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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

A. JAY KHOSLA, STAFF DIRECTOR
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June 20, 2018

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20515

Dear Chairman Hatch:

When serious questions about compromising the integrity of our charitable tax laws are raised, the Senate Finance Committee has never ducked. Through this Committee's long history—and particularly over the past ten years—the Senate Finance Committee has rigorously investigated alleged abuses of charitable tax laws, often on a bipartisan basis.

As Ranking Member and later Chairman of this Committee, you were intimately involved in this Committee's multi-year, bipartisan investigation into allegations that the Obama administration was impermissibly targeting conservative nonprofits.¹ At the time you described this investigation as "absolutely critical," and vowed to pursue the matter, "wherever it leads" despite criticism from the White House that the allegations were partisan.² Then-Chairman Baucus held hearings and initiated an investigation into the allegations following a letter you sent requesting the Committee investigate the matter.³ In your letter to then-Chairman Baucus you stated, "I respectfully request that you immediately schedule a hearing on this issue so that the members of the committee and the American public can learn the details surrounding this reported behavior ... As the sole committee of jurisdiction over the IRS, it is critical that Finance Committee play a leadership role in examining this issue."

¹ Finance Committee investigation into IRS administration of tax-exempt entities, May 2013, <https://www.finance.senate.gov/chairmans-news/finance-committee-irs-investigation-update>.

² Hearing Statement from Ranking Member Hatch at Finance Committee Hearing Examining the Targeting of Conservative Groups by the IRS, May 2013, <https://www.finance.senate.gov/imo/media/doc/05.21.13%20Hatch%20Statement%20at%20Hearing%20on%20IRS%20Targeting%20Conservative%20groups%20FINAL.pdf>.

³ Letter from Ranking Member Hatch to Chairman Baucus regarding IRS targeting of conservative nonprofits, May 13, 2013, <https://www.hatch.senate.gov/public/index.cfm/2013/5/hatch-calls-for-finance-committee-hearing-investigation-into-targeting-conservative-groups>.

More recently, you initiated an investigation into nonprofit hospitals, building off former-Chairman Grassley's work on the issue in 2005.⁴ Earlier this year you initiated an investigation into tax-exempt credit unions.⁵ In 2015 you initiated an investigation into the tax-exempt status of workers' organizations.⁶ In 2009 this committee concluded a three-year investigation of the Association of Community Organizations for Reform Now (ACORN), and over 100 organizations identified as affiliated with ACORN.⁷ Additionally, in 2007 this Committee initiated an investigation into certain religious organizations.⁸

Many of this Committee's investigations into abuse of charitable tax laws have been bipartisan. Last year the Committee initiated an investigation into abuse of syndicated conservation easement donations.⁹ In 2015 this Committee queried IRS's examination of tax-exempt churches. In 2012 this Committee investigated whether certain veterans' charities were diverting charitable resources for personal gain.¹⁰ In 2008 this Committee initiated a bipartisan investigation into universities with large endowments.¹¹ In 2008 this Committee also commissioned a bipartisan investigation into reporting of charitable cash contributions by the Government Accountability Office (GAO).¹² In 2003 this Committee initiated a multi-year investigation into abuse of tax laws by The Nature Conservancy, culminating in a 2005 report on the abuse of conservation incentives.¹³ This Committee commissioned a bipartisan investigation

⁴ Finance Committee investigations into nonprofit hospitals, May 2005, <https://www.finance.senate.gov/chairmans-news/grassley-releases-non-profit-hospital-responses-expresses-concern-over-shortfalls-in-charity-care-community-benefit>, February 2018, <https://www.finance.senate.gov/chairmans-news/hatch-grassley-press-irs-for-answers-on-nonprofit-hospitals>.

⁵ Finance Committee investigation into tax-exempt credit unions, January 2018, <https://www.finance.senate.gov/imo/media/doc/1.31%20Credit%20Union%20letter.pdf>.

⁶ Finance Committee investigation into workers' organizations, April 2015, <https://www.finance.senate.gov/chairmans-news/hatch-and-ryan-ask-irs-to-clarify-tax-exempt-status-of-worker-centers>.

⁷ Finance Committee investigation into the Association of Community Organizations for Reform Now (ACORN), September 2009, <https://www.finance.senate.gov/ranking-members-news/finance-committee-tax-staff-review-of-acorn-tax-exempt-status>.

⁸ Finance Committee investigation into certain religious organizations, November 2007, <https://www.finance.senate.gov/imo/media/doc/prg110607a.pdf>.

⁹ Richard Rubin, "Thousands of Investors Got Big Tax Breaks for Land-Rights Donations, IRS Finds: Lawmakers Scrutinize Conservation Easements that Let People Profit Quickly," Wall Street Journal, March 14, 2018, <https://www.wsj.com/articles/thousands-of-investors-got-big-tax-breaks-for-land-rights-donations-irs-finds-1521053766>.

¹⁰ Finance Committee investigation into certain veterans' organizations, May 2012, <https://www.finance.senate.gov/chairmans-news/baucus-burr-investigate-nonprofit-for-exploiting-veterans-taxpayers-abusing-tax-exempt-status>.

