

United States Senate

WASHINGTON, DC 20510

March 29, 2017

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Sessions:

When the President fired U.S. Attorney Preet Bharara earlier this month, his office was reportedly investigating the stock trading activity of Secretary of the Department of Health and Human Services (HHS) Tom Price.¹ The independence of U.S. Attorneys is critically important, and we seek your assurance that any investigation involving Secretary Price – or others connected to the Trump Administration – be allowed to continue unimpeded.

Serious concerns were raised about then-Representative Price's stock trading during his nomination process and whether it complied with congressional ethics standards and securities laws. His financial disclosures showed that he traded more than \$300,000 of stock in healthcare, pharmaceutical and medical device companies.² These trades were made at the same time Dr. Price was sponsoring, advocating for, and taking votes on issues that stood to benefit those companies.³ In several instances, Dr. Price introduced bills and weighed in on regulations that directly impacted the business of companies in which he was invested.⁴

Aside from questions about whether Dr. Price used his seat in Congress to benefit companies whose stock he owned, his decision to invest in Australian pharmaceutical company Innate Immunotherapeutics Limited (Innate) remains particularly troubling. Serious questions remain about whether Dr. Price was privy to information not available to the general public, given his communications with Representative Chris Collins, who is Innate's largest shareholder and a member of its board of directors.

After learning about the company from Rep. Collins, Dr. Price purchased roughly 61,000 shares of Innate stock off the Australian Stock Exchange (ASX) in January 2015.⁵ Following another conversation with Rep. Collins, Dr. Price bought 400,000 discounted Innate shares through two private stock placements in the summer of 2016; the purchase would have cost 33% more if he

¹ Robert Faturechi, "Fired U.S. Attorney Preet Bharara Said to Have Been Investigating HHS Secretary Tom Price," *ProPublica*, March 17, 2017, <https://www.propublica.org/article/preet-bharara-fired-investigating-tom-price-hhs-stock-trading>.

² James Grimaldi and Michelle Hackman, "Donald Trump's Pick for Health Secretary Traded Medical Stocks While in House," *Wall Street Journal*, December 22, 2016, <https://www.wsj.com/articles/donald-trumps-pick-for-health-secretary-traded-medical-stocks-while-in-house-1482451061>.

³ *Id.*

⁴ For example: Sam Frizell, "Donald Trump's Cabinet Pick Invested in 6 Drug Companies Before Medicare Fight," *Time*, January 17, 2017, <http://time.com/4636351/tom-price-drug-companies-investments/>; James Grimaldi and Stephanie Armour, "Health Secretary Nominee Tom Price Proposed Bill Benefiting His Puerto Rico Investments," *Wall Street Journal*, January 24, 2017, <https://www.wsj.com/articles/health-secretary-nominee-tom-price-proposed-bill-benefiting-his-puerto-rico-investments-1485253807>.

⁵ 163 Cong. Rec. S1057 (daily ed. Feb. 9, 2017) (statement of Sen. Wyden), available at <https://www.gpo.gov/fdsys/pkg/CREC-2017-02-09/pdf/CREC-2017-02-09-pt1-PgS1017-2.pdf>.

had bought the shares off the ASX on the day he reported completing his purchase.⁶ Dr. Price was one of just a few dozen people to participate in the sales.⁷ Furthermore, Dr. Price, Rep. Collins, and Innate's CEO have each provided different accounts of how Price learned about, and came to participate in, the Innate private stock sale.⁸

Dr. Price also was forced to revise his financial disclosure when it was revealed that he had significantly underreported the value of these stock purchases. On February 7th – just two days before the Senate was scheduled to vote on his confirmation – Dr. Price sent a letter to the Office of Government Ethics (OGE) showing that the actual value of his Innate stock holding was roughly five times larger than what had initially reported. Similar omissions were made in his disclosures to the Senate Committee on Finance.⁹

Senate Democrats repeatedly raised concerns about Dr. Price's investments in Innate and other stocks and whether he had violated the Stop Trading on Congressional Knowledge (STOCK) Act or insider trading laws. We requested documentation that would have provided further clarification and information, including requests for documents such as brokerage agreements that had already been provided to the press.¹⁰ We also repeatedly called on Senate Majority Leader Mitch McConnell and Senate Republicans to delay a vote on Dr. Price's confirmation vote until the Senate had answers regarding his investments. Despite the many unanswered questions that remained, Republicans rushed Dr. Price's nomination through the Senate without waiting for answers.

