

The Clinton Foundation And The “India Success Story”: Self-Serving Philanthropy, Watered Down Drugs, and Money in sub-Saharan Africa

Prepared By The Office of Congressman Marsha Blackburn of Tennessee’s Seventh Congressional District – September 2016



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PREFACE

Initial Reports and IRS Correspondence – Spring 2015

Congressman Marsha Blackburn (TN-07) directed staff to initiate an investigation of the Clinton Foundation (hereinafter “The Foundation”) in April 2015. The investigation was prompted by media reports detailing financial improprieties and conflicts of interest at the Foundation as follows:

First, the Foundation failed to file a form 990 series return with the IRS listing tens of millions of dollars in foreign government grants between 2010 and 2012.¹ Foundation Acting CEO Maura Pally admitted in an April 26, 2015 blog post that “...our error was that government grants were mistakenly combined with other donations.”² Former President Clinton said that “people re-file their taxes all the time” and that the omissions were “just an accident”.³ The Foundation apparently reported such information prior to 2010.

Second, Canadian businessman Frank Giustra donated over \$100 million to the Foundation while former President Bill Clinton “gained regular transportation, borrowing Giustra’s plane 26 times for foundation business since 2005, including 13 trips in which the two men traveled together.”⁴ Giustra joined the Foundation’s Board of Directors in 2013. The nexus between the Foundation and Giustra’s business ventures raised questions as to whether Foundation activities were used as a pre-text to allow Giustra to gain access to foreign entities.⁵

Congressman Blackburn sent a letter signed by 51 House Members to IRS Commissioner John Koskinen on May 19, 2015 requesting that the IRS review the Foundation’s tax-exempt status (Exhibit A-1).⁶ The letter charged that the Foundation had been operating under a cloak of philanthropy and facilitating business transactions between foreign entities while failing to report foreign donations during Secretary Clinton’s tenure at the State Department.⁷ The Members asserted that said actions created an appearance of impropriety and went behind the Foundation’s pledge to act in furtherance of charitable causes.⁸

¹ Rosalind S. Helderman, Clinton Foundation will amend tax filings to reflect foreign giving, WASH. POST., April 23, 2015.

² *See id.*

³ Maura Pally, A Commitment to Honesty, Transparency, and Accountability, April 26, 2015, available at <https://www.clintonfoundation.org/blog/2015/04/26/commitment-honesty-transparency-and-accountability>

⁴ Helderman, Clinton Foundation will amend tax filings to reflect foreign giving, WASH. POST., April 23, 2015.

⁵ *Id.*

⁶ Letter from Congressman Blackburn to John Koskinen, Commissioner, Internal Revenue Service, May 15, 2015.

⁷ *Id.*

⁸ *Id.*

The IRS responded by sending Congressman Blackburn an unsigned form letter on June 3, 2015 addressed to “Sir or Madam” (Exhibit A-2).⁹ Congressman Blackburn then received a letter of apology from IRS Commissioner Koskinen on June 16, 2015 (Exhibit A-3).¹⁰ Neither letter indicated the IRS’s intention to investigate the Members concerns, which were widely reported.

FTC Correspondence – April 2016

Congressman Blackburn instructed staff to continue reviewing the Foundation’s activities after the Federal Trade Commission (hereinafter “FTC”) charged four Tennessee cancer charities with scamming consumers out of \$187 million.¹¹ The Office’s investigation uncovered information that the Foundation was engaged in possible “unfair or deceptive acts or practices” in violation of Section 5 of the FTC Act.¹² Congressman Blackburn led a letter with 21 House Members to FTC Chairwoman Ramirez on April 12, 2016 alleging that the Foundation was a “sham charity” (Exhibit B-1).¹³ The following concerns were raised:

First, only “15 percent of monies spent went towards “direct program expenditures” at the Foundation in 2013.¹⁴ Charity Navigator, a tool the FTC’s website encourages consumers to use to review the trustworthiness of charities had the Foundation on a “Watch List” until December 2015 and was unable to rate the Foundation because of its “atypical business model” (Charity Navigator is still unable to rate the Foundation).¹⁵

Second, Congressman Blackburn reiterated concerns about the Foundation’s failure to report millions of dollars in foreign government grants between 2010 and 2012 while Hillary Clinton was Secretary of State.¹⁶ Its failure to accurately report said donations, which corresponded with Secretary Clinton’s use of a private email server at the State Department, raised an appearance of impropriety deserving of enhanced scrutiny.¹⁷

Third, the Federal Bureau of Investigation (hereinafter “FBI”) expanded its investigation “to look at whether the intersection of Clinton Foundation work and State Department business may have violated public corruption laws,…”¹⁸ The Justice Department granted immunity to Bryan Pagliano, a former State Department staffer who “set up her (Secretary Clinton) New York home server in 2009,…”¹⁹

⁹ See letter from Maragaret Von Lienen, Director, Exempt Organizations Examinations, Internal Revenue Service, to Congresssman Blackburn, May 21, 2015.

¹⁰ Letter from John Koskinen, Commissioner, Internal Revenue Service, to Congressman Blackburn, June 16, 2015.

¹¹ The Federal Trade Commission, *FTC, All 50 States and D.C. Charge Four Cancer Charities With Bilking Over \$187 Million from Consumers*, May 19, 2015, available at: <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-all-50-states-dc-charge-four-cancer-charities-bilking-over>

¹² 15 USC § 45(a)(4)(A).

¹³ Letter from Congressman Blackburn to Edith Ramirez, Chairwoman, Federal Trade Commission, April 12, 2016.

¹⁴ Liz Peek, *Investors Should Protest Funds To Clinton Foundation*, The Fiscal Times, May 20, 2015.

¹⁵ Charity Navigator, Bill Hillary & Chelsea Clinton Foundation, available at:

<https://www.charitynavigator.org/index.cfm?bay=search.profile&ein=311580204>

¹⁶ Letter from Congressman Blackburn to Edith Ramirez, Chairwoman, Federal Trade Commission, April 12, 2016.

¹⁷ Id.

¹⁸ See Id.

¹⁹ See Id.

The Members asserted that the FTC had a duty to investigate the Foundation's lack of transparency pursuant to its jurisdictional charge to "prevent business practices that are...deceptive or unfair to consumers" and given the compelling public interest involved.²⁰ They warned that the existence of a federal criminal probe should alarm the Commission, which initiates civil actions requiring a lower standard of proof.²¹ The letter also contended that the Foundation's activities may stifle the ability of other organizations associated with current or former public officials to advance charitable causes.²² The FTC was warned that "in these difficult economic times, Americans want to make every contribution count."²³

The FTC responded to Congressman Blackburn's letter on May 16, 2016 (Exhibit B-2).²⁴ It denied the request for an investigation noting that it typically lacks jurisdiction over non-profit entities even though it acknowledged acting against "sham charities".²⁵ Chairwoman Ramirez said "spending only a low percentage of donations for charitable purposes, without more, does not establish fraud."²⁶ The response failed to acknowledge the Foundation's admitted failure to report foreign donations, the existence of a criminal public corruption probe, and Charity Navigator's inability to rate the Foundation.²⁷ Congressman Blackburn replied that the FTC correspondence was "inconsistent with their mission and precedent".²⁸

IRS, FTC, and FBI Correspondence – July 2016 & IRS Investigation

Congressman Blackburn again directed staff to continue investigating the Foundation given the dismissive FTC response. Shortly thereafter, the Office developed information that the Foundation's initial filings with the IRS for 501(c)(3) status (submitted December 23, 1997) appeared to prohibit much of its activity.²⁹ Unresolved media reports also raised allegations of "Pay to Play" transactions involving Laureate International Universities and Uranium One, a Russian company.

Congressman Blackburn, joined by 63 House Members, sent a letter to FBI Director James Comey, IRS Commissioner Koskinen, and FTC Chairwoman Ramirez on July 15, 2016 (Exhibit C-1).³⁰ The letter addressed the following:

First, the Foundation's initial IRS filings indicated that it was formed to construct a library, maintain a historical site with records, and engage in study and research.³¹ The application failed

²⁰ See *Id.*

²¹ *Id.*

²² *Id.*

²³ See *Id.*

²⁴ Letter from Edith Ramirez, Chairwoman, Federal Trade Commission, to Congressman Blackburn, May 16, 2016.

²⁵ See *Id.*

²⁶ See *Id.*

²⁷ *Id.*

²⁸ See U.S. Congressman Marsha Blackburn, Press Release, *FTC Dodges Blackburn's Request to Investigate Clinton Foundation*, May 19, 2016.

²⁹ Letter from Congressman Blackburn to James Comey, Director Federal Bureau of Investigation, John Koskinen, Commissioner, Internal Revenue Service, Edith Ramirez, Chairwoman, Federal Trade Commission, July 15, 2016.

³⁰ *Id.*

³¹ *Id.*

to indicate an intention to conduct activities outside of the United State, one of the codes included in the IRS “Application for Recognition of Exemption” in effect at the time (activity code 910).³² The letter asserted that the Foundation’s global activities therefore appeared to be unlawful pursuant to applicable IRS guidance.³³

Second, President Clinton was paid \$16.5 million³⁴ to serve as an honorary chancellor of Laureate International Universities for a five year period beginning on April 24, 2010.³⁵ Laureate had donated millions to the Foundation.³⁶ In addition, the International Youth Foundation (hereinafter “IYF”), an entity run by Laureate founder Douglas Becker, received over \$55 million of USAID grants from 2010 to 2012.³⁷ The USAID grants created an appearance that millions of dollars in taxpayer money was channeled to IYF by Secretary Clinton as a kickback for her husband’s generous Laureate contract.³⁸ It was noted that USAID operates under substantial guidance from the Secretary of State.³⁹

Third, Congressman Blackburn asserted that a Russian company titled Uranium One had acquired “control of one-fifth of all uranium production capacity in the United States” while Hillary Clinton was Secretary of State.⁴⁰ Uranium One’s chairman gave \$2.35 million to the Foundation through several donations, which the Foundation failed to report, as the Russians gained control of Uranium One from 2009-2013.⁴¹ Former President Clinton also “received \$500,000 for a Moscow speech from a Russian investment bank...promoting Uranium One stock” after the Russians declared their intent to acquire control of Uranium One according to a report in the New York Times.⁴²

The letter concluded that the intersection of Foundation business, official action taken by Secretary Clinton, and large payments to President Clinton from interested parties in the cases of Laureate and Uranium One smacked of a “Pay to Play” pattern of dealing that personally enriched the Clinton’s at the expense of American foreign policy.⁴³ The Members asserted that such criminal allegations were deserving of further examination by the FBI, IRS, and FTC.⁴⁴ The correspondence also noted that Congresswoman Corrine Brown had recently been indicted by the Justice Department for soliciting over \$800,000 for charitable causes which were used “as a personal slush fund”, while the Foundation collected \$337,985,726.00 in 2014 alone.⁴⁵

³² See Id.

³³ Id.

³⁴ Drew Griffin, Curt Devine and Scott Zamost, *Hillary Clinton’s for profit university problem*, CNN, August 23, 2016 (*Noting*, revised figures indicate President Clinton was paid \$17.6 million by Laureate).

³⁵ Letter from Congressman Blackburn to James Comey, Director Federal Bureau of Investigation, John Koskinen, Commissioner, Internal Revenue Service, Edit Ramirez, Chairwoman, Federal Trade Commission, July 15, 2016.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ See Id.

⁴¹ Id.

⁴² See Id.

⁴³ See Id.

⁴⁴ Id.

⁴⁵ See Id.

IRS Commissioner Koskinen quickly responded to Congressman Blackburn on July 22, 2016 and advised that he had referred the matter for investigation by the agency's tax exempt division (Exhibit C-2).⁴⁶ Koskinen wrote that "we have forwarded the information you submitted to our Exempt Organizations Examinations program in Dallas."⁴⁷ However, an August 5, 2016 reply from the FTC relayed that the concerns of Congressman Blackburn and her 63 House colleagues fell "outside of the Commission's authority, which encompasses neither public corruption or tax laws." (Exhibit C-3)⁴⁸ The FTC response did indicate that it can take action against "sham charities" if it can establish that "a charity is in fact operating for its own profit or that of its members."⁴⁹

The Clinton Health Access Initiative and Indian Pharmaceutical Companies

Congressman Blackburn's Office has continued to develop information about Foundation irregularities throughout its investigation. In particular, the Office has focused on the Clinton Health Access Initiative's (hereinafter "CHAI") relationship with Indian pharmaceutical companies, which began in 2003. Indian companies Ranbaxy, Matrix and Cipla agreed to work with the Foundation to combat HIV/AIDS. The following report provides information on the Office's findings and supplements Congressman Blackburn's ongoing investigation.

⁴⁶ Letter from John Koskinen, Commissioner, IRS, to Congressman Marsha Blackburn, July 22, 2016.

⁴⁷ See Id.

⁴⁸ See Letter from Edith Ramirez, Chairwoman, FTC, to Congressman Marsha Blackburn, August 5, 2016.

⁴⁹ See Id.

THE CLINTON FOUNDATION AND THE “INDIA SUCCESS STORY”

I. LAYING A FOUNDATION FOR SUCCESS

A. *President Clinton and Intellectual Property*

President Clinton walked both sides of the intellectual property fence during his time in office. In 1994, he signed a law that strengthened protections for drug makers by providing them with an additional three years on patents (from 17 to 20).⁵⁰ The bill implemented the General Agreement on Tariffs and Trade (hereinafter “GATT”) and was hailed as a mechanism that would nurture a freer system of global trade.⁵¹ It undoubtedly pleased pharmaceutical companies early in his presidency. The action drew fire from consumer groups and generic drug companies seeking access to more affordable alternatives though.⁵² Clinton’s home state Senator David Pryor of Arkansas even vowed to introduce a bill to restore the original timeframe.⁵³

President Clinton waded into the intellectual property arena again in late 2000. He blocked a congressional drug import program that would have helped lower the cost of prescription drugs.⁵⁴ Clinton signed the bill approving the program begrudgingly and advised that he had concerns about “loopholes”.⁵⁵ The final version signed by Clinton included a provision whereby the program would become effective only if the Secretary of Health and Human Services (hereinafter “HHS”) could certify to Congress that the program posed “no additional risk to the public’s health and safety” and would “result in a significant reduction in the cost covered to the American consumer.”⁵⁶ The Secretary of HHS (Donna Shalala) refused to make such certification and the program was stopped.⁵⁷

While President Clinton strengthened patent protections for drug makers in 1994 and later blocked the drug import program over safety concerns, he relaxed intellectual property policy in other areas. Clinton issued Executive Order 13155 on May 10, 2000.⁵⁸ The order was titled

⁵⁰ Philip Hilts, *Ruling Gives Drug Makers Up to 3 Extra Years on Patents*, The New York Times, May 26, 1995.

