



August 12, 2021

Chairman Christopher A. Coons
Vice Chairman James Lankford
U.S. Senate Select Committee on Ethics
220 Hart Building
United States Senate
Washington, DC 20510

Submitted via mailbox_office@ethics.senate.gov

Dear Chairman Coons and Vice Chairman Lankford:

Campaign Legal Center (“CLC”) respectfully requests that the U.S. Senate Select Committee on Ethics (“Ethics Committee”) investigate Senator Rand Paul for a possible violation of the STOCK Act. On February 26, 2020, Sen. Paul’s spouse purchased stock in Gilead Sciences, Inc., which is a company that makes treatments for COVID-19. Although Sen. Paul was required to publicly disclose this trade no later than 45 days after the transaction in a Periodic Transaction Report (“PTR”), he did not report it until over one year later on August 11, 2021. The stock purchase was made when the U.S. had approximately 15 confirmed COVID-19 cases, and the general public was not yet aware of the magnitude of the imminent global pandemic.¹ An Ethics Committee investigation is necessary to determine whether his failure to file was a knowing and willful attempt to avoid negative public attention to this suspiciously timed trade.

The STOCK Act does not excuse late filings. The harm of late filings is that they defeat the purpose of the STOCK Act, which is real time disclosure of potential conflicts of interest and insider trading. If members are not held accountable for late filing of PTRs, many may simply wait until their annual

¹ Tim Mak, *Weeks Before Virus Panic, Intelligence Chairman Privately Raised Alarm, Sold Stocks*, NATIONAL PUBLIC RADIO (Mar. 19, 2020), <https://www.npr.org/2020/03/19/818192535/burr-recording-sparks-questions-about-private-comments-on-covid-19>.

financial disclosures to reveal stock trades and pay nominal late fees, thereby circumventing the STOCK Act.

When members of Congress trade stocks and fail to disclose those trades, they break the law and diminish the public's trust in government. The recent prevalence of STOCK Act violations shows that merely the threat of a fine is not deterring members of Congress from breaking the law; real accountability is necessary. As members of Congress craft laws that directly impact the lives of all Americans, the public must be able to trust that elected officials are acting in the public's interest, and not in their own financial interest.

The STOCK Act Requires Senators to Timely Report All Individual Stock Transactions

The STOCK Act amended the Ethics in Government Act of 1978 (“EIGA”) to require members of Congress to report their individual stock transactions no “later than 30 days after receiving notification of any transaction required to be reported under section 102(a)(5)(B), but in no case later than 45 days after such transaction”² Because the STOCK Act “was intended to require contemporaneous reporting of certain transactions . . . the law does not permit any extensions for PTRs.”³ It is the senator’s responsibility to monitor their accounts, recognize reportable transactions, and file timely PTRs.⁴

Additionally, 18 U.S.C. § 1001 is applicable to PTRs. “That criminal statute provides for a fine of up to \$250,000 and/or imprisonment for up to five years for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or falsifying, concealing, or covering up a material fact, in a filing under the EIGA.”⁵

² P.L. 112-105, Section 6; 5 U.S.C. App. 4 § 103(l).

³ U.S. SENATE SELECT COMM. ON ETHICS, Financial Disclosure Instructions for Calendar Year 2020 at 30, https://www.ethics.senate.gov/public/_cache/files/1d1f7bc9-14f1-404d-ae6d-ba83395e651b/cy-2020-financial-disclosure-instructions-with-cover--final.pdf.

⁴ *Id.* at 31.

⁵ U.S. HOUSE OF REPRESENTATIVES COMM. ON ETHICS 116TH CONG., Memorandum from Committee on Ethics for All Members, Officers, and Employees Regarding Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirement at 3 (June 11, 2020), https://ethics.house.gov/sites/ethics.house.gov/files/wysiwyg_uploaded/STOCK%20Act%206.11.2020%20Final.pdf.

Sen. Paul May Have Knowingly Violated the STOCK Act by Failing to Disclose the Purchase of Stock in an Antiviral Drug Manufacturer

On February 26, 2020, Sen. Paul's wife purchased stock in Gilead Sciences, Inc. with an approximate value of \$1,001 to \$15,000.⁶ Under the STOCK Act, the trade should have been disclosed 30 days after notice of the trade, but no later than 45 days after the transaction, *i.e.*, by April 13.⁷ However, Sen. Paul did not disclose the transaction until nearly 18 months after the transaction on August 11, 2021. Based on publicly available information, it is unclear whether one reason for the long-delayed filing was an attempt to avoid scrutiny of the trade's connection with non-public information or with potential conflicts of interest.

