

C A M P A I G N F O R

ACCOUNTABILITY

October 18, 2018

By Fax: (800) 223-8164

Daniel R. Levinson
Inspector General
U.S. Department of Health & Human Services
PO Box 23489
Washington, DC 20026

By Email: elizabeth.fischmann@hhs.gov

Elizabeth J. Fischmann
Designated Agency Ethics Official
U.S. Department of Health & Human Services
200 Independence Ave., S.W., Room 700-E
Washington, DC 20201

By Fax: (202) 205-4270

Ben Goldhaber
Deputy Assistant Secretary for Administration (DASA)
Administration for Children and Families (ACF)
330 C St. SW, MS 3127, Room 3103
Washington, DC 20201

**Re: Request for Investigation of Director of the Office of Refugee Resettlement
Scott Lloyd's Relationship with the Knights of Columbus**

Dear Ms. Fischmann and Messrs. Levinson and Goldhaber:

Campaign for Accountability (“CfA”) respectfully requests that you open an investigation into the Director of the Office of Refugee Resettlement (“ORR”), Scott Lloyd, and his communications and relationship with his former employer, the Catholic fraternal service organization Knights of Columbus (the “Knights”). Mr. Lloyd worked as an attorney in the public policy office of the Knights.¹ In June 2017, approximately three months after assuming his role within the Administration for Children and Families (“ACF”) as Director of ORR, and shortly after leaving his position with the Knights, Mr. Lloyd appears to have improperly communicated

¹ Administration for Children & Families’ employee profile for Scott Lloyd, *available at* <https://www.acf.hhs.gov/about/leadership/scott-lloyd>.

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with representatives from the Knights regarding the organization's attempt to obtain a government contract to provide temporary refugee housing in Wisconsin.

Background

Emails obtained by CfA² show that on April 25, 2017 Rebecca Devine, a communication specialist for the Knights, emailed a friar with the Franciscan Assumption Blessed Virgin Mary Province ("the friar") to thank him for reaching out to the Knights regarding a building that might be available for temporary refugee housing.³ She asked the friar for more details about the property and its ownership. She also indicated that the Knights would potentially be able to facilitate making use of the property for temporary refugee housing.

The friar told Ms. Devine that the building in question was a large monastery near Milwaukee, Wisconsin, and was owned by the Franciscan Assumption Blessed Virgin Mary Province.⁴ The monastery was being used as a Franciscan novitiate but would soon become vacant. The Franciscan province was looking for a use for this building and agreed to consider leasing it for use as temporary housing for refugees. The friar noted that the building had been used to temporarily house hurricane refugees in 2005 after Hurricane Katrina.

Ms. Devine forwarded her email exchange with the friar to Andrew T. Walther, Vice President of Communications and Strategic Planning for the Knights. On April 26, 2017, Mr. Walther forwarded Ms. Devine's email conversation with the friar to Mr. Lloyd saying only "FYI. Please see below."⁵ In effect, this appears to be a communication from a Knights of Columbus representative to his former colleague, Mr. Lloyd, seeking Mr. Lloyd's assistance in obtaining a government contract.

On June 13, 2017, Mr. Lloyd forwarded Mr. Walther's request to Kenneth Tota, Deputy Director of ORR, asking Mr. Tota to further forward the request to the correct person. Mr. Lloyd explained that the request was "in reference to a monastery that wants to house refugees in Wisconsin."⁶ Mr. Tota responded, agreeing to connect the Knights with the State Coordinator for Wisconsin.⁷

² On September 20, 2018 CfA obtained records from the Department of Health and Human Services in response to a FOIA request filed by CfA on October 27, 2017. Those records contained the relevant communications referenced in this letter, and the subset of relevant records is attached hereto as Exhibit A. The entirety of the September 20, 2018 production is available at: <https://www.documentcloud.org/documents/5000934-CfA-HHS-FOIA-Response-Documents-Scott-Lloyd.html>.

³ The name of the friar was redacted in the documents received by CfA. See Ex. A at 5 (April 25, 2017 email from Rebecca Devine to the friar).

⁴ See Ex. A at 3-4 (April 26, 2017 email from the friar to Rebecca Devine).

⁵ See Ex. A at 2 (April 26, 2017 email forwarded from Andrew Walther to Scott Lloyd).

⁶ See Ex. A at 1 (June 13, 2017 email forwarded from Scott Lloyd to Kenneth Tota).

⁷ See Ex. A at 1 (June 13, 2017 email from Kenneth Tota to Scott Lloyd).

These communications suggest Mr. Lloyd used his government position as the director of ORR to help secure a government contract for his former employer, the Knights of Columbus.

Mr. Lloyd's Conflicts of Interest

Mr. Lloyd's recent effort to assist the Knights obtain a government contract to open a refugee resettlement house may violate ethics regulations. In late March 2017, Mr. Lloyd was appointed to the position of Director of ORR by President Trump but was not confirmed by the United States Senate.⁸ As a presidential appointee, Mr. Lloyd should have signed an Ethics Pledge, pursuant to President Trump's Executive Order 13770 ("Executive Order"), which states that "[e]very appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee."⁹ The Executive Order directed Mr. Lloyd to pledge, in part:

I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.¹⁰

The Executive Order further clarifies that:

"Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communications 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.¹¹

The Code of Federal Regulations and the laws on which they are based generally define "particular matter" in relation to former government employees.¹² The Executive Order, however, extends the definition beyond the statutory definition to include communications between a current government employee and his or her former employer about any matter.

