

Congress of the United States
Washington, DC 20515

October 30, 2017

Marcie Frost
Chief Executive Officer
California Public Employees' Retirement System
Lincoln Plaza North
400 Q Street, Room 4340
Sacramento, CA 95811

Dear Ms. Frost:

Thank you for your service. We are writing because of our disappointment that the California Public Employees' Retirement System (CalPERS) has not divested its interest in CIM Fund III nor has taken any actions to ensure that its fees are not being transferred to President Trump. The Fund acquired the Trump SoHo, an asset beset by allegations of fraud and money laundering from its inception,¹ through foreclosure in 2015.² In recent weeks, new allegations of corruption and fraud have emerged centering on the Manhattan District Attorney's decision to nix a prosecution of felony fraud against Ivanka Trump and Donald Trump Jr. in relation to marketing the Trump SoHo.³

The Trump SoHo's troubled history and increasingly problematic present raises new questions about CalPERS's ability to meet its legal and ethical obligations when investing in private equity vehicles. CalPERS is also perpetuating continuing violations of the Domestic Emoluments Clause of the U.S. Constitution through its investment in the Fund. We request that you reevaluate CalPERS investment in CIM Fund III and urge you to divest from the Fund unless it liquidates the Trump SoHo and terminates its arrangement to pay millions in fees to the Trump Organization.

As the leader of the California Public Employees' Retirement System (CalPERS), you have a duty to act in the best interest of the state workers and retirees whose funds you manage. In recent weeks, information has surfaced indicating that Ivanka and Donald Trump, Jr. may only have escaped felony fraud charges for their marketing of the Trump SoHo as a result of improper campaign donations to the Manhattan District Attorney.⁴

¹ Mike McIntire, "Donald Trump Settled a Real Estate Lawsuit, and a Criminal Case was Closed," New York Times (Apr. 5, 2016) <https://goo.gl/cUHGmY>; Tom Burgis, "Dirty money: Trump and the Kazakh connection," Financial Times (Oct. 19, 2016) <https://goo.gl/Bhauna>.

² Craig Karmin, "CIM Group to Take Control of New York's Trump SoHo Hotel-Condo," Wall Street Journal (Nov. 20, 2014) <https://goo.gl/MybLBh>.

³ Jesse Eisinger and Justin Elliott, "Ivanka and Donald Trump Jr. Were Close to Being Charged with Felony Fraud," ProPublica (Oct. 4, 2017) <https://goo.gl/84Xjfo>.

⁴ Jesse Eisinger and Justin Elliott, "Ivanka and Donald Trump Jr. Were Close to Being Charged with Felony Fraud," ProPublica (Oct. 4, 2017) <https://goo.gl/84Xjfo>.

These revelations come on the heels of allegations that one of Mr. Trump's partners in developing the property, Felix Sater, offered to secure Vladimir Putin's support for Trump's presidential candidacy and is a central figure in Special Counsel Robert Mueller's investigation into the Trump team's relationship with Russia.⁵ The fact that CalPERS continues to invest in CIM Fund III despite these findings clearly indicates a failure to grasp the gravity of the issue.

CalPERS's investment in CIM Fund III furthermore violates the Domestic Emoluments Clause of the U.S. Constitution, jeopardizing the funds of your members and enabling a culture of corruption that threatens the very core of our democracy. The Fund pays Trump International Hotels Management LLC millions of dollars to manage and market the Trump SoHo.⁶ The terms of the agreement between CIM Fund III and the Trump Organization also require the fund to cover overhead and operating costs for any unsold units in the luxury hotel/condominium.

As a result, President Trump has been receiving income from Trump International Hotels Management LLC since he took office with reports indicating he received \$2.8 million in income from the entity in his June 2017 disclosure.⁷ CalPERS has continued paying millions in fees to CIM Group as a limited partner in CIM Fund III, including at least \$1.7 million since President Trump's inauguration. It is evident that this arrangement creates a direct path for money to flow from CalPERS to President Trump regardless of the lack of any direct contractual relationship with the President or the hotel management company.

Your current "wait-and-see" approach means CalPERS won't ascertain whether its fees are indeed being used to compensate the President in violation of the Domestic Emoluments Clause.⁸ Such an approach is highly risky given that it is likely to result in CalPERS being drawn into active litigation.⁹ Adopting a "wait-and-see" approach when your legal, fiduciary, and ethical obligations require action is not prudent nor acceptable.

