Ministry of Tourism, Abraham Hazoury, member of the Board of Directors of Cap Cana, S.A., defended the controversial decision to raise the height of buildings in the country's eastern coastal tourist region. © Ministerio de Turismo República Dominicana



For Americans to have faith in their government, it is essential that a sitting president or public official avoids private business – whether new or old – that may expose them to actual or perceived conflicts of interest. Pursuing private business exposes the president to conflicts of interest risks while he is also making political decisions that may benefit his business and him personally. © Visions of America/UIG via Getty Images

violated. The Emoluments Clause prohibits a U.S. president from accepting emoluments (a salary, fee or profit from employment or office) from a foreign official.

Based on consultation with a legal expert, the building height variance at the Cap Cana resort, sanctioned by the Dominican government provides Trump with greater opportunities to profit, which could be considered an emolument under current U.S. law. This is particularly the case if Trump receives more than a one-time payment, such as a percentage of real estate sales and other related fees and royalties under a licensor agreement. According to the legal expert, if the building height variance in the Cap Cana resort, reinforced by the change of law in Macao, increases the opportunity for Trump to profit, then there are grounds for a potential violation of the U.S. Constitution’s Emoluments Clause.

Global Witness is not currently aware whether any Trump-related project in the Dominican Republic—including the Juanillo Beach project—enjoys increased prospective profiting opportunities for Trump as a result of the 2017 height restriction change.

The tourism ministry’s “clarification” of Dominican law also raises questions whether, thanks to Trump, the Dominican government is acting in the interest of the country’s people or the U.S. president. The Dominican Republic is a small Caribbean island that exists in the shadow of the U.S.’ political and economic influence and is heavily dependent on tourism for its economic well-being. Such power

dynamics when mixed with the presence of a President Trump-affiliated business should concern Dominicans that believe their government must be accountable to them.

In response to our investigation, a spokesperson for the Trump Organization said: “The story is completely false. The Trump Organization has no plans to either develop or license its brand with respect to any new real estate project in the Dominican Republic. In 2007, the company entered into a license agreement with a local developer for a multi-component real estate development project to be built over several years. Though there have been some discussions about starting the next phase of the development, there are no plans in place at this time.”

WHERE DOES THE TRUMP ORGANIZATION END AND THE TRUMP ADMINISTRATION BEGIN?

New or old, Trump’s business in the Dominican Republic poses a conflict of interest for him and for the American people as his business interests and the foreign policy interests of the U.S. may not always align.

However, this is not illegal. American law preventing the president from becoming embroiled in such conflicts of interest—particularly related to their private business—should be created to set clear boundaries for their professional and personal activities.

Members of Congress, as well as bipartisan legal and ethics experts have not been satisfied with the measures Trump has taken to avoid conflicts by separating himself from his businesses.

“Without a full and complete divestment of financial conflicts of interest, the American people will not be able to tell where the Trump Organization ends and where the Trump administration begins.”

Senators Elizabeth Warren, Bob Casey and Tammy Baldwin joint statement, January 2017

According to legal and ethics experts, for 38 years each president has sold off his holdings and handed his assets over to independent third parties to manage—creating actual blind trusts—even though there is no legal requirement to do so. A true blind trust reduces the appearance of conflicts of interest by shielding the president from information about where the company is doing or may do business.

Yet under Trump’s current business arrangements, he and his company are not totally separated and he can still draw income from the Trump Organization. Moreover, he can learn about his company’s holdings and where it stands to make money.

Simply put by Walter Shaub, former Director of the U.S. Office of Government Ethics (OGE), in his afternoon statement following Trump’s January 2017 press conference: “This is not a blind trust—it’s not even close.”

Richard Painter, a former top ethics lawyer for the George W. Bush White House joined over a dozen public interest groups and several former GOP elected officials in a December 2016 letter to Trump. In that letter they expressed concern to Trump that “[b]y combining your presidency with your family business, you will create ongoing conflicts of interest and credibility problems for your presidency.”

Reflecting these concerns, Shaub clearly made OGE’s primary recommendation that Trump divest his conflicting financial interests and that nothing short of that would resolve his conflicts. Even still, Trump’s lawyers insist that all necessary measures have been taken to separate him from the Trump Organization.

