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## **Kushner Companies Questionable Business Practices are Another Dent for the Trump Administration**

By: Teddy Grant

The 24-hour news cycle has been dominated by President Trump's policy decisions, tweets and the investigation into his campaign ties with Russia, but businesses connected to the president and his family continue to raise concerns about the wall between the White House and the president's private businesses.

While investigators from special prosecutor Robert Mueller zero in on Jared Kushner's role in the alleged collusion between the Russian government and the Trump campaign, the real estate company of President Trump's son-in-law is mired in increasingly serious financial and legal problems which could upend the business.

Examining Kushner is to look at his family's real estate empire in New York, New Jersey and the surrounding areas. Kushner Companies, the real estate development firm, handles billions of dollars' worth of residential and commercial properties throughout the northeast. The company founded by real estate developer Charles Kushner—Jared's father—presided over some of the biggest deals in real estate. Jared took on a leadership position at the firm when his father was arrested and charged with tax evasion and illegal campaign donations in 2005, eventually becoming its CEO in 2008.

### **666 Fifth Avenue**

In 2007, Kushner presided over one of the biggest deals in real estate when his company bought 666 Fifth Avenue for \$1.8 billion on a \$50 million down payment. The building, with its 1.5 million-square-feet of office and retail space has been a financial disaster for the company. The deal closed shortly before the global recession in 2008, which wiped out \$7 trillion in the real estate industry, the deal has forced the company into finding additional funding to pay off the \$1.2 billion that remains on the property.

Vornado Realty Trust, which owns 49.5 percent of the property, has declined to negotiate with Kushner Co. for additional finances, resulting in Kushner Co., which has the majority stake in the building, to find funding alone. Earlier this year, a deal between Kushner Co. and Chinese investors at Anbang Insurance Group—valued at roughly \$400 million—fell through after it was revealed that members of the leading family in China's Communist Party was connected to the company.

“Looking at what they wanted to do for a long-term strategy, the decision was to make the building as easy to redevelop as possible,” said Thomas Fink, senior vice president at Trepp. “What I observe is a property that's very large. That has a lot of costs that would be associated with a redevelopment.”

The loan payment for the property is due February 2019 and if the company can't pay it will go into foreclosure. Recent reports suggest that if the company can't find financing, it may demolish the building.

Kushner Companies did not respond to requests for comment.

## **EB-5 Visa Program and China**

Foreign investments have been one of the cornerstones of American businesses, for decades. Each year, investors pour billions of dollars into the U.S. economy by bankrolling projects with the hope of recouping more than what they invested. One particular program has faced scrutiny and has recently shed light on the New York real estate community and the White House.

In 1990, Congress, wanting to stimulate the U.S. economy and create jobs, created the EB-5 visa program. The program allows foreign investors to invest large sums of money into projects across the United States with the intent to create jobs, and in return, they receive a green card, which grants them and their families permanent, lawful residence in the United States.

Businesses use the program to get additional funding from wealthy investors overseas. It allows them to finish completion on their buildings, while investors get lawful residence in the United States. Kushner Companies—like other major developers—used the program for a number of its properties; that decision has been met with controversy and has raised ethical concerns for the company as Kushner's spotlight in the White House grows.

China—the biggest benefactor of green cards through the visa program—has invested around \$22 billion into businesses across the country. Those substantial contributions have resulted in China making up 85 percent of applicants for the program. The company's close relationship with China has cast further light on Kushner's relationship with the Communist country, his role in the White House and his former business.

In May, Nicole Meyer, sister to Kushner's younger sister, went on a business trip to China to secure funding from Chinese investors in order to invest in Trump Bay Street. Her move raised eyebrows not because she tried to solicit funds for Kushner properties—it's to be expected for business executives operating within the confines of the program to do so—but because she dropped her brother's relationship with President Trump as a way to garner interest.

This was seen as a major ethics violation; a violation that brought forth an investigation by federal prosecutors, according to the New York Times.

"It should not favor campaign contributors, Republican businesses over [Democratic,] or allow a senior government official or his or her family to imply that if you invest in a certain company, you'd get favorable treatment in your Visa," said Richard Painter, a former ethics lawyer for President George W. Bush and current law professor at University of Minnesota. "It's very important that not be the message that is sent to foreign investors."

China, which has been on the receiving end of President Trump's ire in the past, has sought a cordial relationship with Washington since Trump took office. It was reported

that the Chinese developed a close association with Kushner as a way for the two countries to coexist amicably. Whether that close relationship has anything to do with business dealings between China and Kushner Co. remain to be seen, but a relationship between the two could be beneficial for a company that's seeking investments for financially distressed properties.

"I think the communist government in China, whether public or private, would look at Kushner Companies as a leverage point," said Isaac Stone Fish, a senior fellow at the Asia Society's Center on U.S-China Relations. "I think it's something that Americans needs to be aware that the Communist party has the ability to use this leverage when it chooses."

Questions over conflicts of interest have arisen due to the Chinese president spending time at Trump's Mar-a-Lago resort in Florida during an official state visit in April.

"We don't know of any causality between Trump being elected President and China," said Stone Fish. "We have to be aware of the perception of conflicts of interest."