CfA has attempted to obtain a copy of Mr. Lloyd's signed Ethics Pledge from both the Office of Government Ethics ("OGE") and the Financial Disclosure Section of the Department of Health and Human Services ("HHS"). Neither office, however, would provide the document, forcing CfA to submit a FOIA request in order to obtain a copy of Mr. Lloyd's signed Ethics

⁸ *Garza v. Hargan*, Case No. 16-cv-3539-LB, Deposition of E. Scott Lloyd at 13:14 – 14:5 (Dec. 18, 2017 N.D. Ca), available at <https://www.aclu.org/legal-document/garza-v-hargan-scott-lloyd-deposition>.

⁹ Executive Order 13770 § 1, available at [https://www.oge.gov/web/oge.nsf/Executive%20Orders/A43C4DBAB9EC4DC7852580BC006FBA83/\\$FILE/Exec%20Order%2013770.pdf?open](https://www.oge.gov/web/oge.nsf/Executive%20Orders/A43C4DBAB9EC4DC7852580BC006FBA83/$FILE/Exec%20Order%2013770.pdf?open).

¹⁰ *Id.* at § 1(6).

¹¹ *Id.* at § 2(1)(s).

¹² 18 U.S.C. § 207(i)(3); 5 C.F.R. § 2641.201(h)(2).

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Pledge. CfA has submitted the FOIA request seeking its production. As yet, CfA has not received a response from either OGE or HHS.

Presuming that Mr. Lloyd signed the Ethics Pledge as required by the Executive Order, then he agreed to forgo any contact with his former employer, the Knights of Columbus, unless the communication entailed a meeting or event that was open to all interested parties. Clearly, Mr. Lloyd's communications with the Knights about a potential lease of a property is not a meeting or event open to all interested parties.

Conclusion

Mr. Lloyd's direct and private communication with the Knights of Columbus for the purpose of securing a government contract appears to be a clear-cut violation of President Trump's Executive Order 13770. The Executive Order directs each agency's designated ethics official to administer the Executive Order, and also directs the Attorney General to investigate any violations.¹³ Therefore, CfA requests that you obtain a copy of Mr. Lloyd's signed Ethics Pledge and promptly investigate whether Mr. Lloyd violated Executive Order 13770 § 1(6).

Sincerely,

A handwritten signature in blue ink, appearing to read "Alice C.C. Huling".

Alice C.C. Huling
Counsel

¹³ Executive Order 13770 §§ 4(a)(2)–(c)(2).

EXHIBIT A

From:	Tota, Kenneth (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5C0919FE56454C2B8E7C59C38646EBEC-TOTA, KENNE>
To:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Subject:	Re: Share with Scott Lloyd
Date:	2017/06/13 09:00:46
Priority:	Normal
Type:	Note

Scott,

Sure. I will connect them with the State Coordinator.

Thanks. Ken

On: 13 June 2017 05:45, "Lloyd, Scott (ACF)" <Scott.Lloyd@acf.hhs.gov>wrote:

Ken,

Could you forward this to the appropriate person? It's in reference to a monastery that wants to house refugees in Wisconsin.

Thank you,

Scott

From: Andrew.Walther@Kofc.Org [mailto:Andrew.Walther@Kofc.Org]

Sent: Wednesday, April 26, 2017 9:30 AM

To: Lloyd, Scott (ACF)

Subject: Fw: Share with Scott Lloyd

Scott,

FYI. Please see below.

Andrew

Andrew T. Walther

Vice President

Communications and Strategic Planning

Knights of Columbus

One Columbus Plaza

New Haven, CT 06510

(203) 752-4253 (office)

(203) 752-4400 (fax)

(203) [redacted] (cellular)

----- Forwarded by Rebecca Devine/HomeOffice/KofC on 04/26/2017 09:26 AM -----

From:
[redacted]@gmail.com>

To:
Rebecca.Devine@kofc.org,

Date:
04/26/2017 12:15 AM

Subject:
Re: Franciscan property for refugees

Hello Rebecca,

Thank you for your reply.

The building is a large monastery type of building in SE Wisconsin

(near Milwaukee) that is currently the U.S. Franciscan novitiate. The

novitiate program is moving to California and so the building will

become vacant later this summer. My Franciscan province owns the

building and will be looking for a use for it now and will be

discussing that at our meeting in early June. We will consider

temporary housing for refugees if that is needed. Following Hurricane

Katrina, we partnered with the Red Cross to temporarily house

hurricane refugees there in 2005.

Fr. (b)(6) OFM, is on the novitiate staff at the building

and will be involved in this project. He would be a good one to

contact for further information.

His email address is:

(b)(6)@aol.com

Thank you!

Fr. (b)(6) OFM

On Tue, Apr 25, 2017 at 3:33 PM,
<Rebecca.Devine@kofc.org>wrote:

>Dear Father (b)(6),

>

>Thank you very much for reaching out to the Knights of
Columbus regarding

>the building that might be available for temporarily
housing refugees. Would

>you mind providing us a few more details about the
property, who owns it,

>etc so that we can reach out to some organizations that
might be able to

>make use of it?

>

>Please feel free to call if that is more convenient for
you.

>

>Thanks again,

>

>Rebecca

>

>

>

>---

>Rebecca Devine

>Communications Specialist, Knights of Columbus

>

>rebecca.devine@kofc.org

>203. (b)(6)

>

>CONFIDENTIALITY NOTICE: This message and any attachments may contain

>confidential, proprietary or legally privileged information and is intended

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Recipient:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Sent Date:	2017/06/13 09:00:45
Delivered Date:	2017/06/13 09:00:46

Date:	2017/06/17 23:36:13
Priority:	Normal
Type:	Contact
Display Name:	Andrew.Walther@Kofc.Org
Email Display Name:	Andrew.Walther@Kofc.Org
Email Address:	Andrew.Walther@Kofc.Org

Sent Date:	2017/06/17 23:36:13
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