⁵¹ The White House, *The Clinton Presidency Timeline of Major Actions*; available at: <https://clinton5.nara.gov/WH/Accomplishments/eightyears-02.html>

⁵² Hilts, *Ruling Gives Drug Makers Up to 3 Extra Years on Patents*, The New York Times, May 26, 1995.

⁵³ *Id.*

⁵⁴ Robert Pear, *Program To Allow Imports of Low-cost Drugs Killed*, The New York Times Service, December 27, 2000.

⁵⁵ *See Id.*

⁵⁶ *See Id.*

⁵⁷ *Id.*

⁵⁸ The Federal Register, Executive Order 13155 of May 10, 2000, *Access to HIV/AIDS Pharmaceuticals and Medical Technologies*, Vol. 65, No. 93. at 30521.

“Access to HIV/AIDS Pharmaceuticals and Medical Technologies” and stated that the U.S. would not revoke or revise the intellectual property laws of any “sub-Saharan African country” relating to HIV/AIDS medications or technologies if such laws or policies furthered “access to HIV/AIDS pharmaceuticals or medical technologies”.⁵⁹ The order stated that “there is critical need for effective incentives to develop new pharmaceuticals, vaccines and therapies to combat the HIV/AIDS crisis, including effective global intellectual property standards designed to foster pharmaceutical and medical innovation” and that successful partnerships between international organizations and governments were essential.⁶⁰

There was little to no patent protection for pharmaceuticals at the time in sub-Saharan Africa, “where AIDS prevalence rates are also the highest.”⁶¹ Brand name and generic pharmaceutical companies battled in the loosely regulated market to distribute AIDS medications.⁶² Pharmaceutical company GlaxoSmithKline argued that intellectual property protections promoted economic development.⁶³ Smaller generic companies countered that strong protections made life saving medications unaffordable in less developed countries.⁶⁴

President Clinton and the Foundation became involved in combating the HIV/AIDS epidemic in 2002.⁶⁵ Upon learning of the price being paid by the government of the Bahamas for generic AIDS medication, Elton John, a long-time advocate in the fight against AIDS, wrote in his book, *Love Is The Cure*, of how the Foundation aggressively pursued a plan to make the drugs cheaper.⁶⁶ President Clinton developed a strategy to cut out the middlemen.⁶⁷ He then approached governments in Africa, the Caribbean and drug companies with a sales pitch described by John as follows:

“If we can get you cheap AIDS drugs, will you commit to buying a lot of them? Then they went to the drug companies and made the reverse pitch. If we can get you 2 million customers in the developing world, help you make your operation and supply chain a lot more efficient, and guarantee you a profit, will you sell your drugs for a lot less than you do now?”⁶⁸

The governments agreed, but the brand name drug companies balked.⁶⁹ President Clinton then decided to work around the brand name manufacturers by bringing the same deal to generic companies in India, South Africa and elsewhere.⁷⁰ The generic manufacturers were hesitant at

⁵⁹ See Id at 30521.

⁶⁰ See Id at 30521-30522.

⁶¹ See Charles W. Schmidt, *Drugs As Intellectual Property – The enforcement of patent law in developing countries limits the availability of generic alternatives*; *Modern Drug Discovery*, June 2001 Vol. 4, No. 6 at 25-26, 28. available at: <http://pubs.acs.org/subscribe/archive/mdd/v04/i06/html/06rules.html#ref>

⁶² Id.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Elton John, *Love Is The Cure*, July 2012 at 185.

⁶⁶ Id.

⁶⁷ Id at 185.

⁶⁸ See Id at 186-187.

⁶⁹ Id at 187.

⁷⁰ Id.

first because they did not want to risk violating patents held by brand companies.⁷¹ However, John wrote that President Clinton, whom he described as “not easily dissuaded” and “one of the most persuasive men on earth”, encouraged them to disregard patent laws.⁷² Clinton told the generic manufacturers: “No company will live or die because of high price premiums for AIDS drugs in middle-income countries, but patients may.”⁷³

President Clinton would continue to advocate for disregarding AIDS drug patents for years in a push to get cheaper drugs into afflicted countries.⁷⁴ This position stood in contrast to his work strengthening patent protections for drug manufacturers in 1994 through GATT and his blockage of the congressional drug import program in 2000 over safety concerns, which would have made less expensive generics available in the U.S.. More importantly, Executive Order 13155 appears to have been a mechanism President Clinton used to set the table for the Foundation’s entry into sub-Saharan Africa. The Order established a “hands off” U.S. policy regarding patent enforcement that assisted the Foundation’s efforts to negotiate major price reductions of HIV/AIDS medications.

B. The Clinton Health Access Initiative

The Clinton Health Access Initiative was formed in 2002 as a part of the Foundation after President Clinton left office in January 2001.⁷⁵ CHAI’s “transformational goal” was to save millions of people living with HIV/AIDS in developing countries.⁷⁶ CHAI credits itself for having initiated the first programs in Africa and the Caribbean in 2002 and 2003 “aimed to scale up HIV/AIDS care and treatment” in those parts of the world.⁷⁷ It initially partnered with the African governments of Mozambique, Tanzania, and Rwanda to “procure drugs” and “set up supply chains”.⁷⁸ In 2003, CHAI negotiated a 60 percent reduction in first line HIV medications and set up the world’s largest antiretroviral therapy (hereinafter “ART”) program in South Africa.⁷⁹

CHAI’s work was revered by the global the community. In 2004, Uganda President Yoweri Museveni heaped praise upon President Clinton for CHAI’s efforts in combating HIV/AIDS.⁸⁰ The United Nations Children’s Fund (hereinafter “UNICEF”) also issued a press release in 2005 celebrating CHAI’s work to benefit thousands of children in Africa.⁸¹

⁷¹ Id at 187-188.

⁷² See Id.

⁷³ See Id at 188.

⁷⁴ David Batty, *Clinton Backs Violation of AIDS Drug Patents*, The Guardian, May 9, 2007.

⁷⁵ The Clinton Health Access Initiative, About CHAI, *available at*: <http://www.clintonhealthaccess.org/about/>

⁷⁶ See Id.

⁷⁷ See Id.

⁷⁸ See Id.

⁷⁹ See Id.

⁸⁰ Vision reporter, *Museveni hails Clinton Foundation*, New Vision, February 20, 2004.

⁸¹ Rachel Bonham Carter, *Clinton Foundation secures cheaper HIV/AIDS drugs – 10,000 children to benefit*, UNICEF, April 11, 2005.

CHAI's latest Annual Report states that it has assisted approximately twelve million persons in over seventy countries and maintains offices in seventeen African nations.⁸² Its eleven person board of directors is headed by President Clinton, where he is joined by daughter Chelsea.⁸³ In 2015, CHAI reported \$152,586,000 in total revenue, \$95,238,000 in assets, and \$35,679,000 in liabilities.⁸⁴ CHAI was a part of the Clinton Foundation until becoming a separate non-profit entity on January 1, 2010.⁸⁵

C. The President's Emergency Plan for AIDS Relief

The President's Emergency Plan for AIDS Relief (hereinafter "PEPFAR") was signed into law, after CHAI's formation, by President George W. Bush on May 27, 2003.⁸⁶ Congress initially appropriated \$15 billion to assist the global fight against AIDS.⁸⁷ Less than 50,000 people were receiving treatment for AIDS across sub-Saharan Africa in 2002 and the PEPFAR program estimates that it has provided lifesaving treatment for approximately 9.5 million persons, including children.⁸⁸ "At its core, PEPFAR is a reflection of the compassion of the American people."⁸⁹

PEPFAR reached over 150,000⁹⁰ people in sub-Saharan Africa eight months after the first Congressional appropriation on January 23, 2004.⁹¹ Congress appropriated \$2.4 billion in Fiscal Year 2004.⁹² PEPFAR coordinated with organizations such as the Global Fund to Fight Aids, Tuberculosis and Malaria (hereinafter "Global Fund").⁹³ For example, PEPFAR contributed \$459 million to the Global Fund in Fiscal Year 2004.⁹⁴ It provided treatment support in the countries of Botswana, Cote de'Ivoire, Ethiopia, Guyana, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, and Zambia.⁹⁵ ART for HIV/AIDS includes many components.⁹⁶ PEPFAR described its role as follows:

"For example, in some settings ARV drugs are provided to specific sites through the host-country government or other donors such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, while the Emergency Plan may contribute

⁸² Clinton Health Access Initiative, 2015 Annual Report, at 2, 53.

⁸³ Id at 60.

⁸⁴ Id at 54-55.

⁸⁵ The Clinton Foundation, 2010 Annual Report, at 49.

⁸⁶ PEPFAR 2016 Annual Report to Congress at 8.

⁸⁷ Id.

⁸⁸ Id.

⁸⁹ See Id.

⁹⁰ Letter from U.S. Global AIDS Coordinator, Ambassador Randall Tobias, to Congress, March 4, 2005 (*Noting*, that the figure of approximately 150,000 persons reached was communicated in this correspondence.)

⁹¹ Office of The United States Global AIDS Coordinator, *Engendering Bold Leadership: The President's Emergency Plan For AIDS Relief, First Annual Report To Congress*, 2005 at 5, 12.

⁹² Id at 12.

⁹³ Id at 86.

⁹⁴ Id.

⁹⁵ Id at 11.

⁹⁶ Id at 34.

other essential services, training, commodities, and infrastructure to support treatment. “Downstream” site-specific support refers to these instances where the Emergency Plan is providing all or part of the necessary components for quality ART at the point at which services are delivered.”⁹⁷

PEPFAR initiatives were implemented through the Department of State, the Department of Health and Human Services (hereinafter “HHS”), the U.S. Agency for International Development (hereinafter “USAID”), the Department of Defense (hereinafter “DOD”), the Department of Labor (hereinafter “DOL”), the Peace Corps, and the Department of Commerce.⁹⁸ USAID and HHS served as the primary sources of PEPFAR funding in fiscal years 2004 and 2005.⁹⁹ USAID provided \$1.1 billion in FY2004, with HHS adding \$762 million.¹⁰⁰ In particular, USAID’s role involved working with non-governmental organizations, foreign governments and private sector entities to provide training, assistance, *pharmaceuticals* and other commodities to treat people infected with HIV/AIDS.¹⁰¹

USAID worked with pharmaceutical companies as the primary administrator of PEPFAR, including Ranbaxy. As will be discussed, Ranbaxy partnered with CHAI to provide low cost ARVs to HIV/AIDS patients in sub-Saharan Africa. Ranbaxy was later sued¹⁰² by the government in 2007 in the U.S. District Court for the District of Maryland for producing adulterated HIV/AIDS medications and plead guilty to several felonies.¹⁰³ USAID was a Ranbaxy plaintiff and used PEPFAR appropriated tax-payer money to purchase adulterated medications.¹⁰⁴

Ranbaxy filed ten abbreviated new drug applications (hereinafter “ANDA”)¹⁰⁵ under PEPFAR in 2005.¹⁰⁶ Three of these applications were tentatively approved by the FDA.¹⁰⁷ The PEPFAR engagement coincided with Ranbaxy outperforming other markets by twenty five percent in South Africa in 2005.¹⁰⁸ Overall, the company recorded sales of \$68 million in Africa, which represented a sixteen percent increase.¹⁰⁹

⁹⁷ See *Id.*

⁹⁸ *Id.* at 109-111.

⁹⁹ *Id.* at 113.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 110.

¹⁰² United States ex. rel. Dinesh S. Thakur v. Ranbaxy USA, Inc., et al., Civil Action No. 1:07-00962-JFM (D.Md.), First Amended Complaint, February 26, 2010.

¹⁰³ Settlement Agreement, U.S. ex. rel. Thankur v. Ranbaxy, May 9, 2013.

¹⁰⁴ United States ex. rel. Dinesh S. Thakur v. Ranbaxy USA, Inc., et al., Civil Action No. 1:07-00962-JFM (D.Md.), First Amended Complaint, February 26, 2010 at 2.

¹⁰⁵ *Noting*, that according to the FDA an ANDA contains data submitted by a drug manufacturer for approval of a generic drug product, *available at*:

<http://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/AbbreviatedNewDrugApplicationANDAGenerics/default.htm>

¹⁰⁶ Ranbaxy, Annual Report 2005, at 10.

¹⁰⁷ *Id.* at 11.

¹⁰⁸ *Id.* at 7.

¹⁰⁹ *Id.* at 13.

D. Engagement in India

President Clinton was heavily engaged in India prior to the creation of CHAI and PEPFAR. He helped found the American India Foundation (hereinafter “AIF”) in 2001 after the Gurjarat earthquake.¹¹⁰ AIF touts itself as a bridge which connects the world’s two largest democracies and has changed the lives of more than 3 million of India’s underprivileged.¹¹¹ It has fostered a “social ecosystem” built upon “trust, transparency, and partnership...” to form an inclusive model of partnership that is adaptable to the needs of causes it pursues and has raised over \$100 million since its inception.¹¹² Clinton co-founded AIF with Indian businessmen Rajat Gupta and Vinod Gupta.¹¹³ While not related, both Guptas are “friends”.¹¹⁴

Rajat Gupta also served as a managing partner at McKinsey from 1994-2003 and a Board member at Goldman Sachs and Procter & Gamble.¹¹⁵ He was known as a “master networker”¹¹⁶ and became a reliable donor to Hillary Clinton’s Senate Campaign and other Democratic candidates (Gupta has contributed \$69,200.00 according to Federal Election Commission records).¹¹⁷ He put this network to use to land the President’s daughter, Chelsea, a six figure consulting job at McKinsey in April 2003 while he was serving as the company’s CEO.¹¹⁸¹¹⁹

Gupta was convicted of insider trading in 2012 and sentenced to prison.¹²⁰ He is attempting to overturn his conviction and make his way back into the corporate world.¹²¹ Gupta’s conviction involved “passing illegal tips” to a co-founder of the Galleon hedge fund about a \$5 billion Berkshire Hathaway investment in Goldman.¹²² He was proud of his work with Clinton at AIF. The sentencing memorandum Gupta provided to the Federal District Court for his insider trading conviction contains the following passage:

¹¹⁰ The American India Foundation, About Us, *available at*: <http://aif.org/about/about-aif/>

¹¹¹ *Id.*

¹¹² *See Id.*

¹¹³ *See* John Heylar, Carol Hymowitz, and Mehul Srivastava, Bloomberg Markets, *Gupta Secretly Defied McKinsey Before SEC Tip Accusation*, May 17, 2011.