¹¹ Finance Committee investigation into universities with large endowments, January 2008, <https://www.finance.senate.gov/release/baucus-grassley-write-to-136-colleges-look-for-details-of-endowment-pay-outs-student-aid>.

¹² Government Accountability Office, "Report to the Committee on Finance, U.S. Senate, 'Tax Gap: Requiring Information Reporting for Charitable Cash Contributions May Not Be an Effective Way to Improve Compliance,'" May 2009, <https://www.gao.gov/products/GAO-09-555>.

¹³ Finance Committee investigation into The Nature Conservancy, July 2003, <https://www.finance.senate.gov/release/grassley-seeks-answers-on-nature-conservancy-donations-deals>.

into charitable donations of vehicles by GAO, resulting in a 2003 report from the agency.¹⁴ This Committee also commissioned a bipartisan investigation into public, IRS, and state oversight of charities by GAO, resulting in a 2002 report.¹⁵

In order to continue this work, I write you today to request that the Senate Committee on Finance commence an immediate bipartisan investigation that includes the Donald J. Trump Foundation to determine whether current rules and IRS enforcement sufficiently protect charitable resources from self-dealing, partisan political activity, and other actions that are inconsistent with the laws governing charitable organizations.

Allegations of misuse of charitable funds by the Trump Foundation have been widely reported. David Fahrenthold of the Washington Post has documented several instances of potentially inappropriate payments made by the Trump Foundation. For example, in September 2007, the foundation reportedly made a \$100,000 payment to a veterans' foundation to settle legal claims against Mar-a-Lago.¹⁶ In February 2012, the foundation reportedly made a \$158,000 payment to the Martin B. Greenberg foundation to settle legal claims against the Trump National Golf Club.¹⁷ In November 2013, the foundation reportedly paid \$5,000 for the purchase of promotional space featuring Trump International Hotels.¹⁸ In March 2014, Trump reportedly paid \$10,000 to a children's foundation for a painting of himself, which was displayed at the Trump National Doral Miami.¹⁹

On June 14, 2018 the New York State Office of the Attorney General (NYOAG) released findings of an investigation into the Donald J. Trump Foundation, indicating that the foundation engaged in a pattern of self-dealing transactions and prohibited political activity.²⁰ Specifically the NYOAG found that during and after a fundraising event for veterans' charities held on January 28, 2016 in Iowa, the Trump campaign impermissibly coordinated with the Donald J. Trump for President political campaign. The report states, "Following the fundraiser, senior Trump Campaign staff dictated the manner in which the Foundation would distribute those proceeds." The report goes on to state, "All of the grants issued by the Foundation from the proceeds of the

¹⁴ Government Accountability Office, "Report to the Committee on Finance, U.S. Senate, Vehicle Donations: Benefits to Charities and Donors, but Limited Program Oversight," December 19, 2003, <https://www.gao.gov/assets/250/240652.pdf>.

¹⁵ Government Accountability Office, "Report to the Committee on Finance, U.S. Senate, Tax-Exempt Organizations: Improvements Possible in Public, IRS, and State Oversight of Charities," April 2002, <https://www.gao.gov/products/GAO-02-526>.

¹⁶ David A. Fahrenthold, "Trump used \$258,000 from his charity to settle legal problems," Washington Post, September 20, 2016, https://www.washingtonpost.com/politics/trump-used-258000-from-his-charity-to-settle-legal-problems/2016/09/20/ad88f9c-7d11-11e6-ac8e-cf8e0dd91dc7_story.html.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ David A. Fahrenthold, "How a Univision anchor found the missing \$10,000 portrait that Trump bought with his charity's money," Washington Post, September 21, 2016, https://www.washingtonpost.com/news/post-politics/wp/2016/09/21/how-a-univision-anchor-found-the-missing-10000-portrait-that-trump-bought-with-his-charitys-money/?utm_term=.4a710e473c25.

²⁰ Letter from New York State Office of the Attorney General to Acting IRS Commissioner David Kautter, "Referral for Donald J. Trump Foundation (EIN # 13-3404773), June 14, 2018.

Iowa Fundraiser – which did not include any funds donated by Mr. Trump personally – were selected by the Trump Campaign.”

The NYOAG report further found that the Donald J. Trump Foundation, “entered into at least five self-dealing transactions that directly benefitted Mr. Trump or for-profit entities that he controlled ... None of these transactions were approved by the Foundation’s Board.”

Allegations that the Donald J. Trump Foundation and its directors committed “extensive and persistent violation of state and federal law” deserve the same rigorous oversight by this committee as other abuses of charitable tax laws. Robust Congressional oversight is critical to ensuring taxpayers know that tax-deductible charitable dollars are going to deserving causes, rather than lining the pockets of organization insiders. It is also critical to ensuring that the tax code has appropriate safeguards against self-dealing, partisan political activity, and other actions that are inconsistent with the long-standing rules for charitable organizations.

Accordingly, I request that this Committee commence an immediate bipartisan investigation so that members can review the facts behind allegations against the Trump Foundation and hear directly from the individuals involved in these matters. I appreciate the courtesy of a response to this request by June 27, 2018.

Sincerely,



Ron Wyden
Ranking Member
Committee on Finance, U.S. Senate