

# United States Senate

WASHINGTON, DC 20510

February 3, 2021

Monty Wilkinson  
Acting Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Acting Attorney General Wilkinson:

According to recent news reports, the Biden administration hired Nicholas McQuaid as Acting Assistant Attorney General for the Criminal Division on January 20, 2021.<sup>1</sup> Mr. McQuaid was employed at Latham & Watkins until January 20, 2021, and worked with Christopher Clark, who Hunter Biden reportedly hired to work on his federal criminal case a month before President Biden's inauguration.<sup>2</sup>

It is unclear what role, if any, Mr. McQuaid has in the Hunter Biden case or whether he has any access to the case. As a general matter, all government employees must avoid situations that create even the appearance of impropriety and impartiality so as to not affect the public perception of the integrity of an investigation.<sup>3</sup> Moreover, the Justice Department ethics guide cites 28 C.F.R § 45.2 which states, in part:

no employee shall participate in a criminal investigation if he has a personal or political relationship with [...] [a]ny person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or [a]ny person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.<sup>4</sup>

President Biden's recently issued executive order on ethics imposes similar requirements.<sup>5</sup> In complying with this rule, the employee must report the matter to his supervisor. If the supervisor determines that a personal or political relationship exists the employee shall be relieved unless the supervisor determines, in writing, the relationship will not "render[] the employee's service less than fully impartial and professional" and the employee's participation "would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution."<sup>6</sup>

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<sup>1</sup> Daniel Chaitin and Jerry Dunleavy, *Tucker Carlson reports DOJ hired ex-business partner of Hunter Biden criminal defense attorney*, Washington Examiner (Jan. 29, 2021).

<sup>2</sup> Lachlan Markay, *Ex-colleague of Hunter Biden's lawyer gets top DOJ post*, Axios (Feb. 1, 2021).

<sup>3</sup> Specifically, 5 C.F.R. § 2635.502, advises that a government employee should seek clearance before participating in any matter that could cause his or her impartiality to be questioned. Executive Order 12674, "Principles of Ethical Conduct for Government Officers and Employees," makes clear that "[e]mployees shall not hold financial interests that conflict with the conscientious performance of duty," "[e]mployees shall act impartially and not give preferential treatment to any private organization or individual," and "[e]mployees shall endeavor to avoid any actions creating the *appearance* that they are violating the law or the ethical standards set forth in this part." Emphasis added.

<sup>4</sup> 28 C.F.R § 45.2

<sup>5</sup> Executive Order on Ethics Commitments by Executive Branch Personnel (Jan. 20, 2021).

<sup>6</sup> 28 C.F.R § 45.2

In order to better understand what role, if any, Mr. McQuaid has played in the Hunter Biden investigation and what steps, if any, the Department and Mr. McQuaid have taken to mitigate all conflicts, please answer the following no later than February 17, 2021:

1. What steps has the Department taken to ensure that Mr. McQuaid's reported connection to Hunter Biden's attorney does not cause conflicts of interest with the Department's ongoing criminal investigation involving Hunter Biden? Please explain.
2. Please describe what role, if any, Mr. McQuaid has or had in the Hunter Biden investigation, either as a government employee or prior to departing Latham & Watkins.
3. Does Mr. McQuaid have access to the Department's Hunter Biden case file? If so, please explain why and whether Mr. McQuaid has accessed the file.
4. Please provide all records of communications between and among Department officials relating to access to the Hunter Biden case.
5. Has Mr. McQuaid communicated with the U.S. Attorney for the District of Delaware? If so, when and what was discussed?
6. Has Mr. McQuaid communicated with Christopher Clark since he became Acting Assistant Attorney General for the Criminal Division? If so, when and what was discussed?
7. Has Mr. McQuaid communicated with any Department ethics officials with respect to the Hunter Biden case? If so, when and what was discussed?

If you have any questions about this request, please contact Joshua Flynn-Brown of Senator Grassley's staff at (202) 224-5225 and Brian Downey and Scott Wittmann of Senator Johnson's staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley  
United States Senator



Ron Johnson  
United States Senator