Moreover, CalPERS' attempts to use its status as a limited partner to disclaim any responsibility or ability to exercise any remedies if an investment is being managed in violation of the law engenders new concerns about CalPERS' ability to negotiate its rights in the context of a Limited Partnership Agreement. Such agreements routinely include protections for the general partner regarding illegal activities such as money laundering and fraud, and often provide opt-out clauses for specific types of acquisitions. However, it appears that CalPERS has either not bothered to consult the Limited Partnership Agreement at issue here or failed to include any remedies to protect itself.

⁵ Carol Leonnig, et al., "Trump's business sought deal on a Trump Tower in Moscow while he ran for president," Washington Post (Aug. 27, 2017) <https://goo.gl/CHMvm3>.

⁶ Julia Harte, "Exclusive: A New York hotel deal shows how some public pension funds help to enrich Trump," (Apr. 26, 2017) <https://goo.gl/jTTnEx>.

⁷ Donald J. Trump, 2017 Annual Financial Disclosure, Office of Government Ethics (June 14, 2017) <https://goo.gl/xVS867>.

⁸ Brianne Gorod, et al., The Domestic Emoluments Clause: Its Text, Meaning, and Application to Donald J. Trump, Constitutional Accountability Center (July 2017) <https://goo.gl/3rZkfy>.

⁹ The District of Columbia and the State of Maryland v. Donald J. Trump, ¶99 (filed June 12, 2017, D. Md.) available at http://www.marylandattorneygeneral.gov/pages/emoluments/dc_v_trump.pdf.

Finally, CalPERS has not indicated that it has made any attempts, either unilaterally or in concert with the ten other public pension funds that jointly own roughly half of the fund, to engage with CIM Group about this issue. Therefore, we are asking that you take the following actions immediately to address this situation:

1. Request and disclose a full accounting of the performance and management fees that CalPERS has paid to CIM Fund III from November 9, 2016 to the present, including the purpose and nature of the fees;
2. Request and disclose a full accounting of the payments that CIM Fund III has made to Trump International Hotels Management LLC from January 20, 2017 to the present, including whether CIM Fund III used any performance and management fees to make those payments;
3. Request that CIM Fund III cooperate fully with any investigative requests from Special Counsel Mueller with respect to the suspicions of the use of Trump SoHo for ongoing money laundering or collusion with Russia;
4. Request that CIM Fund III provide an accounting of the potential losses or gains that would result from liquidation of Trump SoHo from the fund;
5. Collaborate with the other public pension funds to engage CIM Fund III about an appropriate resolution that addresses the legal and ethical obligations of public funds;
6. Present to the Board of Directors a legal analysis of the rights and remedies that CalPERS has under the terms of its Limited Partnership Agreement and/or laws governing investments that are managed contrary to law.

State workers from every walk of life - from police and firefighters to nurses and health workers - depend upon your judgment, integrity, and action to safeguard a stable retirement. We are calling upon you now to again take action to prevent your members and the state from being caught up in a scheme of corruption.

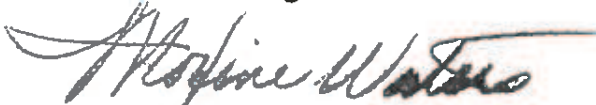
Sincerely,



Ted W. Lieu
Member of Congress



Mark DeSaulnier
Member of Congress



Maxine Waters
Member of Congress



Karen Bass
Member of Congress



Jimmy Gomez
Member of Congress



Tony Cárdenas
Member of Congress



Jared Huffman
Member of Congress



Barbara Lee
Member of Congress



Eric Swalwell
Member of Congress



Ro Khanna
Member of Congress



Zoe Lofgren
Member of Congress



Salud Carbajal
Member of Congress

cc:

The Honorable Jerry Brown, Governor of the State of California
The Honorable Kevin de León, Senate President pro Tempore
The Honorable Anthony Rendon, Speaker, State Assembly
The Honorable Xavier Becerra, Attorney General of California
The Honorable John Chiang, California State Treasurer
The Honorable Betty T. Yee, California State Controller