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Investigations

D.C. and Maryland AGs: Trump ‘flagrantly violating’ emoluments clause

(Reuters)

By Aaron C. Davis and Karen Tumulty

June 12

✉

Democratic state attorneys general, a chief roadblock to some of President Trump’s most controversial policies, escalated their campaign against him Monday, alleging in a lawsuit that payments by foreign governments to Trump’s businesses violate anti-corruption clauses in the Constitution.


The lawsuit, the first of its kind brought by government entities, marks a turning point for Democratic attorneys general and showcases their increasingly influential role in Washington at a time when their party is largely shut out of power.

D.C. Attorney General Karl A. Racine and Maryland Attorney General Brian E. Frosh say in the lawsuit that Trump’s decision to retain ownership of his business empire, and from inside the White House, “calls into

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question the rule of law and the integrity of the country's political system."

At a news conference, Racine and Frosh accused Trump of "flagrantly violating" the Constitution's emoluments clause, which prohibits U.S. officeholders from taking anything of value from foreign leaders.

The conflicts created are so vast, Frosh said, that Americans cannot say with certainty whether Trump's actions on a given day are taken in the best interest of the country or that of his companies.



D.C. Attorney General Karl A. Racine speaks Monday during a news conference in the District in which he and Maryland Attorney General Brian E. Frosh (D) announced a lawsuit against President Trump. (Michael Reynolds/European Pressphoto Agency)

"Constituents must know that a president who orders our sons and daughters into harm's way is not acting out of concern for his own business," Frosh said. "They must know that we will

not enter into a treaty with another nation because our president owns a golf course there."

[\[See the lawsuit filed Monday\]](#)

In the first months of Trump's presidency, Democratic attorneys general have banded together and won lawsuits challenging Trump's bans on travelers from majority-Muslim nations. They have sought to use courts to protect "sanctuary" cities, a target of Trump's Justice Department, and filed suits to delay rollbacks of environmental regulations sought by Trump's administration. Some have hired special prosecutors to look into Trump's business dealings.

The new lawsuit argues that D.C. and Maryland, specifically, are being harmed because the Trump International Hotel near the White House may be drawing business away from the taxpayer-owned Walter E.

The harbingers of doom for the Trump administration



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Washington Convention Center in the District and a facility in Maryland subsidized by taxpayers.

The Kuwaiti Embassy held an event at the Trump hotel, the lawsuit notes, switching its initial booking from the Four Seasons. A public-relations firm hired by Saudi Arabia, which Trump visited on his first trip abroad as president, also has spent over \$270,000 on rooms, meals and parking at the president's D.C. hotel in recent months as the kingdom shuttled U.S. veterans to D.C. to lobby against a measure in Congress that could expose the Saudi government to lawsuits. Turkey held a state-sponsored event there last month. And in April, the ambassador of Georgia stayed at the hotel and tweeted his compliments. Trump has appeared at the hotel and greeted guests repeatedly since becoming president.

In all, the lawsuit filed in U.S. District Court for the District of Maryland names 10 countries it says Trump has profited from as president.

At the White House, press secretary Sean Spicer dismissed the lawsuit, saying it's "not hard to conclude that partisan politics may be one of the motivations."

Facing a bank of 20 television cameras, Racine and Frosh left little doubt that they were embracing their role in pushing back against Trump.

"The Republican-controlled Congress has wholly failed to fulfill its responsibility of serving as a check and balance on the president and has thus given the president a total pass on his business entanglements," Racine said.

Lawsuits brought under the emoluments clause are exceedingly rare, and the lack of precedent left legal experts divided on how the case might end. But many agreed that the suit is more likely than several similar cases brought recently to survive early challenges.

If it does proceed, Racine and Frosh say they will demand that Trump turn over his personal tax returns to gauge the extent of his foreign business dealings. That fight would most likely end up before the Supreme Court, the two said,

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with Trump's attorneys having to defend why the returns should remain private.