RECOMMENDATIONS

Americans have more to learn about whether and to what extent conflicts of interest played a role in the Trump Organization’s business dealings in the Dominican Republic or elsewhere. We also need to know whether government policies in the U.S. and other countries have been influenced by Trump’s business and whether principles of democracy and transparency in the U.S. and abroad have been undermined from the highest offices.

But regardless of what is learned, a deeper truth seems apparent—conflicts of interest rules are not simply procedural exercises we pay lip service to; they are at the heart of what public service means in America and beyond. If we want to honor that tradition, the rules governing the president must be updated for the 21st century, both to respond to the challenges posed by the Trump presidency and future occupants of the Oval Office.

The United States should ensure that it has in place effective ethics controls, including that the president and vice president address foreign and domestic conflicts of interest and are held accountable under the U.S. Constitution. More specifically:

Recommendation 1: Requisite authorities should investigate these allegations and, if appropriate, hold the Trump Organization, Donald Trump and his family members accountable for their actions. Congressional committees looking into such issues should likewise investigate these allegations and, if appropriate, hold the Trump Organization, Donald Trump and his family members accountable for their actions.

The Trump Organization’s business in the Dominican Republic has spurred questions about the relationship between the U.S. president and Dominican officials. In particular, whether Dominican officials changed rules so that buildings could be constructed higher to benefit a Trump company project. These changes should be investigated to determine if they represent an emolument to the president and thus a violation of the U.S. Constitution’s Emoluments Clause.

Recommendation 2: Congress should pass legislation that ensures the president and vice president address actual and perceived conflicts of interest. Such legislation should, at a minimum, require the disclosure of business records, including and specifically tax

returns, transfer of all relevant financial interests into a blind trust and that certain profits resulting from a conflict of interest be turned over to the U.S. Treasury Department.

Ethics rules have long governed top officials in the administration and Cabinet members but exempt the president and vice president.

There are no laws prohibiting an American president from continuing to be involved in private business matters. There are also no laws to keep the president from promoting his business while in office. Barring outright bribery or receiving gifts, there are no laws to prevent the president from financially benefiting from official acts or conflicts of interest. This raises serious ethics concerns among some lawmakers and many Americans.

Therefore, Congress should pass legislation that requires that divestment or the transfer of assets to a blind trust occur very shortly after the president and vice president assume office. Moreover, the spouse and children of these members should also divest or transfer to a blind trust all interests that create actual or perceived financial conflicts of interest. All assets must be either divested from or placed in a true blind trust and managed or sold by an independent, third party. Any violation should be considered a high crime or misdemeanor under the impeachment clause of the U.S. Constitution.

Recommendation 3: To address current conflicts of interest and prevent the president from further profiting from his office, Trump should be required to turn over all relevant proceeds to the appropriate authorities.

Trump has pledged to donate certain real estate profits made from foreign governments at his properties to the U.S. Treasury Department as a step toward distancing himself from any conflicts of interest resulting from his business. Experts suspect that this pledge was made in order to quell concerns that Trump is violating the U.S. Constitution's Emoluments Clause, banning the president's acceptance of foreign gifts and money without Congress' permission. Despite the Trump Organization's refusal to disclose the amount donated in 2017, *The Daily Mail* first reported that the company donated \$151,470—the U.S. Treasury confirmed receipt of a check but did not comment further.

Moving forward, to avoid conflicts of interest and to protect the best interests of Americans and other people around the world, Trump-affiliated companies should provide Congress and the U.S. Treasury with a complete record of profits from foreign governments. This would allow Congress to exercise effective oversight, and if necessary, empower the Treasury Department to reclaim these profits.



global witness

This report is published by Global Witness Inc.

Office for Global Witness Inc. in Washington DC
1100 17th Street NW
Suite 501
Washington DC 20036, USA
Phone: +1 202-827-8673

Office for Global Witness in London
1 Mark Square,
London, EC2A 4EG,
United Kingdom
Phone: +44 (0)207 4925820
Fax: +44 (0)207 4925821

www.globalwitness.org

ISBN 978-1-911606-33-8

© 2018 Global Witness Inc.