¹¹⁴ *See* U.S. v. Rajat K. Gupta, Sentencing Memorandum Of Rajat K. Gupta, 11 Cr. 907 (JSR), (S.D.N.Y. Oct. 17, 2012) at 29.

¹¹⁵ Jacob Gershman, Rajat Gupta’s Quest to Clear His Name Returns to Second Circuit, *The Wall Street Journal*, May 6, 2016.

¹¹⁶ *See* Michael Rothfeld, *The Rise and Fall of Rajat Gupta*, *The Wall Street Journal*, October 24, 2012.

¹¹⁷ Federal Election Commission, Individual Contributions, *available at*: <http://docquery.fec.gov/cgi-bin/qind/>

¹¹⁸ CNN.com, Education, *War Blurs Cloudy U.S. Job Market*, April 14, 2003, *available at*:

<http://www.cnn.com/2003/EDUCATION/04/14/life.students.reut/>

¹¹⁹ Bill McMorris, *Clintons’ Wall Street Pal to Serve Out Prison Term*, *The Washington Free Beacon*, April 21, 2015.

¹²⁰ Michael Rothfeld, *The Rise and Fall of Rajat Gupta*, *The Wall Street Journal*, October 24, 2012.

¹²¹ Gershman, Rajat Gupta’s Quest to Clear His Name Returns to Second Circuit, *The Wall Street Journal*, May 6, 2016.

¹²² *See* Patricia Hurtado, Ex Goldman Director Rajat Gupta Back Home After Prison Stay, *Bloomberg*, January 19, 2016;

“In response, Rajat worked with former U.S. President Bill Clinton and Victor Menezes, former Senior Vice Chair of Citigroup, to found the American India Foundation (AIF). Under their leadership, within its first year AIF raised millions of dollars to support earthquake relief efforts, sent a team of physicians to aid victims, and began a program for matching the skills of volunteers from around the world with Indian NGOs in need of them. Rajat organized a McKinsey team to assist AIF *pro bono*.”¹²³

Clinton’s relationship with AIF continues to this day. He is prominently featured on their website, as shown below:



“AIF plays an ever important role in bringing together Americans and Indians to become active contributors to India’s development. By supporting the AIF bridge, you are not only helping AIF remain a bastion of opportunity for the country’s poor, but also helping its democracy to thrive and flourish.”¹²⁴

– President William J. Clinton

1) President Clinton’s Consulting Contracts (2002-2008) and infoGROUP Shareholder Lawsuit

Rajat Gupta began performing outside consulting services while at McKinsey as AIF was being founded. His wife, and the wife of another McKinsey employee – Anil Kumar – formed Mindspirit, LLC in January 2001¹²⁵ according to Rajat’s “friend”, Vinod Gupta.¹²⁶¹²⁷ Vinod was the CEO of *infoGROUP* and agreed to compensate Mindspirit with 200,000 stock options in exchange for Rajat’s consulting services.¹²⁸ The options were exercised by Mindspirit, but not

¹²³ See U.S. v. Rajat K. Gupta, Sentencing Memorandum Of Rajat K. Gupta, 11 Cr. 907 (JSR), (S.D.N.Y. Oct. 17, 2012) at 47.

¹²⁴ See The American India Foundation, About Us, available at: <http://aif.org/about/about-aif/>

¹²⁵ Nevada Companies, Business Summary for Mindspirit, LLC, available at: <http://www.companies-nevada.com/mindspirit-llc-11ja/>

¹²⁶ See U.S. v. Rajat K. Gupta, Sentencing Memorandum Of Rajat K. Gupta, 11 Cr. 907 (JSR), (S.D.N.Y. Oct. 17, 2012) at 29.

¹²⁷ In Re: InfoUSA, Inc. Shareholders Litigation, Consolidated C.A. No. 1956-CC, Stipulation of Settlement September 2, 2005 at 23.

¹²⁸ Id.

approved by the *infoGROUP* “Board or any Board committee.”¹²⁹ An action brought by *infoGROUP* shareholders and investigated by a Special Litigation Committee of the Board of Directors (hereinafter “SLC”) in the Delaware Court of Chancery¹³⁰ determined that the matter warranted remedial action.¹³¹

Shortly after entering into an agreement with Mindspirit, *infoGROUP* “signed a consulting agreement with President Clinton”.¹³² The agreement extended from May 1, 2002 through April 30, 2005 and paid President Clinton \$2.1 million for providing Vinod Gupta with strategic advice.¹³³ President Clinton would execute another contract with Vinod for \$1.2 million from October 1, 2005 through September 30, 2008.¹³⁴ The SLC found no evidence that *infoGROUP*’s Board discussed the second Clinton contract and recommended remedial action (Exhibit D).¹³⁵ The SLC noted that the relationship was very beneficial to *infoGROUP*:

“Former President Clinton spoke at Company events, mentioned Vinod Gupta and *infoGROUP* in speeches to other audiences, helped introduce Vinod Gupta to potential business contacts, and appears to have helped attract significant business to *infoGROUP*.”¹³⁶

The SLC’s findings and Secretary Clinton’s Senate Financial Disclosure Reports¹³⁷ reveal that all parties may have worked to conceal the arrangement. Mindspirit, LLC was set up in the name of Rajat Gupta’s wife and the 200,000 *infoGROUP* stock options – which could be construed as a referral fee to Rajat – were not approved by the *infoGROUP* Board.¹³⁸ Also, *infoGROUP*’s \$1.2 million consulting agreement with President Clinton was executed without the knowledge of its Board. Secretary Clinton reported her husband’s million dollar contracts with *infoGROUP* (formerly Info USA, Inc.) as spousal “Nonemployee Compensation Over \$1,000.” (Exhibit E)¹³⁹ Her reporting, while consistent with Senate disclosure requirements, was misleading and not communicated in good faith as she was personally enriched by millions of dollars.

Ironically, the Foundation would become a favorite philanthropy of all parties involved. Records reveal that Vinod Gupta has donated between \$1,000,001 and \$5,000,001 million to the

¹²⁹ See *Id.*

¹³⁰ *Noting*, that according to its website: “The Delaware of Court of Chancery is widely recognized as the nation’s preeminent forum for the determination of disputes involving the internal affairs of the thousands upon thousands of Delaware corporations and other business entities through which a vast amount of the world’s commercial affairs is conducted. Its unique competence in and exposure to issues of business law are unmatched.”

¹³¹ In Re: InfoUSA, Inc. Shareholders Litigation, Consolidated C.A. No. 1956-CC, Stipulation of Settlement September 2, 2005 at 23.

¹³² See *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ See *Id.* at 23.

¹³⁷ *Noting*, all of Senator Clinton’s Senate Financial Disclosure Reports from 2003-2008 report her husband’s million dollar *infoGROUP* contracts as “Nonemployee Compensation Over \$1,000”.

¹³⁸ *Id.*

¹³⁹ See 2002 United States Senate Financial Disclosure Report For Annual and Termination Reports, Hillary Rodham Clinton, May 15, 2003.

Foundation.¹⁴⁰ McKinsey has donated between \$500,001 and \$1 million, *infoGROUP*'s contributions range between \$250,001 and \$500,000, while Ranbaxy has given between \$100,001 and \$250,000.¹⁴¹ Rajat Gupta has donated between \$10,001 and \$25,000 to the Foundation.¹⁴² The approximate aggregate of contributions from these parties ranges between \$1.9 and \$6.8 million.

President Clinton's triangular arrangement with Rajat and Vinod Gupta financially benefitted all parties and firmly embedded Clinton into India's business and political culture. When Ranbaxy sought to more aggressively enter Africa's generic pharmaceutical market, it found a willing partner in the Foundation in October 2003. The Foundation would provide Ranbaxy access to sub-Saharan Africa through its HIV/AIDS initiative where it appears adulterated ARVs were likely distributed to patients.

¹⁴⁰ The Clinton Foundation, Contributor and Grantor Information; available at: <https://www.clintonfoundation.org/contributors?category=%241%2C000%2C001%20to%20%245%2C000%2C000&page=1>

¹⁴¹ *Id.*

¹⁴² *Id.*

II. THE FOUNDATION’S AGREEMENT WITH INDIAN PHARMACEUTICAL COMPANIES – OCTOBER 2003

On October 23, 2003 the Foundation issued a press release titled an “Agreement on Major Reduction in Price of AIDS Drugs”.¹⁴³ Drug manufacturers signed agreements with CHAI to distribute ARVs in Africa and the Caribbean with the goal of reaching 2 million people by 2008.¹⁴⁴ “ARVs from these companies have been assessed to meet international quality standards by the World Health Organization and/or the Medicines Control Council of South Africa.”¹⁴⁵ The following companies were listed in the release:

- | | | |
|----|----------------------|----------------------------|
| 1. | Ranbaxy | Delhi, India |
| 2. | Matrix | Hyderabad, India |
| 3. | Cipla | Mumbai, India |
| 4. | Aspen ¹⁴⁶ | Johannesburg, South Africa |

Nimmagadda Prasad, founder of Matrix Laboratories, described their relationship with the Foundation as follows:

‘The Clinton Foundation does not buy anything from us. They only facilitate the supply of drugs to affected markets by creating the necessary logistics. At a time when Indian products did not have much credibility in the market, the Foundation gave buyers the required confidence about the products. They had set up the distribution channels. They prepared the protocols for compliance and guided the teams in the affected countries on usage of the drug.’¹⁴⁷

Subsequently, the Indian companies were able to attain “a certain level of maturity” and became “good acquisition targets” for larger pharmaceutical companies seeking to gain entry into the global generic market.¹⁴⁸ India was the fourth largest volume drug market by August 2006, when it was announced that Matrix would be acquired by Mylan for \$736 million.¹⁴⁹ Daiichi Sankyo, Japan’s second largest pharmaceutical company¹⁵⁰ acquired a 63.4% stake in Ranbaxy in 2008 in a \$4.6 billion transaction¹⁵¹ before selling their shares to Sun Pharmaceuticals in

¹⁴³ See The Clinton Foundation, Press Release: “Agreement on Major Reduction in Price of AIDS Drugs”, October 23, 2003.

¹⁴⁴ Id.

¹⁴⁵ See Id.

¹⁴⁶ Rebecca Harrison, *UPDATE 2-S.Africa fraud worth up to \$1.2 billion uncovered*, Reuters, June 11, 2009. (Noting, Aspen encountered trouble in 2009 due to associations with Frankel Chemicals and Barry Tannenbaum. Tannenbaum perpetrated a billion dollar Ponzi scheme in South Africa and subsequently fled to Australia. Tannenbaum has been compared to Bernie Madoff).

¹⁴⁷ See Sudhir Shetty, DNA, *Matrix was always for giving shareholders an exit route*, September 12, 2009.

¹⁴⁸ See The Economic Times, *US pharma major Mylan buys Matrix Labs*, August 29, 2006.

¹⁴⁹ Id.

¹⁵⁰ Knowledge @Wharton, Management, *The Ranbaxy-Daiichi Deal: Good Medicine, or a Harbinger of Future Ills?*, June 12, 2008, available at: <http://fortune.com/2013/05/15/dirty-medicine/>

¹⁵¹ United States ex. rel. Dinesh S. Thakur v. Ranbaxy USA, Inc., et al., Civil Action No. 1:07-00962-JFM (D.Md.), First Amended Complaint, February 26, 2010 at 5.

2014.¹⁵² The success of the companies validated the “India success story”.¹⁵³ However, Daiichi Sankyo lost billions as a result of many products being “blocked as unsafe by U.S. officials.”¹⁵⁴

There was substantial market competition between pharmaceutical companies to get HIV/AIDS drugs into the African market prior to CHAI’s involvement. In particular, Cipla’s efforts to donate patented HIV/AIDS drugs at reduced prices were opposed by GlaxoSmithKline because it was interpreted as an effort to “blunt competition”, as opposed to an altruistic venture.¹⁵⁵ The Foundation’s 2004 Annual Report “Program Service Accomplishments” describes CHAI’s involvement as follows:

“Expanded the Clinton HIV/AIDS Initiative (CHAI) into a number of new partner countries in the Caribbean, Africa, Asia and Eastern Europe. Together CHAI’s partner countries represent more than 33% of all HIV/AIDS cases in Africa, 95% of all cases in the Caribbean, and 85% of cases in Asia. CHAI helps its partner countries plan and implement large-scale integrated prevention, care and treatment programs by providing technical assistance, mobilizing financial and human resources, negotiating antiretroviral drug agreements and facilitating the sharing of best practices.”¹⁵⁶

CHAI’s October 23, 2003 agreement with Ranbaxy, Matrix and Cipla was historic for the Indian pharmaceutical industry. It provided an avenue for smaller Indian companies to push HIV/AIDS ARVs into the sub-Saharan market. The companies’ financial worth exploded as they partnered with the Foundation for several years. As Matrix founder Nimmagadda Prasad explained above, the Foundation gave buyers confidence about the Indian companies products and established distribution channels. It marked the birth of the “India success story” where billions of dollars flowed into the subcontinent’s pharmaceutical industry.

¹⁵² Sean McLain, *Daiichi Sankyo to Sell Troubled Ranbaxy*, The Wall Street Journal, April 7, 2014.

¹⁵³ See The Economic Times, *US pharma major Mylan buys Matrix Labs*, August 29, 2006.

¹⁵⁴ See McLain, *Daiichi Sankyo to Sell Troubled Ranbaxy*, The Wall Street Journal, April 7, 2014.

¹⁵⁵ See John Borchardt, *The Scientist, More than altruism behind donations of AIDS drugs to Africa*, December 8, 2000.

¹⁵⁶ See William J. Clinton Foundation Annual Report, 2004 at 2.

III. THE INDIA “SUCCESS” STORIES

A. Ranbaxy

Ranbaxy was incorporated in 1961 and initiated an IPO in 1973.¹⁵⁷ It entered the U.S. market with brand name products in 1998.¹⁵⁸ Ranbaxy joined “*the elite club of Billion Dollar Companies*” in 2004, shortly after its partnership with the Foundation.¹⁵⁹ In 2006, it acquired South African company Be Tabs pharmaceuticals for \$70 million and GlaxoSmithKline’s offices in Spain and Italy.¹⁶⁰ Be Tabs was the fifth largest generic company in South Africa at the time.¹⁶¹ Ranbaxy crossed \$2 billion in global sales in 2011.¹⁶²

In 2002, with Rajat Gupta serving as managing partner, McKinsey helped Ranbaxy develop a plan known as “Vision Garuda”.¹⁶³ The plan outlined how to transform Ranbaxy into a \$5 billion company by 2012.¹⁶⁴ Vision Garuda quickly came to fruition when Ranbaxy was acquired by Daiichi Sanyko in a \$4.6 billion transaction in 2008.