Sen. Paul's spokeswoman reportedly "said the senator completed a reporting form for his wife's investment last year but learned only recently, while preparing an annual disclosure, that the form had not been transmitted."⁸ This statement confirms that Senator Paul was aware of the STOCK Act requirements and he had knowledge of the trade.

Senator Paul has not provided any details of when he prepared the electronic PTR in 2020 or how he failed to transmit the prepared electronic form. Accepting his failure to timely file his PTR as merely an oversight requires an assumption that he was not aware of the intense public scrutiny that his colleagues Senators Richard Burr, Dianne Feinstein, and Kelly Loeffler faced in 2020 when their stock trades at the same time in February were revealed.⁹

In fact, the February 26, 2020 stock purchase was made the day before the highly-controversial closed-door remarks that Sen. Burr gave to a small number of business leaders. Sen. Burr acknowledged that senators were aware that COVID-19 would have a far greater impact than was generally known at the time. Specifically, he said: "There's one thing that I can tell you about this: It is much more aggressive in its transmission than anything that

⁶ The Honorable Rand Paul (Paul, Rand), Periodic Transaction Report, United States Senate Financial Disclosures (filed Aug. 11, 2021),

<https://efdsearch.senate.gov/search/view/ptr/5407f18e-8faa-4f1e-a8bf-6cf7a2ffe5bd/>.

⁷ The 45th day falls on a weekend, moving the deadline to the next business day.

⁸ Isaac Stanley-Becker, *Rand Paul discloses 16 months late that his wife bought stock in company behind covid treatment*, WASH. POST (Aug. 12, 2021),

<https://www.washingtonpost.com/politics/2021/08/11/rand-paul-gilead-stock/>.

⁹ Shane Goldmacher, *Kelly Loeffler and Richard Burr Were Briefed on Coronavirus. Then They Sold Stocks. What Now?*, N.Y. TIMES (Mar. 20, 2020)

<https://www.nytimes.com/2020/03/20/us/politics/kelly-loeffler-richard-burr-insider-trading.html> (last updated May 14, 2020).

we have seen in recent history . . . It is probably more akin to the 1918 pandemic.”¹⁰

On March 19, 2020, which was nearing the deadline for Sen. Paul to file the PTR, news broke that Sen. Burr made stock trades in February.¹¹ Senator Burr was soon under investigation by the FBI and the Senate Ethics Committee.¹² He also had to step down as chairman of the Senate Intelligence Committee.¹³ Under these circumstances, there is probable cause to believe that Sen. Paul delayed filing his disclosure to avoid similar consequences.

For these reasons, Sen. Paul cannot excuse his failure to report as a mistake with pushing the transmit button on the electronic form. An Ethics Committee investigation can gather information to determine whether Sen. Paul knowingly violated the STOCK Act.

Conclusion

The STOCK Act requires Senators to timely file PTRs for any individual stock trades.¹⁴ Based on the available facts, there is reason to believe that Sen. Paul was aware of this requirement, and his failure to timely file the transaction reports violates the STOCK Act.

CLC respectfully requests that the Ethics Committee investigate whether Sen. Paul’s nondisclosure was an intentional violation of the STOCK Act.

Sincerely,

_____/s/_____
Kedric L. Payne
General Counsel and Senior Director,
Ethics

_____/s/_____
Delaney N. Marsco
Senior Legal Counsel, Ethics

¹⁰ Mak, *supra* note 1.

¹¹ *Id.*

¹² Robert Faturechi and Derek Willis, *Richard Burr Steps Down From Chairmanship of Senate Intelligence Committee*, PROPUBLICA (May 14, 2020), <https://www.propublica.org/article/richard-burr-steps-down-from-chairmanship-of-senate-intelligence-committee>.

¹³ *Id.*

¹⁴ P.L. 112-105, *supra* note 2; *see also* U.S. SENATE SELECT COMM. ON ETHICS, Financial Disclosure Instructions for Calendar Year 2020, *supra* note 3.