As a result of Republicans' decision to ignore our investigation requests, the American people are now left with an HHS Secretary who is reportedly under federal investigation and whose investment decisions as a Member of Congress raise questions about his ethical judgement. It is of the utmost importance that our government's leaders not only serve within the bounds of the law, but in the public interest – rather than to further their own financial interests.

Secretary Price's past failure to recognize conflicts of interest also raise questions about recent regulatory changes announced by the Department and its agencies, given the wide range of stocks he reported owning when he took over as Secretary. According to his agreement with OGE, Secretary Price committed to divest from a number of companies in which he is invested within 90 days of his confirmation.¹¹ These companies includes Amgen Inc., Bristol Myers Squibb Co., CVS Health Corp., Eli Lilly & Co., Ltd., Innate, McKesson Corp., Pfizer Inc., and

⁶ *Id.*

⁷ For example, Katie Thomas, "Australian Drug Maker Has Low Profile but Powerful Backers in Washington," *New York Times*, March 27, 2017, https://www.nytimes.com/2017/01/13/health/innate-immunotherapeutics-tom-price.html?_r=0; Jerry Zremski, "Collins shared biotech stock news with big Buffalo names," *Buffalo News*, January 19, 2017, <http://buffalonews.com/2017/01/19/buffalos-elite-joined-collins-australian-investment/>; Anthony Klan, "Aussie shareholding puts heat on President's ally," *The Australian*, February 6, 2017, <http://www.theaustralian.com.au/news/nation/aussie-shareholding-puts-heat-on-presidents-ally/news-story/f0cdbc9c4ba86a11c326c2e3f9edc5d7>.

⁸ *Supra*, note 5 at S1058-1060.

⁹ *Id.* at S1059.

¹⁰ Senators Murray and Wyden to Representative Price, January 21, 2017, available at <https://www.finance.senate.gov/imo/media/doc/012117%20-%20PM-RW%20letter%20to%20Rep.%20Price.pdf>.

¹¹ Congressman Price to Elizabeth J. Fischmann, January 11, 2017 (as amended), available at: [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/FDC2060514F9E9D7852580C1004DB33A/\\$FILE/Price.%20Thomas%20E.%20%20finalAMENDEDEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/FDC2060514F9E9D7852580C1004DB33A/$FILE/Price.%20Thomas%20E.%20%20finalAMENDEDEA.pdf).

Zimmer Biomet Holdings Inc., among others.¹² That 90-day window will not close until May 11, 2017. Secretary Price committed that, until he divested, he would not “participate personally and substantially in any particular matter that to [his] knowledge has a direct and predictable effect on the financial interests of the entity” unless he first obtained a written waiver or qualified for a regulatory exemption.¹³

We appreciate your attention to this matter and to ensuring that all government leaders serve with honesty and integrity. We seek your assurance that the removal of Mr. Bharara – or any other U.S. Attorney – will not obstruct any investigation into these matters. We appreciate your attention to this important matter.

Sincerely,



PATTY MURRAY
United States Senator



RON WYDEN
United States Senator



BERNARD SANDERS
United States Senator



AL FRANKEN
United States Senator



TAMMY BALDWIN
United States Senator



ELIZABETH WARREN
United States Senator



MARGARET WOOD HASSAN
United States Senator

¹² *Supra.*

¹³ *Supra.*