Ranbaxy has been heavily scrutinized by U.S. regulators, DOJ and Congress. “*The FDA has accused Ranbaxy of questionable and sometimes dangerous manufacturing processes*”, fining the company \$500 million and shutting down many of its factories in India.¹⁶⁵ FDA was prompted to crack down after a 2008 GAO report was issued criticizing the agency for doing too little to stop the importation of dangerous drugs to the U.S.¹⁶⁶ More importantly, Dinesh Thakur, a Ranbaxy employee turned whistleblower, “*leveled some of the most devastating allegations ever made about the conduct of a drug company.*”¹⁶⁷

Ranbaxy received a letter from the World Health Organization’s Prequalification of Medicines Programme (hereinafter WHO-PQP) in August 2004.¹⁶⁸ The letter alleged that WHO-PQP was aware of and “**reported**” irregularities with three Ranbaxy HIV ARVs.¹⁶⁹ **WHO also issued a press release** about Ranbaxy’s actions (Exhibit F).¹⁷⁰ Thakur, at the direction of a supervisor,

¹⁵⁷ SunPharma, Milestones, August 1, 2016, *available at*: <http://www.sunpharma.com/about-us/milestones>

¹⁵⁸ *Id.*

¹⁵⁹ *See id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *See* Jeetha DeSilva, *The Economic Times*, *Will Vision Garuda help Ranbaxy become a high flier?*, October 15, 2005.

¹⁶⁴ *Id.*

¹⁶⁵ *See* Sean McLain, *Daiichi Sankyo to Sell Troubled Ranbaxy*, *The Wall Street Journal*, April 7, 2014, *available at*: <http://www.wsj.com/articles/SB10001424052702303456104579487381613887674>

¹⁶⁶ *Id.*

¹⁶⁷ *See* Katherine Eban, *Dirty Medicine*, *Fortune*, May 15, 2013, *available at*: <http://fortune.com/2013/05/15/dirty-medicine/>

¹⁶⁸ *The World Health Prequalification of Medicines Programme*, May 2013.

¹⁶⁹ *See id.* at 2.

instructed a team of project managers to compare Ranbaxy's assertions made to regulators with internal manufacturing data.¹⁷¹ HIV drugs were found to have ingredients that failed purity tests, but were combined with "*good ingredients*" until meeting requirements.¹⁷²

1) *Government lawsuit against Ranbaxy*

Through Thakur, the government filed suit against Ranbaxy in Maryland Federal District Court seeking civil relief under the False Claims Act and other redress in April 2007.¹⁷³ The government's complaint alleged that Thakur, a whistleblower, worked as the Director of Project and Information Management at Ranbaxy's lab in Gurgaon, Haryana, India from June 2003 to April 2005.¹⁷⁴ Thakur notified the federal government in August 2005 that Ranbaxy was producing adulterated "ARV drugs sold in various combinations consistent with prescribed medical therapies to treat the HIV virus."¹⁷⁵ The complaint alleged that Ranbaxy "had substantial sales of the ARV drugs prior to withdrawing them from the market."¹⁷⁶ Thakur relayed that Ranbaxy fabricated data to the FDA to gain approval of ARV drugs for the PEPFAR program.¹⁷⁷ **"By early 2006, FDA had approved only 15 ARV products for PEPFAR, three of which were ANDAs filed by Defendants."**¹⁷⁸ The government's complaint directly alleged:

"Defendants submitted false data and statements to the United States to gain approval for adulterated generic antiretroviral ("ARV") drugs that were purchased for Federally appropriated relief programs, such as PEPFAR....in order to provide ARV drug treatments to human immunodeficiency virus ("HIV") patients in developing countries." (Exhibit G-1)¹⁷⁹

Ranbaxy's practices compromised the quality of hundreds of its drugs and rendered the medications "adulterated."¹⁸⁰ However, the government's most striking allegation was that Ranbaxy's actions "**subjected patients to increased risks of morbidity and mortality.**" (Exhibit G-2 – number 62)¹⁸¹ Thakur advised that Ranbaxy's practices were "common knowledge" within the company.¹⁸²

¹⁷⁰ World Health Organization, Press Release, *Three AIDS medications will be removed from prequalification list this week*, August 4, 2004.

¹⁷¹ Eban, *Dirty Medicine*, *Fortune*, May 15, 2013, available at: <http://fortune.com/2013/05/15/dirty-medicine/>

¹⁷² See *Id.*

¹⁷³ United States ex. rel. Dinesh S. Thakur v. Ranbaxy USA, Inc., et al., Civil Action No. 1:07-00962-JFM (D.Md.), First Amended Complaint, February 26, 2010 at 1.

¹⁷⁴ *Id.* at 4.

¹⁷⁵ See *Id.* at 4, 5, 16.

¹⁷⁶ See *Id.* at 17.

¹⁷⁷ *Id.* at 9, 17.

¹⁷⁸ See *Id.* at 9.

¹⁷⁹ See *Id.* at 2.

¹⁸⁰ See *Id.* at 18.

¹⁸¹ See *Id.* at 22.

¹⁸² See Katherine Eban, *Dirty Medicine*, *Fortune*, May 15, 2013, available at: <http://fortune.com/2013/05/15/dirty-medicine/>

Ranbaxy entered into an agreement to plead guilty to seven felony violations of the Food, Drug and Cosmetic Act (hereinafter “FDCA”) (three counts) and knowingly making material false statements to the Food and Drug Administration (hereinafter FDA) (four counts) on May 13, 2013.¹⁸³ A DOJ press release added the following:

“Ranbaxy knowingly caused false claims for those to be submitted to Medicaid, Medicare, TRICARE, the Federal Employees Health Benefits Program, the Department of Veterans Affairs, and the U.S. Agency for International Development (USAID), which administers the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR).”¹⁸⁴

Liability for civil allegations was not resolved except as to admissions made in the criminal case.¹⁸⁵ The settlement marked **“the nation’s largest financial penalty paid by a generic pharmaceutical company for FDCA violations.”**¹⁸⁶ The \$500 million was divided into a \$150 million criminal fine and \$350 million in civil penalties.¹⁸⁷

Dinesh Thakur released a statement on his blog applauding federal authorities for taking action against Ranbaxy.¹⁸⁸ Thakur worked with federal authorities for two years.¹⁸⁹ However, the effort to hold Ranbaxy accountable was an eight year campaign which began when Thakur noticed inconsistencies in the company’s manufacturing data and statements provided to regulatory bodies, which compromised **“the quality and safety of Ranbaxy drugs.”**¹⁹⁰ **“I understand the importance of regulatory oversight in ensuring drug quality and safety”** added Thakur.¹⁹¹

B. Matrix

Matrix Laboratories was founded by Nimmagadda Prasad in 2000.¹⁹² Prasad learned the pharmaceutical business from a senior position he previously held at Ranbaxy affiliate Vorin Labs.¹⁹³ Matrix entered into an arrangement with CHAI to supply HIV/AIDS ARVs to afflicted parts of Africa through the Foundation’s initiative to provide low cost drugs to the continent in October 2003. According to Prasad, “the Foundation negotiates with us on the price. But they

¹⁸³ Department of Justice Office of Public Affairs, *Generic Drug Manufacturer Ranbaxy Pleads Guilty and Agrees to Pay \$500 Million to Resolve False Claims Allegations, cGMP Violations and False Statements to the FDA*, May 13, 2013, available at: <https://www.justice.gov/opa/pr/generic-drug-manufacturer-ranbaxy-pleads-guilty-and-agrees-pay-500-million-resolve-false>

¹⁸⁴ See *id.*

¹⁸⁵ *Id.*

¹⁸⁶ See *id.*

¹⁸⁷ *Id.*

¹⁸⁸ Dinesh Thakur, *Statement by Dinesh Thakur Regarding US Government’s Case Against Ranbaxy*, May 13, 2013, available at: <http://dineshthakur.com/?s=ranbaxy&x=0&y=0>

¹⁸⁹ *Id.*

¹⁹⁰ See *id.*

¹⁹¹ See *id.*

¹⁹² M. Somasekhar, *The rise and fall of Matrix Prasad*, Business Line, May 16, 2012.

¹⁹³ *Id.*

don't buy it directly. They negotiate the price on behalf of the governments willing to buy the product."¹⁹⁴

Matrix quickly "matured" after partnering with the Foundation and became an acquisition target for larger global pharmaceutical companies.¹⁹⁵ Matrix was acquired by Mylan in 2007 and became a subsidiary of the company.¹⁹⁶ Mylan described the importance of the transaction as follows:

"Mylan's history in India began in 2007 with the acquisition of Matrix Laboratories Limited. The deal transformed Mylan overnight into one the world's largest manufacturers of active pharmaceutical ingredients (API) and allowed us to vertically integrate the production of our finished dosage form (FDF) medicines."¹⁹⁷

Others opined that it confirmed the "India success story".¹⁹⁸ Prasad sold "12% of his stake" and reinvested \$150 million back into Mylan.¹⁹⁹ The deal was for \$736 million with Mylan acquiring 71.5% of outstanding Matrix shares.²⁰⁰ Matrix was to remain a publicly traded company in India under the agreement's terms.²⁰¹

According to an SEC press release, "strategic rationale" for the deal included "Matrix's presence in Asia and Africa" which would provide "Mylan with access to multiple, under-penetrated and growing new markets."²⁰² This was particularly true in the case of generic ARVs and Mylan hoped that its partnership with Matrix would allow it to more easily access and partner with international programs, such as CHAI, in HIV afflicted regions of the world.²⁰³

1) Anil Soni - Mylan

Prior to Mylan's acquisition of Matrix, Anil Soni became the Chief Executive Officer of CHAI in 2005.²⁰⁴ Soni would go on to become a Mylan Vice President in 2012.²⁰⁵ He previously worked at McKinsey as a Business Analyst while Rajat Gupta was Chairman of the Board.²⁰⁶

¹⁹⁴ See Sudhir Shetty, *Matrix was always for giving shareholders an exit route*, DNA, September 12, 2009.

¹⁹⁵ See The Economic Times, US pharma major Mylan buys Matrix Labs, August 29, 2006.

¹⁹⁶ Mylan Corporation, Mylan In India; available at: <http://www.mylan.in/en/company/mylan-in-india>

¹⁹⁷ See Id.

¹⁹⁸ See The Economic Times, Pharmaceuticals, US pharma major Mylan buys Matrix, August 29, 2006.

¹⁹⁹ See Id.

²⁰⁰ The Securities and Exchange Commission, *Mylan Laboratories to Acquire Up to 71.5% Controlling Interest In Matrix Laboratories*, August 28, 2006; available at:

<https://www.sec.gov/Archives/edgar/data/69499/000095015206007415/I22158aexv99w1.htm>.

²⁰¹ Id.

²⁰² See Id.

²⁰³ Id.

²⁰⁴ Anil Soni, VP, Global Leader for Infectious Diseases at Mylan, LinkedIn; available at:

<https://www.linkedin.com/in/anil-soni-20762a23>

²⁰⁵ Id.

²⁰⁶ Id.

Soni and Gupta worked closely over the years and even co-authored works.²⁰⁷ When Gupta submitted a sentencing memorandum to the Federal District Court for the Southern District of New York as part of his insider trading conviction, Soni's name found its way into the document.²⁰⁸ Soni highlighted Gupta's altruism by telling the court that Gupta had led a "concerted effort to expand McKinsey's service to nonprofit organizations and to contribute, in particular, to efforts to improve global public health."²⁰⁹

Soni's close relationship with "master networker"²¹⁰ Gupta likely aided his installment as CHAI CEO given Gupta's relationship with President Clinton. With Soni at the head of CHAI, he was uniquely positioned to facilitate the Foundation's continued role in the "India Success Story".²¹¹ For example, on August 6, 2009, Nimmagadda Prasad attended a Foundation press conference in New York City with President Clinton and the CEOs of Mylan and Pfizer.²¹² There they announced a new agreement with CHAI for "second-line" treatment of HIV/AIDS medication "28 percent lower than the current lowest-priced alternative."²¹³ Second line ARVs would be available for under \$500 for the first time according to the Foundation's press release to governments that belonged to the Foundation's Procurement Consortium in Africa and other countries.²¹⁴ **The press release touted Matrix as "one of the fastest growing API (active pharmaceutical ingredients) manufacturers in India..."**²¹⁵

The Foundation's assistance did not go unrewarded by Matrix's parent company, Mylan. Foundation disclosure reports reveal that Mylan has donated between \$100,001 and \$250,000 to the Foundation.²¹⁶ Soni remained as CHAI CEO until October 2010.²¹⁷ As noted, he continued the "India Success Story" by taking over as a Vice President at Mylan in December 2012 after brief stints at the Gates Foundation and Born Free Africa.²¹⁸

²⁰⁷ Anil Soni and Rajat Gupta, *Bridging the Resource Gap: Improving Value for Money in HIV/AIDS Treatment*, Health Affairs, vol. 28, no. 6, November 2009.

²⁰⁸ *U.S. v. Rajat K. Gupta*, Sentencing Memorandum Of Rajat K. Gupta, 11 Cr. 907 (JSR), (S.D.N.Y. Oct. 17, 2012) at 13.

²⁰⁹ *See Id.*

²¹⁰ *See* Michael Rothfeld, The Wall Street Journal, The Rise and Fall of Rajat Gupta, October 24, 2012.

²¹¹ *See* The Economic Times, US pharma major Mylan buys Matrix Labs, August 29, 2006.

²¹² The Clinton Foundation, *Press Release: President Clinton, Pfizer, and Mylan Announce New Agreements to Lower Prices of Medicines for Patients with Drug Resistant HIV in Developing Countries*, August 6, 2009; available at: <https://www.clintonfoundation.org/main/news-and-media/press-releases-and-statements/press-release-president-clinton-pfizer-and-mylan-announce-new-agreements-to-lowe.html>

²¹³ *See Id.*

²¹⁴ *Id.*

²¹⁵ *See Id.*

²¹⁶ The Clinton Foundation, *Contributor and Grantor Information*; available at: <https://www.clintonfoundation.org/contributors?category=%24100%2C001%20to%20%24250%2C000&page=4>

²¹⁷ Anil Soni, VP, Global Leader for Infectious Diseases at Mylan, LinkedIn; available at:

<https://www.linkedin.com/in/anil-soni-20762a23>

²¹⁸ *Id.*



Mylan CEO Robert J. Coury, CEO of Pfizer Jeffrey B. Kindler and Matrix Labs founder Nimmagadda Prasad watch former U.S. President Bill Clinton of the Clinton Foundation speak at a press conference announcing lower prices for HIV Drugs in Developing Countries in New York City on August 6, 2009. UPI/John Angelillo

C. Cipla

Cipla was founded by Dr. K.A. Hamied in Mumbai, India in 1935.²¹⁹ The company touts itself as one of India's top pharmaceutical companies and has been in business for over 80 years.²²⁰ Dr. Y.K. Hamied, K.A.'s son, recently stated:

"I have been actively involved in your company for the past 55 years and in this period by the grace of the Almighty, we have made considerable progress and are now among the leading generic drug companies in India and also internationally."²²¹

²¹⁹ Cipla, Seventy-Ninth Annual Report 2014-2015, July 9, 2015 at 2 and 24.

