



United States Department of State

Washington, D.C. 20520

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April 20, 2017

MEMORANDUM FOR WHITE HOUSE COUNSEL DONALD F. McGAHN

FROM: Katherine D. McManus, Deputy Legal Adviser and Designated Agency Ethics Official, United States Department of State

SUBJECT: Request for a Waiver Pursuant to Section 3 of Executive Order 13770

Margaret Dougherty has begun work as a Policy Advisor at the U.S. Mission to the United Nations in Washington (“USUN-W”). Prior to joining the Department of State, Ms. Dougherty worked for the Government of the United Kingdom at the British Embassy in Washington, D.C. Because Ms. Dougherty would not be able to fully perform the duties of Policy Advisor at USUN-W if prohibited from communicating with her former employer and working on matters of interest to it, the Department is seeking a waiver pursuant to section 3 of Executive Order 13770.

Executive Order 13770, “Ethics Commitments by Executive Branch Personnel,” section 1 (Ethics Pledge), requires all covered political appointees to abide by certain commitments. Paragraph 6 of the Ethics Pledge provides that, for a period of two years from the date of her appointment, Ms. Dougherty is obligated to not participate in any particular matter involving specific parties that is directly and substantially related to her former employer. Section 2 of Executive Order 13770 defines “particular matter involving specific parties” to include “any meeting or other communication relating to the performance of one’s official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.” Section 2 defines “directly and substantially related to [her] former employer” as “matters in which the appointee’s former employer . . . is a party or represents a party.”

Performing the official duties of Policy Advisor at USUN-W will require Ms. Dougherty to participate personally and substantially in particular matters involving specific parties that are directly and substantially related to the Government of the United Kingdom, as defined in Executive Order 13770. As a Policy Advisor, Ms. Dougherty is responsible, among other duties, for serving as

UNCLASSIFIED

UNCLASSIFIED

- 2 -

an initial point of contact at USUN-W regarding global developments, crises, and events of interest to the U.S. Representative to the United Nations; participating in meetings with representatives of foreign governments and multilateral organizations to contribute technical analyses and assessments of complex issues; providing advice and guidance on issues and problems of interest to the U.S. Representative to the United Nations; and drafting, clearing, and recommending policy on matters under discussion at the United Nations and implementing guidance.

In the course of performing her official duties, Ms. Dougherty will be expected to meet and communicate with U.K. government officials. She may also be personally and substantially involved in other particular matters involving the Government of the United Kingdom, such as developing and implementing policy guidance with respect to resolutions and statements under discussion at the United Nations. Like the United States, the United Kingdom is a permanent member of the U.N. Security Council and one of the United States' closest allies and negotiating partners in the United Nations. Therefore, nearly any resolution, press statement, or presidential statement on which the United States engages at the Security Council could be of interest to and subject to discussions with representatives of the Government of the United Kingdom.

The Office of the Legal Adviser for the Department of State requests that you approve a waiver pursuant to section 3 of Executive Order 13770 permitting Ms. Dougherty to work on certain matters that may constitute particular matters involving specific parties directly and substantially related to the Government of the United Kingdom. It would be highly impractical for Ms. Dougherty to avoid meeting with representatives from the United Kingdom and working on matters under discussion at the United Nations of interest to the United Kingdom. The close relationship between the United States and the United Kingdom at the United Nations and Ms. Dougherty's broad advisory portfolio on global issues of interest to the U.S. Representative to the United Nations will necessarily involve advising on matters also of interest to the Government of the United Kingdom.

A number of other factors may be relevant to your waiver decision. Ms. Dougherty does not have a continuing relationship with the Government of the United Kingdom. Nor does she have a retirement plan, or other financial relationship, with the Government of the United Kingdom. The U.S. Mission to the United Nations and its office in Washington routinely engage on matters of joint interest to all members of the Security Council, including the Government of

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the United Kingdom, as well as thirteen other governments. It is important for USUN-W staff to have the flexibility to work with all foreign governments. Additionally, principles of federal ethics law restrict Ms. Dougherty from showing preference or favoritism toward the Government of the United Kingdom in the course of her official duties. We would counsel Ms. Dougherty on the application of the federal ethics rules and have no reason to question her integrity in this regard.

The following waiver certification details the scope of the waiver that the Office of the Legal Adviser requests that you grant.

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Certification and Waiver Pursuant to Section 3 of Executive Order 13770

Pursuant to section 3 of Executive Order 13770, I hereby certify that Margaret Dougherty is granted a waiver of restrictions under paragraph 6 of the Ethics Pledge on her involvement, as Policy Advisor at the Washington office of the U.S. Mission to the United Nations (“USUN-W”), in certain particular matters involving specific parties directly and substantially related to her former employer, the Government of the United Kingdom.

Scope of Waiver

Ms. Dougherty is permitted to work on the following matters in the course of her official duties, even if they constitute particular matters involving specific parties directly and substantially related to the Government of the United Kingdom, as defined in section 2 of Executive Order 13770:


- Meetings and communications with officials of the Government of the United Kingdom;
- Advising the U.S. Representative to USUN-W and otherwise working on matters under discussion at the United Nations of interest to the Government of the United Kingdom, including specific resolutions and statements.

The waiver would not permit Ms. Dougherty to work on particular matters that directly and predictably affect her financial interests, as defined in 18 U.S.C. § 208;

Basis for Waiver

- Performing the official duties of Policy Advisor at USUN-W will require Ms. Dougherty to participate personally and substantially in particular matters involving specific parties that are directly and substantially related to the Government of the United Kingdom, as defined in Executive Order 13770.
- In the course of performing her official duties, Ms. Dougherty will be expected to meet and communicate with U.K. government officials. She may also be personally and substantially involved in other particular matters involving the Government of the United Kingdom, such as developing and implementing policy guidance with respect to resolutions and statements under discussion at the United Nations. Like the United States, the United Kingdom is a permanent member of the U.N. Security Council and one of the United States' closest allies and negotiating partners in the United Nations. Therefore, nearly any resolution, press statement, or presidential statement on which the United States engages at the Security Council will be of interest to and subject to discussions with representatives of the Government of the United Kingdom.
- Ms. Dougherty does not have a continuing relationship with the Government of the United Kingdom. Nor does she have a financial interest in the Government of the United Kingdom.
- Principles of federal ethics law restrict Ms. Dougherty from showing preference or favoritism toward the Government of the United Kingdom in the course of her official duties. The State Department will counsel Ms. Dougherty on the application of the federal ethics rules, and there is no reason to question her integrity in this regard.

Accordingly, this limited waiver is hereby granted with the understanding that Ms. Dougherty will comply with the remaining provisions of the Ethics Pledge and with government ethics rules.



Donald F. McGahn II
Counsel to the President