

Congress of the United States
Washington, DC 20515

June 16, 2020

The Honorable David Bernhardt
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Bernhardt:

We write to call on you to recommend President Donald Trump remove Douglas Domenech from his position as Assistant Secretary for Insular and International Affairs for his flagrant, repeated ethics violations. On May 29, 2020, the Department of the Interior (DOI) Office of Inspector General (OIG) released a report concluding that Mr. Domenech used his official position and taxpayer resources to promote family members for personal business and employment at the Environmental Protection Agency, thereby violating ethics regulations against using public office for private gain.¹ The report was the second finding in six months by the OIG that Mr. Domenech violated ethics regulations. The first report in December 2019 concluded that he improperly arranged meetings between his former employer and high-ranking DOI officials to discuss an active lawsuit between DOI and the former employer.²

You have not held Mr. Domenech accountable in any meaningful way, even after the second OIG report of his violations. According to a statement from DOI, the only consequence for Mr. Domenech's misconduct has been additional ethics training on top of the repeated sessions that had already clearly warned him not to use his position to endorse friends and family, among other actions. The statement did not explain why more training would deter Mr. Domenech from using his public office and resources for private gain when training has failed to deter him thus far. The relevant ethics trainings took place before the violations described in both the 2019 and 2020 reports.³

Mr. Domenech's pattern of unethical behavior justifies his immediate removal. The Merit Systems Protection Board uses the *Douglas* factors to assess whether a penalty for career employee

¹ *Investigation Into Alleged Ethics Misconduct by the Assistant Secretary for Insular and International Affairs*, OIG Report No. 19-0497 (posted online May 29, 2020), available at https://www.doi.gov/sites/doi.gov/files/WebRedacted_AllegedMisuseofPositionASIIA.pdf.

² *Investigative Report of Alleged Ethics Violation by the Assistant Secretary for Insular and International Affairs*, OIG Report No. 19-0723 (posted online Dec. 10, 2019), available at https://www.doi.gov/sites/doi.gov/files/WebRedacted_AllegedEthicsViolationsASIIA.pdf.

³ OIG Report No. 19-0497, p. 1.

misconduct is unreasonable.⁴ Several of these twelve factors cover Mr. Domenech's actions, including:

- *The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.* As noted, Mr. Domenech is a repeat offender, having been found by not just one, but two OIG reports within a six-month period to have committed ethics violations.
- *The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.* As an Assistant Secretary, Mr. Domenech is a prominent DOI official with extensive public contact and a substantial number of DOI employees under his direct or indirect supervision. His unethical behavior provides a counterproductive example for the employees under him and damages DOI's reputation.
- *The notoriety of the offense or its impact upon the reputation of the agency.* Using public office for private gain is an offense that reflects poorly on DOI, especially if the offense is rewarded with a failure to provide a disciplinary deterrent to repeat offenses. The media coverage generated by the release of the report was widespread, damaging the reputation of the agency.
- *The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question.* Despite his protestations of ignorance of the rules, Mr. Domenech had been put on clear notice of the regulations he violated, through the ethics training he had to complete on a regular basis during his more than 10 years of federal service.
- *The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.* There is little reason to think that further ethics briefings, the penalty currently assigned to Mr. Domenech, would generate a different outcome than the briefings he had before both of his ethical transgressions identified by the OIG.

Because he is a political appointee, Mr. Domenech's case is not subject to formal application of the *Douglas* factors, as it would be if he was a career employee. However, agency leadership should be held to a higher standard than career employees, not a lower standard.

No remedy other than removal would adequately deter Mr. Domenech's conduct in a manner consistent with the higher standards of ethics you promised to enforce at DOI. As part of your August 2019 restructuring of DOI's ethics program, you stated, "Transforming the workplace culture at the Department is a top priority for me, and my actions today will help ensure the Department has a functional and resilient ethics program that facilitates our ability to fully embrace a culture of ethical compliance."⁵ Imposing no consequence on Mr. Domenech other than additional training is profoundly inconsistent with this pledge.

We strongly urge you to recommend President Trump remove Mr. Domenech from his position as Assistant Secretary for Insular and International Affairs.

⁴ *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981); see also https://www.mspb.gov/studies/adverse_action_report/10_DeterminingthePenalty.htm.

⁵ "Secretary Bernhardt Transforms Interior's Ethics Program," August 14, 2019, available at <https://www.doi.gov/pressreleases/secretary-bernhardt-transforms-interiors-ethics-program>.

Sincerely,



Raúl M. Grijalva
Member of Congress



Ron Wyden
United States Senator



Gregorio Kilili Camacho Sablan
Member of Congress



Mazie Hirono
United States Senator



Ruben Gallego
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