²²⁰ Id at 2.

²²¹ See Id at 2.

Hamied added that “**India is the pharmacy of the world**” and that Indian companies have approximately a forty percent share of the world generic market in many areas, such as HIV/AIDS.²²² Cipla’s 2014-2015 Annual Report states that it grew by 11.5 percent in the preceding twelve months.²²³ Hamied has also done well for himself. According to Forbes, Hamied is worth \$1.44 billion and currently the 28th wealthiest man in India.²²⁴

As with Ranbaxy and Matrix, Cipla entered into an agreement with CHAI in October 2003 “to distribute antiretroviral drugs (ARVs) in Africa and the Caribbean with the goal of reaching 2 million people by 2008”.²²⁵ Cipla’s 2003-2004 Annual Report notes that the company “continued its commitment to fight HIV/AIDS worldwide” by distributing ARVs to African countries and elsewhere.²²⁶

Cipla’s work has not been without controversy. The company has pushed intellectual property standards for years and been sued in India and abroad.²²⁷ “Taking advantage of the loophole in the Indian patent law of 1970, Cipla decided to take on the world’s most powerful corporations by copying the anti-AIDS drugs and selling it dirt cheap to the poor by 2001.”²²⁸

Cipla’s 2001-2002 Annual Report noted a social responsibility to provide the medication at low cost in places such as Africa.²²⁹ Pharmaceutical giant GlaxoSmithKline warned Cipla against selling the drugs alleging patent infringement.²³⁰ It even compared generic companies, such as Cipla, to “pirates”.²³¹ Both pharmaceutical companies had been battling each other for over a year at that point. On August 10, 2000, GlaxoSmithKline’s Head of Patents in the company’s Global Intellectual Property Department – G.G. Brereton – wrote Cipla warning against patent infringement in Ghana (Exhibit H).²³² The letter warned that “importation of Duovir into Ghana by Cipla or any of its affiliates represents an infringement of our Company’s exclusive patent rights.”²³³ GlaxoSmithKline advised that it would not take immediate action because Cipla had characterized the distribution of the medication as a “donation”, but reserved the right to seek future enforcement of its patent.²³⁴

²²² See *Id* at 3.

²²³ *Id* at 4.

²²⁴ Forbes, *The World’s Billionaires*, Yusuf Hamied, August 31, 2016.

²²⁵ See The Clinton Foundation, Press Release: Agreement on Major Reduction in Price of AIDS Drugs”, October 23, 2003.

²²⁶ See Cipla, Sixty-Eight Annual Report 2003-2004, July 23, 2004 at 8.

²²⁷ Dev Chatterjee, Business Insider, *40 Years Ago....And now: Cipla: The crusader for affordable drugs takes the patent battle to MNCs*, December 24, 2014.

²²⁸ See *Id*.

²²⁹ Cipla, Sixty-Sixth Annual Report, 2001-2002, at 10.

²³⁰ Luke Harding and Sarah Boseley, The Guardian, *Crusading Indian firm takes on might of GlaxoSmithKline*, February 14, 2001.

²³¹ See *Id*.

²³² Letter from GG Brereton, Head of Patents Global Intellectual Property Department, to Mr. Amar Lulla, Director, Cipla, August 10, 2000.

²³³ See *Id*.

²³⁴ See *Id*.

Similar to Ranbaxy and Matrix, Cipla experienced substantial growth during its association with the Foundation.²³⁵ A “Sales & Growth” chart from its 2007-2008 Annual Report indicates that the company performed well in those areas from 2003-2008.²³⁶ Exports grew by 18% and domestic sales appreciated at 13% in 2008 alone.²³⁷ Its growth further validated the “India Success Story”.

²³⁵ Cipla, Seventy-Second Annual Report 2007-2008, at 11.

²³⁶ See *Id* (Noting, that “crore” is a numbering system used to measure Cipla’s growth in the Annual Report. The Office’s lack of familiarity with said system prohibits it from given a more precise growth analysis).

²³⁷ *Id*.

IV. FINDINGS

1. The Clinton Foundation Likely Facilitated The Distribution of Watered Down HIV/AIDS Medications In sub-Saharan Africa Through Its Health Access Initiative

The Foundation entered into an agreement with Ranbaxy on October 23, 2003 to distribute HIV/AIDS medications in sub-Saharan Africa. As Matrix founder Nimmagadda Prasad noted, the Foundation facilitated “the supply of drugs to affected markets by creating the necessary logistics.”²³⁸ In August 2004, the WHO notified Ranbaxy that it had discovered manufacturing irregularities in HIV/AIDS ARVs being produced by the company. Former Ranbaxy employee turned whistleblower, Dinesh Thakur, confirmed that the company’s HIV/AIDS ARVs were adulterated. Subsequently, he moved to the United States in 2005. The government brought suit against Ranbaxy in 2007 resulting in the company pleading guilty to seven felonies and paying a half billion dollar fine in 2013.

2. The Distribution of Watered Down HIV/AIDS Medications In sub-Saharan Africa May Have Increased Patient Mortality Rates

The U.S. government’s lawsuit against Ranbaxy’s alleged that the company’s actions “**subjected patients to increased risks of morbidity and mortality.**”²³⁹ The government also alleged that Ranbaxy “had substantial sales of the ARV drugs prior to withdrawing from the market.”²⁴⁰ The Foundation, through CHAI, worked with Ranbaxy for years. In 2006, the Foundation announced new procurement agreements touting its work with Ranbaxy and other companies.²⁴¹ A 2011 joint press release from CHAI, UNITAID, and UK Department for International Development thanked Ranbaxy for being a “key” supplier of HIV/AIDS ARVs.²⁴²

3. Watered Down HIV/AIDS ARVs Were Purchased With Taxpayer Money Through PEPFAR As A Result of Price Agreements, Some of Which Were Likely Negotiated By The Clinton Foundation

Ranbaxy accessed PEPFAR funds through USAID. As the primary administrator of PEPFAR, USAID worked with non-governmental organizations, foreign governments and private sector entities to provide training, assistance, pharmaceuticals and other commodities to individuals infected with HIV/AIDS. Congress initially appropriated \$15 billion for PEPFAR, with the initial \$2.4 billion appropriation occurring in FY2004. The government’s complaint against Ranbaxy directly alleges that the company submitted false data about its HIV ARVs to in order deceive the government into purchasing watered down medications with PEPFAR money to treat patients in other countries. Moreover, USAID, named as the administrator of PEPFAR, was listed in the government’s approximately half billion dollar settlement agreement with Ranbaxy.

²³⁸ See Sudhir Shetty, DNA, Matrix was always for giving shareholders an exit route, September 12, 2009.

²³⁹ See United States ex. rel. Dinesh S. Thakur v. Ranbaxy USA, Inc., et al., Civil Action No. 1:07-00962-JFM (D.Md.), First Amended Complaint, February 26, 2010 at 22.

²⁴⁰ See Id at 17.

²⁴¹ The Clinton Foundation, Press Release: About New Procurement Agreements, January 12, 2006.

²⁴² See UNITAID, Press Release, CHAI, UNITAID and DFID Announce Lower Prices For HIV/AIDS Medicines In Developing Countries, May 17, 2011.

CHAI also worked with African governments, such as Rwanda, Mozambique, Tanzania and South Africa to negotiate price agreements with Ranbaxy contemporaneous with USAID's treatment support through PEPFAR in those countries.

4. President Clinton Discouraged Compliance With Intellectual Property Standards

The sub-Saharan pharmaceutical market was loosely regulated for years. Some believed that enforcing patent laws in developing countries limited the development of generic alternatives to fight HIV/AIDS.²⁴³ President Clinton's actions could be construed as consistent with this belief. In 2000, he issued Executive Order 13155 affirming that the U.S. would not attempt to revoke or revise the intellectual property standards of any sub-Saharan countries if said policies furthered access to HIV/AIDS medications. Moreover, Elton John's book explicitly relays that President Clinton encouraged generic manufacturers to disregard brand patents, which likely alleviated their concerns about infringement actions being brought against them. Cipla was already pushing intellectual property boundaries in Africa at the time, even triggering a letter from pharmaceutical giant GlaxoSmithKline's Head of Patents warning against patent infringement in Ghana in 2000. The Foundation's support was imperative because it likely provided the generic companies with confidence that they would be more insulated from patent infringement suits.

5. The Clinton Foundation's Involvement with Ranbaxy, Matrix and Cipla Validated The "India Success Story"

Mylan's purchase of Matrix for \$736 million, three years after Matrix partnered with the Foundation, was "**the largest-ever takeover in the Indian pharma industry**" at the time.²⁴⁴ Daiichi Sankyo purchased Ranbaxy in 2008 in a deal valued at \$4.6 billion. During this same period, Cipla also experienced substantial growth in profits according to its 2007-2008 Annual Report.²⁴⁵ In particular, exports grew by 18% and domestic sales appreciated at 13% in that year alone.²⁴⁶ The financial growth of these companies validated "the India success story,"²⁴⁷ and correlated with their relationship with the Foundation.

6. President Clinton Was Personally Enriched With Million Dollar Consulting Contracts By A Friend of Convicted Felon, and Ranbaxy advocate, Rajat Gupta From 2002-2008

President Clinton was paid \$3.3 million in consulting fees by *infoGROUP* CEO Vinod Gupta from 2002-2008. Part of these payments were concealed from the *infoGROUP* board and correlated with the implementation of Ranbaxy's "Vision Garuda" by McKinsey. Both Rajat and Vinod were "friends" and the payments also coincided with the Foundation's Ranbaxy relationship. The consulting contracts and friendship between Rajat and Vinod Gupta raise a question as to whether the money was a dual consideration kickback for President Clinton's

²⁴³ Charles W. Schmidt, *Drugs As Intellectual Property – The enforcement of patent law in developing countries limits the availability of generic alternatives*; available at:

<http://pubs.acs.org/subscribe/archive/mdd/v04/i06/html/06rules.html#ref>

²⁴⁴ See *The Economic Times*, US pharma major Mylan buys Matrix Labs, August 29, 2006.

²⁴⁵ Cipla, *Seventy-Second Annual Report 2007-2008*, at 13.

²⁴⁶ *Id.* at 11.

²⁴⁷ See *The Economic Times*, US pharma major Mylan buys Matrix Labs, August 29, 2006.

*info*Group advocacy and the Foundation's partnership with Ranbaxy announced in October 2003. Further, the 200,000 *info*GROUP stock options exercised by Mindspirit smack of a referral fee to Rajat Gupta that was also not reported to the *info*GROUP board.

7. Did The Clinton Foundation Have Knowledge, Or Should It Have Known, That Ranbaxy HIV/AIDS Drugs Were Watered Down?

In August 2004, almost one year after the Foundation began working with Ranbaxy, the company received a letter from the WHO-PQP. The letter alleged that WHO-PQP was aware of and "reported" irregularities with three Ranbaxy HIV ARVs being sold in South Africa. Moreover, WHO issued a press release about Ranbaxy's activities, which were also reported to the FDA in 2005 by Dinesh Thakur.

- Did WHO-PQP report its findings to the government of South Africa, non-governmental organizations, or other entities working with Ranbaxy at the time? If so, was the Foundation notified?
- Did the Foundation become aware of the WHO August 2004 press release at any time?
- Did the FDA alert foreign governments, companies or non-governmental organizations of Thakur's allegations against Ranbaxy when he contacted the agency in 2005? If so, was the Foundation notified?

V. EXECUTIVE SUMMARY

The “India success story” details the Clinton Foundation’s partnership with drug companies Ranbaxy, Matrix and Cipla in the subcontinent beginning in October 23, 2003. The Foundation joined the drug companies with the goal of combating HIV/AIDS in sub-Saharan Africa by getting less expensive medications into afflicted countries. This relationship saw the companies mature quickly and become acquisition targets for larger global pharmaceutical entities. It also resulted in encouragement for the disregard of intellectual property standards, the likely use of taxpayer money, through PEPFAR, to distribute watered down drugs that “subjected patients to increased risks of morbidity and mortality”²⁴⁸, donations to the Foundation, and possible kickbacks in the form of million dollar consulting contracts to President Clinton from the friend of convicted felon and Ranbaxy advocate, Rajat Gupta.

²⁴⁸ United States ex. rel. Dinesh S. Thakur v. Ranbaxy USA, Inc., et al., Civil Action No. 1:07-00962-JFM (D.Md.), First Amended Complaint, February 26, 2010 at 22.

Exhibit A-1

MARSHA BLACKBURN
7TH DISTRICT, TENNESSEE
DEPUTY WHIP

COMMITTEE ON
ENERGY AND COMMERCE
VICE-CHAIRMAN

COMMITTEE ON
THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515-4207

WASHINGTON OFFICE
2266 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: (202) 225-2811

DISTRICT OFFICES
305 PUBLIC SQUARE, SUITE 212
FRANKLIN, TN 37064
TELEPHONE: (615) 591-5161

128 N. 2ND STREET, SUITE 202
CLARKSVILLE, TN 37040
TELEPHONE: (931) 503-0391

May 19, 2015

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue Northwest
Washington, DC 20224-0002

Dear Honorable Koskinen:

We write to ask that you review the tax-exempt status of the Clinton Foundation (hereinafter “the Foundation”). The Foundation maintains that “The Bill, Hillary & Chelsea Clinton Foundation is a non profit 501(c)(3) tax-exempt organization.”¹ However, recent media reports have revealed that the Foundation failed to report millions of dollars in grants from foreign governments that it accepted while Hillary Clinton was Secretary of State and that it facilitated private business transactions between foreign entities. As a result, given the substantial public interest involved, we feel a prompt review of the Foundation's tax-exempt status is appropriate to determine whether it is acting within the scope of its charitable mission.