### **Gerrymandering Controversy**

In 2016, Kushner Companies opened up 65 Bay Street—also known as Trump Bay Street—the massive project located in Jersey City, offers residential spaces with stellar views of the Manhattan skyline. The \$225 million development used funding through EB-5; roughly \$50 million of the project was financed by wealthy Chinese investors.

Through current EB-5 investment rules, investors have to put at least \$1 million to qualify for the program. However, if the project is located in a rural or high unemployment region—a Targeted Employment Area—then the buy-in is \$500,000.

The luxury apartment, with its million dollar views, top dollar rent and chic restaurants, got additional funding in large part because it was labeled a Targeted Employment Area by Kushner Companies. The unemployment rate in Hudson County—where the building is located—is at 4.7 percent, slightly higher than the national unemployment rate of 4.1 percent, according to Census data.

"It is well documented that the Program has been dominated by major developers of large projects located in affluent areas," wrote Gary Friedland, Scholar-in-Residence at NYU Stern School of Business. "It is not surprising that immigrant investors tend to invest in these projects, and are not incentivized to invest in the areas that Congress originally intended."

Gerrymandering has allowed Kushner Companies to use high unemployment in surrounding areas to get proper financing. As a job creation tool, any jobs made through those investments would be given to 65 Bay Street, rather than the areas experiencing

high unemployment. EB-5 requirements say that a minimum of 10 jobs have to be created for investors to get their green cards; over 1,200 jobs were created for the Jersey City project, according to The Washington Post.

## **Lawsuits**

Housing advocates have called out Kushner Companies and its subsidiaries for a “predatory business model” that harms tenants in their residential properties. The company has been hit with two class action lawsuits in Maryland and New York over improper fees and aggressive tactics.

In September, a class action lawsuit was filed in Baltimore Circuit Court by Tenae Smith and Howard Smith (no relation) alleging that Kushner subsidiary, Westminster Management, was charging erroneous fees to tenants and engaging in practices that threatened evictions to residents, despite on-time rent payments.

“Westminster and JK2 Westminster...have systematically and regularly charged plaintiffs and other class members fees in excess of 5% of the amount of rent due for a rental period for which a rent payment was delinquent, and charged late fees even when tenants paid their rent on time,” the lawsuit alleges.

Tenae Smith and Howard Smith were not available for comment.

The plaintiffs allege that the management company has violated the Maryland Consumer Debt Collection Act, which adds protections to the federal law that bans debt collectors from engaging in aggressive tactics.

Westminster Management was unavailable for comment.

Another lawsuit filed in New York’s Brooklyn Supreme Court by the Housing Rights Initiative claims that Kushner Companies side-stepped New York City’s rent stabilization laws when it purchased buildings from Brooklyn Law School in 2014.

The suit alleges that when the company bought the building that it was supposed to re-stabilize the units—which were exempt from rent stabilization due to it being student housing— but Kushner Companies did not do that.

“Kushner Companies is a rapacious predator,” said Aaron Carr, Founder and Executive Director of Housing Rights Initiative. “A predator that has been hiding in plain sight. Lurking in the shadows of a broken enforcement system, Kushner has wreaked havoc on families, caused irreparable harm to our communities, and swindled affordability from this City. All in the midst of an affordable housing crisis.”

The rent for the units listed in the building can go up to \$3,850, according to The Real Deal. Carr said rents have increased by a few hundred dollars to \$2,000 and that Kushner Co. isn't improving the units to warrant an increase.

"The government doesn't proactively enforce the rent stabilization system," said Carr. "It's effectively based on an honor system, so landlords like Kushner Companies get away with it."

## **Kushner's Financials**

The massive debt that Kushner owes on his properties has brought up questions on the type of relationship that he was seeking with Russian bankers late last year, as part of Trump's presidential transition team. Lawmakers have openly questioned if that was the reason for the meetings, but no information implicating Kushner has come out since he's publicly vested interest in his many businesses.

"If they're projects he has financial interests then it can be a serious issue, but once again, he doesn't violate the law unless he gets involved that involves his finances," said Painter. "If you get to the quid pro quo, if he did something in return for somebody helping his family finances then that's bribery."

A recent complaint filed in the U.S. District Court in Washington by Jeffrey Lovitky, a Washington D.C.-based lawyer, alleged that Kushner and his wife, the president's daughter, Ivanka Trump, did not disclose their "financial interests in certain investment funds." The White House quickly denounced the lawsuit and said that Kushner and Trump met all the requirements, according to Politico.

Lovitky would not comment for this story, pending the lawsuit making its way through the courts.

The attention that Kushner's former business generated is another dent for the Trump Administration, where questions of impropriety by White House officials are routinely raised.

"The problem with Trump is that every time there's an investigation he tries to squash the investigation, which then could lead to obstruction of justice charges," said Painter speaking specifically on the controversy surrounding Kushner Co. and the EB-5 program. "It isn't what people did that got them in trouble is that they lied about it."

Kushner Companies will face scrutiny in the coming months as lawsuits make its way through the courts, a deadline on a massive \$1.2 billion loan approaches and a federal investigation on the former CEO of the company intensifies.