Andy Grewal, a law professor at the University of Iowa, has been openly skeptical that any emolument lawsuit will succeed. But Grewal said he thinks having the District and Maryland as plaintiffs will make federal courts reluctant to halt the suit before it reaches the phase of discovery that could lead to Trump's tax returns.

"What is most likely is to get to the tax returns," Grewal said. Beyond that, he said, the path forward for D.C. and Maryland is less clear.

[*\[Democrats plan resolution to demand Trump divest from his business\]*](#)

The D.C.-based watchdog group Citizens for Responsibility and Ethics in Washington (CREW) [filed a similar lawsuit](#) in January. In March, a [D.C. restaurant sued Trump](#), alleging that his hotel in D.C. benefits from unfair advantages because of its close association with the president. And last week, a group of Democratic members of Congress said they [plan to file suit soon](#). Each complaint, however, has faced legal hurdles over standing to sue the president.

[*\[The official who let Trump keep his government hotel deal explains herself\]*](#)

In the Trump administration's most detailed response yet, the Justice Department filed a 70-page legal brief Friday arguing the CREW lawsuit should be dismissed. The administration said Trump's businesses are legally permitted to accept payments from foreign governments while he is in office. The filing held up the lack of past complaints — going all the way back to farm produce sold abroad by George Washington — to assert that market-rate payments for Trump's real estate, hotel and golf companies do not constitute emoluments as defined by the Constitution.

Norman Eisen, who served as the chief White House ethics lawyer for President Barack Obama and is CREW's board chairman, said jurisdictions such as the District and Maryland are among the "most perfect plaintiffs" to sue

over emoluments because they have a say in making sure the Constitution is being enforced.

“Trump is the framers’ worst-case scenario — a president who would seize office and attempt to exploit his position for personal financial gain with every governmental entity imaginable, across the United States or around the world,” said Eisen, whose nonprofit group is serving as outside counsel in the lawsuit brought by the District and Maryland.

On the domestic side, the suit alleges Trump has received unconstitutional financial favors from the U.S. government. It says the U.S. General Services Administration, which handles federal real estate, wrongly allowed Trump’s company to continue to lease the Old Post Office building, where Trump built his D.C. hotel, though a clause in the contract said no elected official could remain on the lease.

[*\[Despite promise, Trump’s business offers little information about foreign profit\]*](#) [

The lawsuit also alleges that Trump is violating domestic emoluments by creating a situation in which states feel compelled to compete for Trump’s favor, perhaps by offering zoning exemptions, waivers or other benefits to help his businesses.

After the Trump Organization initially said it would not pursue new deals while he was in office, Trump’s sons announced last week that the company would begin building a network of new hotels in mostly Republican-leaning states that he won in last year’s election.

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The lawsuit by D.C. and Maryland says the two jurisdictions are faced with an “intolerable dilemma” — to go along with the Trump Organization getting special treatment, including possible lost local revenue, or “deny such requests and be placed at a disadvantage vis-à-vis states and other government entities that have granted or will agree to such concessions.”

Jed Shugerman, a law professor at Fordham University, said he believes D.C. and Maryland have a strong argument to make that the case should proceed and that federal courts should establish a “bright line” for presidents as to what constitutes an emoluments violation. Similar questions could have been raised about the Clinton Foundation if Hillary Clinton had won the White House, he said.

“We need clarity not just for the Trump administration but because there has been too much blurring of the lines of what is appropriate and what is not,” he said.

Monday’s lawsuit drew criticism from the Republican National Committee and Republican state attorneys general. Arkansas Attorney General Leslie Rutledge, vice chair of the Republican Attorneys General Association, called the lawsuit “grandstanding for political purposes. . . . Quite frankly, it is an unfortunate display of partisan politics by my colleagues across the aisle.”


But Sean Rankin, executive director of the Democratic Attorneys General Association, cast Monday’s suit as a break from the group playing defense. “To date, Democratic attorneys general have been responding to Trump’s actions,” he said. “Today, Democratic attorneys general moved to offense.”

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