First, the Foundation is required to annually file a form 990 series return with the IRS listing foreign contributions. Unfortunately, the Foundation failed to accurately report tens of millions of dollars in foreign government grants between 2010 and 2012.² Foundation Acting CEO Maura Pally admitted in an April 26th blog post that “...our error was that government grants were mistakenly combined with other donations.”³ Former President Clinton recently added that “people re-file their taxes all the time” and that the omissions were “just an accident.”⁴

¹ Clinton Foundation, *Frequently Asked Questions*, available at <https://www.clintonfoundation.org/ways-give-make-planned-gift/frequently-asked-questions#faq>.

² Rosalind S. Helderman, *Clinton Foundation will amend tax filings to reflect foreign giving*, WASH. POST., April 23, 2015.

³ Maura Pally, *A Commitment to Honesty, Transparency, and Accountability*, April 26, 2015, available at <https://www.clintonfoundation.org/blog/2015/04/26/commitment-honesty-transparency-and-accountability>.

⁴ Jeremy Diamond, *Bill Clinton On Clinton Cash Case: It Won't Fly*, May 6, 2015, available at <http://www.cnn.com/2015/05/06/politics/bill-clinton-cash-book-case-wont-fly/index.html>.

However, the Foundation apparently did report such information prior to 2010. The Foundation's failure to report the donations is problematic and deserves enhanced scrutiny given Mrs. Clinton's position as Secretary of State at the time.

Second, former President Clinton and Canadian businessman Frank Giustra currently serve as board members of the Foundation. An article titled "*The Clintons, a luxury jet and their \$100 million donor from Canada*" appeared in the Washington Post on May 3rd and details their relationship.⁵ The article notes that Giustra has donated over \$100 million dollars to the Foundation since 2005 and that "Clinton has also gained regular transportation, borrowing Giustra's plane 26 times for foundation business since 2005, including 13 trips in which the two men traveled together."⁶ The Post adds that Giustra "closed some of the biggest deals of his career in the same countries where he traveled with Clinton."⁷ Giustra joined the Foundation's Board of Directors in 2013. The nexus between the Foundation and Giustra's business ventures is unusual and raises a question as to whether Foundation activities were used as a pre-text to allow Giustra to gain access to foreign individuals or entities with a stake in his private business interests.

Given these widely reported allegations, we believe a review of the appropriateness of the Foundation's tax-exempt status is necessary. Proceeding under the cloak of philanthropy, the Foundation appears to have facilitated major private business transactions between foreign entities and also failed to report substantial foreign donations during Secretary Clinton's tenure at the State Department. These actions have created an appearance of impropriety and go behind the Foundation's pledge to act primarily in furtherance of charitable causes for which it was granted tax-exempt status.

We ask that you respond within thirty days of receipt of this correspondence. Please contact Charles Flint at 202-225-2811 with questions about this request. Thank you for your attention.

Sincerely,


Marsha Blackburn
Member of Congress

⁵ Tom Hamburger, Rosalind S. Helderman and Anu Narayanswamy, *The Clintons, a luxury jet and their \$100 million donor from Canada*, WASH. POST., May 3, 2015.

⁶ *Id.*

⁷ *Id.*


Randy Hodgebauer
Member of Congress


Trent Franks
Member of Congress


James Sensenbrenner
Member of Congress


Mark Meadows
Member of Congress


Mo Brooks
Member of Congress


Scott DesJarlais
Member of Congress


David Rouzer
Member of Congress


Dennis Ross
Member of Congress


Pete Olson
Member of Congress


Randy Hultgren
Member of Congress


Phil Roe
Member of Congress


Tim Walberg
Member of Congress


Ryan Zinke
Member of Congress


Diane Black
Member of Congress


Bill Flores
Member of Congress


Louie Gohmert
Member of Congress


Kay Granger
Member of Congress


John Ratcliffe
Member of Congress

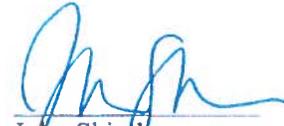

Steve Chabot
Member of Congress


Lynn Jenkins
Member of Congress


Walter Jones
Member of Congress


Tom Price
Member of Congress

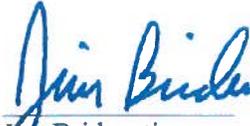

John Duncan
Member of Congress


John Shimkus
Member of Congress


Ann Wagner
Member of Congress


Roger Williams
Member of Congress


Barry Loudermilk
Member of Congress


Jim Bridenstine
Member of Congress

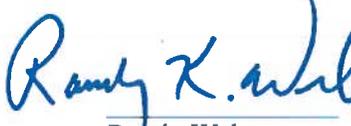

Dave Brat
Member of Congress


Bradley Byrne
Member of Congress


Brian Babin
Member of Congress


Steve King
Member of Congress


Ted Yoho
Member of Congress


Randy Weber
Member of Congress

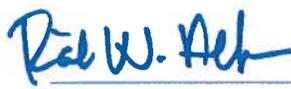

Stephen Fincher
Member of Congress


Tom Marino
Member of Congress


Pete Sessions
Member of Congress


Michael Burgess
Member of Congress


Michael McCaul
Member of Congress


Rick W. Allen
Member of Congress


Billy Long
Member of Congress


Dan Newhouse
Member of Congress


Chuck Fleischmann
Member of Congress


Steve Pearce
Member of Congress


Scott Perry
Member of Congress



Luke Messer
Member of Congress



Bob Goodlatte
Member of Congress



Sam Johnson
Member of Congress



Matt Salmon
Member of Congress



Jeff Duncan
Member of Congress



Kenny Marchant
Member of Congress

Exhibit A-2

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
1100 Commerce Street
Dallas, TX 75242

THE HONORABLE MARSHA BLACKBURN
HOUSE OF REPRESENTATIVES
2266 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

Date of This Notice:
5/21/2015
Contact Telephone Numbers:
Toll Free (877) 829-5500

Dear Sir or Madam:

Thank you for the information you submitted regarding THE BILL, HILLARY AND CHELSEA CLINTON FOUNDATION. The Internal Revenue Service has an ongoing examination program to ensure that exempt organizations comply with the applicable provisions of the Internal Revenue Code. The information you submitted will be considered in this program.

Internal Revenue Code section 6103 protects the privacy of tax returns and tax return information of all taxpayers. Therefore, we cannot disclose the status of any investigation. If, at a later date, you have additional information that you believe is relevant to this matter, please attach a copy of this letter to the information and send it to the address shown above.

We appreciate your concern in bringing this matter to our attention. If you have additional questions, please call Customer Account Services at (877) 829-5500.

Sincerely,

Margaret Von Lienen
Director, Exempt Organizations
Examinations

Exhibit A-3



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

June 15, 2015

The Honorable Marsha Blackburn
U.S. House of Representatives
Washington, DC 20515

Dear Ms. Blackburn:

Thank you for your letter dated May 19, 2015, in which you asked that we review questions about the Clinton Foundation.

We treat all of the referrals we receive, from whatever source, in the same manner. The acknowledgement letter you received correctly states our procedures for processing referrals, as well as our limitations on disclosing taxpayer information to individuals who make referrals. Our procedures provide that referral acknowledgement letters be signed by the Director of the group that handles our Tax Exempt and Government Entities referrals. We have a new Director of that group, however, and her signature has not been input into our system yet. We will be updating the system to include her signature soon, and I apologize that the letter that you received was unsigned. I assure you that we are treating your letter as a referral and will consider the information you provided in determining whether additional review of the organization's activities is needed.

Thank you for taking the time to refer this matter to our attention, and I hope this information is helpful. I will be sending separate letters to each of the members who signed your letter. If you have any questions, please contact me or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

John A. Koskinen

Exhibit B-1

MARSHA BLACKBURN

7TH DISTRICT, TENNESSEE

DEPUTY WHIP

COMMITTEE ON
ENERGY AND COMMERCE
VICE CHAIRMAN

COMMITTEE ON
THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515-4207

WASHINGTON OFFICE
2266 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: (202) 225-2811

DISTRICT OFFICES
305 PUBLIC SQUARE, SUITE 212
FRANKLIN, TN 37064
TELEPHONE: (615) 591-5161

128 N. 2ND STREET, SUITE 202
CLARKSVILLE, TN 37040
TELEPHONE: (931) 503-0391

April 12, 2016

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Dear Chairwoman Ramirez:

We write to ask that you review the charitable status of the Clinton Foundation (hereinafter “the Foundation”). The Foundation maintains that former Secretary of State Hillary Clinton “..was not involved in the work of the Foundation when she was Secretary of State.” However, Secretary Clinton used a private email server to conduct official business during her tenure at the State Department and media reports suggest that the Justice Department is now investigating a link between her official actions and Foundation activity. The Federal Trade Commission (FTC) has a history of investigating “sham” charities for false and deceptive statements and should initiate a review of the Foundation.¹

First, the Foundation claims that it spends money “directly on our programs,..”² However, a media report advised that only “15 percent of monies spent went towards “direct program expenditures” at the Foundation in 2013.³ The FTC’s own website encourages the public to review the trustworthiness of charities using tools such as Charity Navigator.⁴ Incredibly, Charity Navigator had the Foundation on a “Watch List” until December 2015 and is unable to

¹ Federal Trade Commission, FTC Announces Operation False Charity Law Enforcement Sweep, May 20, 2009 available at: <https://www.ftc.gov/news-events/press-releases/2009/05/ftc-announces-operation-false-charity-law-enforcement-sweep>

² The Clinton Foundation, How We Work, available at: <https://www.clintonfoundation.org/about>

³ Liz Peek, Investors Should Protest Funds To Clinton Foundation, The Fiscal Times, May 20, 2015, available at: <http://finance.yahoo.com/news/investors-protest-funds-clinton-foundation-093000847.html>

⁴ Federal Trade Commission, Charity Scams, available at: <https://www.consumer.ftc.gov/features/feature-0011-charity-scams>

rate the Foundation because of its “atypical business model.”⁵ The Better Business Bureau determined in 2013 that the Foundation did not meet “its transparency and accountability requirements.”⁶ This lack of transparency raises issues of deception and false claims.

Second, reports surfaced last Spring that the Foundation failed to report millions of dollars in grants from foreign governments between 2010 and 2012 while Hillary Clinton was Secretary of State.⁷ Acting Foundation CEO Maura Pally admitted that “...our error was that government grants were mistakenly combined with other donations”⁸ and former President Clinton said the omissions were “just an accident.”⁹ However, the Foundation apparently did report such information prior to 2010. The Foundation’s failure to report the foreign donations, which corresponded with Secretary Clinton’s use of a private email server at the State Department, raises an appearance of impropriety deserving of further scrutiny.

Third, media reports indicate that the Federal Bureau of Investigation (FBI) has expanded its investigation “to look at whether the intersection of Clinton Foundation work and State Department business may have violated public corruption laws...”¹⁰ The Justice Department has even granted “immunity” to Bryan Pagliano, a former State Department staffer who “set up her (Secretary Clinton) New York home server in 2009...”¹¹ These are troubling developments. They call into question the legitimacy of the Foundation’s work as it operates under a cloak of philanthropy.

The Commission has a duty to investigate the Foundation’s lack of transparency based on its own pledge “to prevent business practices that are...deceptive or unfair to consumers” and the compelling public interest involved.¹² The existence of a federal criminal probe should alarm the Commission, which initiates civil actions requiring a lower standard of proof.¹³ These allegations may stifle the ability of other organizations associated with current or former public officials to advance charitable causes by undermining public confidence in such institutions. Finally, the FTC has warned that “in these difficult economic times, Americans want to make every contribution count.”¹⁴

⁵ Charity Navigator, Bill Hillary & Chelsea Clinton Foundation, available at:

<http://www.charitynavigator.org/index.cfm?bay=search.profile&ein=311580204#.Vu16M00UWJB>

⁶ Liz Peek, Investors Should Protest Funds To Clinton Foundation, The Fiscal Times, May 20, 2015, available at:

<http://finance.yahoo.com/news/investors-protest-funds-clinton-foundation-093000847.html>

⁷ Rosalind S. Helderman, Clinton Foundation will amend tax filings to reflect foreign giving, WASH. POST., April 23, 2015.

⁸ Maura Pally, A Commitment to Honesty, Transparency, and Accountability, April 26, 2015, available at <https://www.clintonfoundation.org/blog/2015/04/26/commitment-honesty-transparency-and-accountability>.

⁹ Jeremy Diamond, Bill Clinton On Clinton Cash Case: It Won’t Fly, May 6, 2015, available at

<http://www.cnn.com/2015/05/06/politics/bill-clinton-cash-book-case-wont-fly/index.html>.

¹⁰ Valerie Richardson, Pagliano’s Immunity Deal Could Indicate Grand Jury Probe Into Clinton Email Server, WASH. POST., March 3, 2016.

¹¹ Id.

¹² <https://www.ftc.gov/about-ftc>

¹³ Liz Peek, Investors Should Protest Funds To Clinton Foundation, The Fiscal Times, May 20, 2015, available at:

<http://finance.yahoo.com/news/investors-protest-funds-clinton-foundation-093000847.html>

¹⁴ <https://www.ftc.gov/news-events/press-releases/2009/05/ftc-announces-operation-false-charity-law-enforcement-sweep>

Consistent with the FTC's mission and precedent, we request that you review the above allegations to determine if the Foundation is a "sham" charity. Please respond within thirty days of receipt of this correspondence. Thank you for your attention.

Sincerely,



Marsha Blackburn
Member of Congress



Bob Goodlatte
Member of Congress



Bill Flores
Member of Congress



Kevin Cramer
Member of Congress



Todd Rokita
Member of Congress



Mo Brooks
Member of Congress



Diane Black
Member of Congress



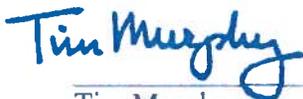
Steve King
Member of Congress



Ernie Loudermilk
Member of Congress



Phil Roe
Member of Congress



Tim Murphy
Member of Congress



Tom Marino
Member of Congress



Louie Gohmert
Member of Congress



Roger Williams
Member of Congress



Ryan Zinke
Member of Congress



Matt Salmon
Member of Congress



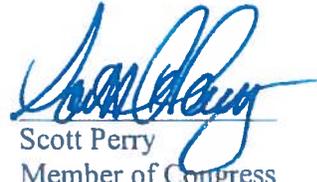
John Duncan
Member of Congress



Jim Bridenstine
Member of Congress



Randy Weber
Member of Congress



Scott Perry
Member of Congress



Renee Ellmers
Member of Congress



Dan Newhouse
Member of Congress

Exhibit B-2



OFFICE OF THE
CHAIRWOMAN

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20850

May 16, 2016

The Honorable Marsha Blackburn
Vice Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Vice Chairman Blackburn:

Thank you for your letter of April 12, 2016 regarding the Clinton Foundation, a non-profit corporation that the IRS lists as a public charity pursuant to Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3). You expressed concern that a media report stated that the Foundation spends only 15% of revenues on "direct program expenditures." You also raised issues about the Foundation's operational transparency, and questioned the Foundation's legitimacy given media reports of an FBI investigation into possible violations of public corruption laws.

As you know, the Federal Trade Commission has been directed by Congress to act to prevent persons, partnerships, or corporations from engaging in unfair or deceptive acts or practices in or affecting commerce pursuant to the Federal Trade Commission Act. Although any particular case would require a fact-specific analysis, the Commission generally lacks jurisdiction over non-profit entities. 15 U.S.C. § 44. In particular, the Supreme Court has held that spending only a low percentage of donations for charitable purposes, without more, does not establish fraud. *See, e.g., Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620 (1980).

When the Commission can establish that an entity claiming to be a charity is in fact operating to profit itself or its members, *i.e.*, is a "sham charity," the Commission can bring an enforcement action against the entity for making deceptive representations to donors. As you noted, the Commission has acted against sham charities in such egregious cases. *See, e.g., FTC, All Fifty States and D.C. v. Cancer Fund of America, et al*, Civ No. 2:15-cv-00884 (D. Ariz., complaint filed May 18, 2015).

Thank you again for bringing your concerns to the FTC's attention. If you should have any questions or concerns or wish to provide additional information, please feel free to contact me or have your staff contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2946.

Sincerely,

Edith Ramirez
Chairwoman

Exhibit C-1

MARSHA BLACKBURN
7TH DISTRICT, TENNESSEE
DEPUTY WHIP

COMMITTEE ON
ENERGY AND COMMERCE
VICE-CHAIRMAN

COMMITTEE ON
THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515-4207

WASHINGTON OFFICE
2266 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: (202) 225-2811

DISTRICT OFFICES
305 PUBLIC SQUARE, SUITE 212
FRANKLIN, TN 37064
TELEPHONE: (615) 591-5161

128 N. 2ND STREET, SUITE 202
CLARKSVILLE, TN 37040
TELEPHONE: (931) 503-0391

July 15, 2016

The Honorable James Comey
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224-0002

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Dear Director Comey, Commissioner Koskinen and Chairwoman Ramirez:

We write concerning the Bill, Hillary, and Chelsea Clinton Foundation (hereinafter "the Foundation"). Members of this body have previously expressed concerns about the Foundation's activities in letters to the IRS in May 2015 and the FTC last April. Unresolved media reports raising significant issues of public corruption regarding Foundation activities, American foreign policy, and Secretary Clinton compel us to write again. These reports, along with recently discovered information about the Foundation's initial tax exempt filings, portray a lawless "Pay to Play" enterprise that has been operating under a cloak of philanthropy for years and should be investigated.

First, the Foundation's initial filings with the IRS for 501(c)(3) status appear to prohibit much of its current activity. The Foundation submitted its application to the IRS on December 23, 1997.¹ The description of its "activities and operational information" notes that it would construct a library, maintain a historical site with records, and engage in study and research.² No mention is made of conducting activities outside of the United States, which is one of the codes included in the IRS "Application for Recognition of Exemption" in effect at that time (see activity code 910).³ As a result, the Foundation's global initiatives appear to be unlawful pursuant to IRS guidance.

¹https://www.clintonfoundation.org/sites/default/files/clinton_foundation_form_1023_application_for_tax_exemption.pdf

²Id.

³<http://www.unclefed.com/IRS-Forms/1996/K1023.PDF>

Second, media reports indicate that President Clinton served as an honorary chancellor for Laureate International Universities for five years beginning on April 24, 2010. President Clinton was paid \$16.5 million as an honorary chancellor⁴ and Laureate “has been a seven-figure donor to the Clinton Foundation, giving between \$1 million and \$5 million,” and also made five commitments to the Clinton Global Initiative.⁵ In addition, the International Youth Foundation (IYF), an entity run by Laureate founder Douglas Becker, received over \$55 million of USAID grants from 2010 to 2012.⁶ USAID operates under substantial guidance from the Secretary of State which creates an appearance that millions of dollars in taxpayer money was channeled to IYF by Secretary Clinton’s State Department as a kickback for her husband’s generous contract as an honorary Laureate chancellor.⁷

Third, Uranium One is a Russian run company that has acquired “control of one-fifth of all uranium production capacity in the United States.”⁸ Uranium One’s chairman donated \$2.35 million to the Foundation through several donations, which the Foundation failed to report, as the Russian’s gained control of Uranium One from 2009-2013.⁹ The New York Times reported that former President Clinton “received \$500,000 for a Moscow speech from a Russian investment bank....promoting Uranium One stock” after the Russians declared their intent to acquire control of Uranium One.¹⁰ Secretary Clinton was also one of several Administration officials who approved the sale of the uranium. The intersection of Foundation business, official action taken by Secretary Clinton, and a large payment to President Clinton from an interested party once again smacks of a “Pay to Play” pattern of dealing that personally enriched the Clinton’s at the expense of American foreign policy.

The Foundation’s activities cannot be ignored given the compelling public interest involved. Just last week the Justice Department indicted a Member of Congress for soliciting over \$800,000 for charitable causes which were used “as a personal slush fund”.¹¹ The Clinton Foundation collected \$337,985,726.00 in contributions, grants, and other revenue in 2014 alone.¹² The Foundation has routinely gone behind its pledge to act in furtherance of charitable causes and beyond the scope of activities indicated in its initial filings with the IRS. The appearance of “Pay to Play” transactions involving Laureate and Uranium One also raise serious allegations of criminal conduct requiring further examination.

Public corruption undermines the integrity of representative government and institutions associated with elected or public officials. However, the failure of government agencies to independently assess and investigate the validity of such allegations can have an even more damaging affect. We ask that

⁴ Richard Rubin and Jennifer Epstein, *Hillary and Bill Clinton Made \$139 Million in Eight Years*, Bloomberg Politics, July 31, 2015.

⁵ Maggie Haberman, *Bill Clinton Ends Role With Chain of For-Profit Colleges*, April 24, 2015.

⁶ Joshua Green and Jennifer Epstein, *Author Alleges Bill Clinton Just Quit Education Company Because of Clinton Cash*, Bloomberg Politics, April 25, 2015.

⁷ USAID, Operational Policy (ADS), available at: <https://www.usaid.gov/who-we-are/agency-policy>.

⁸ Jo Becker and Mike McIntire, *Cash Flowed to Clinton Foundation Amid Russian Uranium Deal*, The New York Times, April 23, 2015.

⁹ Id.

¹⁰ Id.

¹¹ Associated Press, Rep. Corrine Brown indicted in fraud case over charity “slush fund”, July 8, 2016, *available at*: <http://www.foxnews.com/politics/2016/07/08/us-rep-corrine-brown-indicted-after-fraud-investigation.html>

¹² Clinton Foundation, Consolidated Statement of Activities, Year Ended December 31, 2014, *available at*: https://www.clintonfoundation.org/sites/default/files/2015_ar_financials.pdf

each of your agencies review these allegations pursuant to your jurisdictional charge. Thank you for your consideration of our views on these matters.

Sincerely,


Marsha Blackburn
Member of Congress


Tom Price
Member of Congress


Bill Shuster
Member of Congress


Mike Kelly
Member of Congress


Michael McCaul
Member of Congress


Pete Sessions
Member of Congress


James Sensenbrenner
Member of Congress


Jim Bridenstine
Member of Congress


Doug Lamborn
Member of Congress


Bill Flores
Member of Congress


Jeff Miller
Member of Congress


Joe Pitts
Member of Congress


Sam Johnson
Member of Congress



Dan Newhouse
Member of Congress



Steve Chabot
Member of Congress



Billy Long
Member of Congress



Blake Farenthold
Member of Congress



Candice Miller
Member of Congress



Joe Barton
Member of Congress



Vicky Hartzler
Member of Congress



Pete Olson
Member of Congress



Kevin Cramer
Member of Congress



Morgan Griffith
Member of Congress



Tom Marino
Member of Congress



Andy Harris, M.D.
Member of Congress



Gregg Harper
Member of Congress



Lynn Westmoreland
Member of Congress



Louie Gohmert
Member of Congress



Buddy Carter
Member of Congress



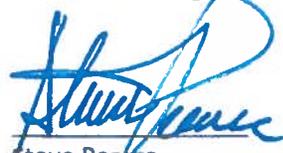
Glenn Grothman
Member of Congress



Scott Garrett
Member of Congress



Diane Black
Member of Congress



Steve Pearce
Member of Congress



David Rouzer
Member of Congress



Brian Babin
Member of Congress



Scott Desjarlais
Member of Congress



Stephen Fincher
Member of Congress



Randy Weber
Member of Congress



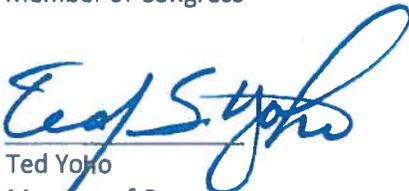
Chuck Fleischmann
Member of Congress



Kay Granger
Member of Congress



Phil Roe
Member of Congress



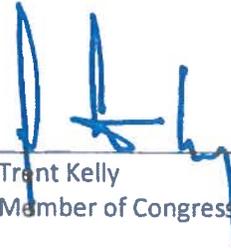
Ted Yoho
Member of Congress



Jeff Duncan
Member of Congress



Dave Brat
Member of Congress



Trent Kelly
Member of Congress



Matt Salmon
Member of Congress



Rick Allen
Member of Congress



Mike Rogers
Member of Congress



Ken Buck
Member of Congress



Mark Meadows
Member of Congress



Dave Schweikert
Member of Congress



Dennis Ross
Member of Congress



Chris Collins
Member of Congress



Renee Ellmers
Member of Congress



Ryan Zinke
Member of Congress



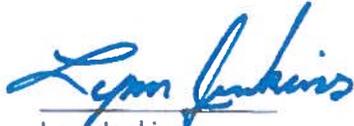
Joe Wilson
Member of Congress



Jackie Walorski
Member of Congress



Larry Bucshon
Member of Congress



Lynn Jenkins
Member of Congress



Ron DeSantis
Member of Congress



Charles W. Boustany Jr., M.D.
Member of Congress



Mike Pompeo
Member of Congress



Robert Pittenger
Member of Congress



Trent Franks
Member of Congress

Exhibit C-2



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

July 22, 2016

The Honorable Marsha Blackburn
U.S. House of Representatives
Washington, DC 20515

Dear Representative Blackburn:

Thank you for the letter dated July 15, 2016, from you and your colleagues about the Bill, Hillary, and Chelsea Clinton Foundation.

We have forwarded the information you submitted to our Exempt Organizations Examinations program in Dallas. This program considers all referrals and will send you a separate acknowledgement letter when it receives your information.

Section 6103 of the Code protects the privacy of tax returns and tax return information of all taxpayers. Therefore, we cannot disclose any actions we may take on this information. If, at a later date, you have additional information that you believe is relevant to this matter, please contact me or send it to us at the following address:

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
1100 Commerce Street
Dallas, TX 75242

Thank you for taking the time to refer this matter to our attention, and I hope this information is helpful. I am also sending a letter to your colleagues. If you have any questions, please contact me or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Koskinen".

John A. Koskinen

Exhibit C-3



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

August 5, 2016

The Honorable Marsha Blackburn
U.S. House of Representatives
Washington, DC 20515

Dear Representative Blackburn:

Thank you for your July 15, 2016 follow-up letter regarding the Bill, Hillary, and Chelsea Clinton Foundation (Foundation), a Section 501(c)(3) non-profit corporation. In your letter, you express concerns regarding media reports "raising significant issues of public corruption." You also raise concerns about the Foundation's compliance with tax laws.

The concerns you raise appear to fall outside of the Commission's authority, which encompasses neither public corruption nor tax laws. As a civil law enforcement agency, the Commission lacks the ability to investigate criminal allegations of public corruption. In addition, the Commission generally lacks jurisdiction over non-profit entities under the Federal Trade Commission Act, 15 U.S.C. § 44, though we can take action against unfair or deceptive practices, such as misrepresentations to donors by a "sham charity," when we can establish that the entity claiming to be a charity is in fact operating for its own profit or that of its members. I can assure you that we do monitor the marketplace with respect to issues that fall within our jurisdiction.

Thank you for bringing your concerns to the Commission's attention. If you or your staff have any questions or additional information, please do not hesitate to contact me or have your staff contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2946.

Sincerely,

A handwritten signature in blue ink that reads "Edith Ramirez".

Edith Ramirez
Chairwoman

Exhibit D

EX-10.1 2 d59811exv10w1.htm STIPULATION OF SETTLEMENT

Exhibit 10.1

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

)	
)	
IN RE: INFOUSA, INC.)	CONSOLIDATED
SHAREHOLDERS LITIGATION)	C.A. No. 1956-CC
)	
)	

STIPULATION OF SETTLEMENT

This is a Stipulation of Settlement (“Stipulation”) made and entered into by: (1) nominal defendant *infoGROUP* Inc., formerly known as *infoUSA* Inc. (“*infoGROUP*” or the “Company”); (2) the Special Litigation Committee (the “SLC”) of the Board of Directors (the “Board”) of the Company; (3) plaintiffs Cardinal Value Equity Partners, LP (“Cardinal”), Dolphin Limited Partnership I, LP and Dolphin Financial Partners, LLC (collectively “Dolphin”), and Robert Bartow; and (4) defendants Vinod Gupta, George F. Haddix, Vasant H. Raval, Bill L. Fairfield, Anshoo S. Gupta (deceased), Elliot S. Kaplan, Martin F. Kahn, Bernard W. Reznicek, Dennis P. Walker, Harold W. Andersen, and Charles W. Stryker. This Stipulation is intended to fully, finally, and forever resolve, discharge, and settle the Consolidated Derivative Action (as hereinafter defined) and any and all Released Claims (as hereinafter defined) against the Released Persons (as hereinafter defined) upon and subject to the terms and conditions herein.

RECITALS

WHEREAS, on September 2, 2005, Cardinal made a demand upon the Company pursuant to section 220 of the Delaware General Corporation Law to inspect the Company’s books and records;

In 2001, *infoGROUP* entered into a consulting agreement with Mindspirit LLC (“Mindspirit”) to “provide advice and guidance to Vin Gupta, CEO of *infoGROUP*, on strategic issues associated with the growth and sustainability of the company.” Under the agreement, Mindspirit was entitled to 200,000 stock options; all of these options were exercised. These options were not approved by the Board or any Board committee. According to Vinod Gupta, Mindspirit was created by the wives of Rajat Gupta and Anil Kumar, two employees of McKinsey & Company who were rendering business advice to Vinod Gupta and *infoGROUP*. The SLC has determined that remedial action is appropriate with respect to this issue.

Former President Clinton's Consulting Agreement:

The SLC investigated the circumstances surrounding *infoGROUP*'s consulting payments to former President Clinton.

In April 2002, *infoGROUP* signed a consulting agreement with former President Clinton that extended from May 1, 2002 to April 30, 2005. The agreement provided that former President Clinton would give advice and counsel to Vinod Gupta on strategic growth and business development in exchange for \$2.1 million and other compensation. The Audit Committee discussed the terms of a proposed three-year contract with former President Clinton. In September 2005, *infoGROUP* and former President Clinton executed a new consulting agreement that extends from October 1, 2005 through September 30, 2008. The agreement provided that President Clinton would give advice and counsel to Vinod Gupta on strategic growth and business development in exchange for \$1.2 million and other compensation. There is no evidence that the Audit Committee or Board discussed this consulting agreement. Former President Clinton spoke at Company events, mentioned Vinod Gupta and *infoGROUP* in speeches to other audiences, helped introduce Vinod Gupta to potential business contacts, and appears to have helped attract significant business to *infoGROUP*.

The SLC has determined that remedial action is necessary with respect to the authority that Company officers have regarding transactions entered into on behalf of the Company, although no monetary remedial action is appropriate with respect to this issue.

Laurel Gupta:

The SLC investigated whether: (1) *infoGROUP* paid rent on Laurel Gupta's (Vinod Gupta's wife) apartment in New York City; and (2)

Exhibit E

00000040826

UNITED STATES SENATE FINANCIAL DISCLOSURE REPORT FOR ANNUAL AND TERMINATION REPORTS

Last Name	First Name and Middle Initial	Annual Report Calendar Year (Entered by Reviewer)	Senate Office / Agency in which Employed
CLINTON	HILLARY RODHAM	2002	U.S. SENATE
Senate Office Address (Number, Street, City, State, and ZIP Code)	Senate Office Telephone Number (Include Area Code)	Termination Report Termination Date (mm/dd/yy)	Prior Office / Agency in which Employed
476 RUSSELL OFFICE BUILDING, WASHINGTON, DC 20510	202-224-4451		

AFTER READING THE INSTRUCTIONS - ANSWER EACH OF THESE QUESTIONS AND ATTACH THE RELEVANT PART

Question	YES	NO
Did any individual or organization make a donation to charity in lieu of paying you for a speech, appearance, or article in the reporting period? <i>If Yes, Complete and Attach PART I.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you or your spouse have earned income (e.g., salaries or fees) or non-investment income of more than \$200 from any reportable source in the reporting period? <i>If Yes, Complete and Attach PART II.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you, your spouse, or dependent child receive unearned or investment income of more than \$200 in the reporting period or hold any reportable asset worth more than \$1,000 at the end of the period? <i>If Yes, Complete & Attach PART IIIA and/or IIIB.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you, your spouse, or dependent child purchase, sell, or exchange any reportable asset worth more than \$1,000 in the reporting period? <i>If Yes, Complete and Attach PART IV.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you, your spouse, or dependent child receive any reportable gift in the reporting period (i.e., aggregating more than \$285 and not otherwise exempt)? <i>If Yes, Complete and Attach PART V.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you, your spouse, or dependent child receive any reportable travel or reimbursements for travel in the reporting period (i.e., worth more than \$285 from one source)? <i>If Yes, Complete and Attach PART VI.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you, your spouse, or dependent child have any reportable liability (more than \$10,000) during the reporting period? <i>If Yes, Complete and Attach PART VII.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you hold any reportable positions on or before the date of filing in the current calendar year? <i>If Yes, Complete and Attach PART VIII.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Do you have any reportable agreement or arrangement with an outside entity? <i>If Yes, Complete and Attach PART IX.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Did you receive compensation of more than \$5,000 from a single source in the two prior years? <i>If Yes, Complete and Attach PART X.</i>	<input type="checkbox"/>	<input type="checkbox"/>

File this report and any amendments with the Secretary of the Senate, Office of Public Records, Room 232, Hart Senate Office Building, U.S. Senate, Washington, DC 20510.

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The statement will be made available by the Office of the Secretary of the Senate to any requesting person upon written application and will be reviewed by the Select Committee on Ethics. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions. (See 5 U.S.C. app. 6, 104, and 18 U.S.C. 1001.)

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	<i>HR Clinton</i>	5/15/03

It is the opinion of the reviewer that the statements made in this form are in compliance with Title 1 of the Ethics in Government Act.	For Official Use Only - Do Not Write Below This Line	Signature of Reviewing Official	Date (Month, Day, Year)

A(10)

FOR OFFICIAL USE ONLY
Do Not Write Below this Line

03 MAY 15 PM 2:27
SECRETARY OF THE SENATE

PART II. EARNED AND NON-INVESTMENT INCOME

Reporting Individual's Name

HILLARY RODHAM CLINTON

Page Number

6

Report the source (name and address), type, and amount of earned income to you from any spouse aggregating \$200 or more during the reporting period. No amount needs to be specified for your spouse. (See p.3, CONTENTS OF REPORTS Part B of Instructions.) Do not report income from employment by the U.S. Government for you or your spouse.

Individuals not covered by the Honorary Ban:

For you and /or your spouse, report honoraria income received which aggregates \$200 or more by exact amount, give the date of, and describe the activity (speech, appearance or article) generating such honoraria payment. Do not include payments in lieu of honoraria reported on Part I.

	Name of Income Source	Address (City, State)	Type of Income		Amount
			Example	Example	
Examples:	JP Computers	Wash., DC	Salary	Example	\$15,000
	MCI (Spouse)	Arlington, VA	Salary	Example	Over \$1,000
1	Glebal Artists (Spouse)	Tokyo, Japan	Speech 11/21/02		\$100,000
2	Value Grupo Financiero (Spouse)	Monterrey, Mexico	Speech 12/2/02		\$175,000
3	National Society for the Prevention of Cruelty to Children (Spouse)	Lancashire, England	Speech 12/7/02		\$100,000
4	Temple Beth Avodah (Spouse)	Newton, MA	Speech 12/9/02		\$125,000
5	GIBD Group (Spouse)	Rotterdam, The Netherlands	Speech 12/13/02		\$250,000
6	United Israel Appeal of Geneva (Spouse)	Geneva, Switzerland	Speech 12/14/02		\$150,000
7	RDM Group (Spouse)	Rotterdam, The Netherlands	Speech 12/15/02		\$125,000
8	European Travel Commission (Spouse)	New York, NY	Speech 12/18/02		\$125,000
9	Info USA, Inc. (Spouse)	Omaha, NE	Nonemployee Compensation		Over \$1,000
10	Simon & Schuster, Inc. - literary work	Parsippany, NJ	Book Royalties		\$1,197,621
11	Simon & Schuster, Inc. - It Takes a Village (no royalties due and owing at 12/31/02. Future value not ascertainable)*	Parsippany, NJ	Book Royalties		\$1,217
12	*Senator Clinton donates the royalties from this book to charity.				
13					

Exhibit F

Media centre

Three AIDS medicines will be removed from prequalification list this week

04 AUGUST 2004 | GENEVA - As part of the continuous effort to rigorously monitor the quality of medicines, the World Health Organization (WHO) is carrying out systematic inspections of contract research organizations which have done bioequivalence studies for prequalified medicines, starting with products for priority diseases.

During the most recent inspection a contracted laboratory which had done bioequivalence studies for three AIDS medicines has been found non-compliant with international standards of good clinical and laboratory practices. As a result, the three antiretrovirals, which are manufactured by Ranbaxy, will be removed from the list until such a time as Ranbaxy can submit data of new studies providing unequivocal evidence of the products' bioequivalence with the originator medicines.

Although it is not standard procedure for prequalification assessments to include the inspection of laboratories where bioequivalence studies are done (in Europe, Directive 2001/10/EC, asking that countries carry out such inspections, came into force only on 1 May 2004), WHO is committed to ensuring that the medicines it prequalifies for procurement in developing countries are of the highest standard.

The antiretrovirals in question are the triple fixed-dose combination pill containing lamivudine, stavudine and nevirapine in two different strengths and a lamivudine plus zidovudine tablet.

The recent inspections follow another inspection which took place in late May when similar non-compliance was found at a laboratory contracted by CIPLA to do bioequivalence studies of two AIDS medicines. However, another WHO inspection of a contract research organization has found that the bioequivalence tests for triple fixed-dose combination lamivudine, stavudine and nevirapine tablet manufactured by CIPLA were carried out properly in compliance with requested standards. This product will therefore continue to be included in the list of WHO prequalified products.

While the three Ranbaxy products to be removed from the list meet quality specifications, proof of bioequivalence is missing in view of non-compliance with good clinical and laboratory practices as well as data handling requirements found in the contracted laboratory. This effectively means that the medicines may or may not offer the same therapeutic

benefits as the originals on which they are based. (Bioequivalence tests are conducted in volunteers whose blood is tested after receiving the test medicines, to determine whether the concentration of the test medicine (generic medicine) is similar to that of the innovator or patented medicine).

Ranbaxy has undertaken to resubmit the products in question to a different laboratory for proof of bioequivalence. If and when those products and the laboratories are found to meet the specified requirements, WHO will reinstate them in its list of prequalified products.

WHO will provide advice to countries, UN partners and the NGO community involved in the procurement of medicines as to the best ways to proceed.

In addition to good clinical and laboratory practices inspections, WHO assesses the quality of antiretrovirals through: evaluation of data in the product dossiers for quality as well as bioequivalence; inspection of manufacturing sites for compliance with good manufacturing practices; and testing of product samples at independent laboratories for compliance with product specifications.

The following products have been removed from the list of prequalified products to date:

Lamivudine 150mg plus Zidovudine 300mg tablet by Ranbaxy Laboratories Ltd Dewas, India. 60's and 100's

Lamivudine 150mg plus Stavudine 30mg plus Nevirapine 200mg tablet by Ranbaxy Laboratories Ltd Dewas India. Al strip of 10, 60 per box

Lamivudine 150mg plus Stavudine 40mg plus Nevirapine 200mg tablet by Ranbaxy Laboratories Ltd Dewas, India. Al strip of 10, 60 per box

Lamivudine 150mg tablet by Cipla Ltd, Kurkumbh, India. Blister 10.

Lamivudine 150mg plus Zidovudine 300mg tablet by Cipla Ltd, Vikhroli, India. Blister 10.

Related links

- [Essential Medicines and Policy Department \(EDM\) prequalification project](#)
- [Pharmaceutical products](#)
- [Essential medicines](#)

For more information contact:

Ms Daniela Bagozzi
Telephone: +41 22 791 4544
Mobile phone: +41 79 4755490
E-mail: bagozzid@who.int

André van Zyl
Telephone: +41 22 791 35 98
Mobile phone: +41 79 475 55 27
E-mail: vanzyla@who.int

Exhibit G-1

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)

including, but not limited to, the President's Emergency Plan for AIDS Relief ("PEPFAR") program (collectively the "Benefit Programs").

2. Two categories of false claims and statements generally are challenged in the First Amended Complaint. First, Defendants falsified, and conspired to falsify, dossier and other data and documentation filed with the United States Food and Drug Administration ("FDA") in order to gain and retain approval, including First-to-File ("FTF") status, to market and sell their generic drugs in the United States in violation of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA"). Under the Benefit Programs, the United States and the States purchased Defendants' adulterated and misbranded generic drugs, which were not properly demonstrated to be, and in fact were not, bioequivalent to the branded drugs, stable, and/or efficacious to therapeutically treat the diseases for which the drugs were labeled, marketed, and sold. Second, Defendants submitted false data and statements to the United States to gain approval for adulterated generic antiretroviral ("ARV") drugs that were purchased for Federally appropriated relief programs, such as PEPFAR and other initiatives administered by the United States Agency for International Development ("USAID"), in order to provide ARV drug treatments to human immunodeficiency virus ("HIV") patients in developing countries. In each instance, Defendants' fraudulent scheme resulted in false claims and statements made to FDA, the Benefit Programs, health care providers, and private payor programs to induce payment or approval for their adulterated and misbranded drugs.

3. This First Amended Complaint has been filed *in camera* and under seal pursuant to 31 U.S.C. § 3730(b)(2). It will not be served on Defendants until the Court so

Exhibit G-2

claims for reimbursement related to the adulterated ARV drugs and non-ARV drugs manufactured by Defendants were paid or approved under the Government Benefit Programs, as well as other Federally-appropriated relief programs, such as PEPFAR.

61. At all times relevant to these false claims and certifications, Defendants knew that the generic drugs were not properly demonstrated to be, and in fact were not, bioequivalent to the branded drugs, stable, and/or efficacious to therapeutically treat the infectious diseases and other medical conditions claimed in labeling and marketing of the products and, thereby, directly endangered the health and welfare of patients.

62. As a result of the acts and practices described here, Defendants subjected patients to increased risks of morbidity and mortality.

DAMAGES

63. The United States and the States have been damaged by the acts and practices of Defendants, as described above, in presenting, causing to be presented, and conspiring to present false claims, statements and records to induce the payment for generic drugs which were adulterated and misbranded and not entitled to payment.

64. Defendants' false statements were material to the decision of the United States to approve the ANDAs and subsequently purchase the adulterated and misbranded generic drugs for use by beneficiaries of the Benefit Programs.

65. Defendants profited unlawfully from the payment of the false and fraudulent claims.

Exhibit H

GlaxoWellcome

10th August, 2000

Cipla Ltd
Mumbai Central
Mumbai 400 008
India

FAO: Mr Amar Lulla, Director,

Dear Sirs,

Re: Lamivudine/Zidovudine combinations

It has come to our attention that you have imported your product Duovir, which contains lamivudine and zidovudine, into Ghana.

Glaxo Group Limited has exclusive rights under the following patents that cover lamivudine and zidovudine formulations in Ghana: AP11, AP136, AP162, AP300.

Importation of Duovir into Ghana by Cipla or any of its affiliates represents an infringement of our Company's exclusive patent rights. We understand that, to date, imports of Duovir into Ghana have been of limited scope and have been characterised as a "donation". We therefore do not intend to seek immediate redress. However, we reserve the right to enforce our patent rights against any further acts of infringement.

Yours faithfully,

G G Brereton
Head of Patents
Global Intellectual Property Department