**DEPARTMENT OF THE ARMY**
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON, DC 20310-0104

May 2, 2022

LTG (R) Michael Flynn
PMB 355
1811 Englewood Road
Englewood, Florida 34223

Dear General Flynn;

In January of 2021, at the direction of the Department of Defense Inspector General's Office, the Department of the Army reviewed three occasions where you received compensation from business entities that raised questions concerning compliance with the Emoluments Clause of the United States Constitution (Article I, Section 9, Clause 8), and Section 908 of Title 37, United States Code ("Section 908").

The Army has determined that in December 2015 you failed to obtain the necessary approval in accordance with Army Regulation (AR) 600-29 before accepting compensation from an entity substantially owned or controlled by a foreign government in violation of the Emoluments Clause of the Constitution. Specifically, the Emoluments Clause prohibits the receipt of such compensation unless Congress consents. Congress has given consent through the process described in Section 908. This law allows retired members of the military to accept compensation from a foreign government or foreign government-controlled entity if approved in advance by the Secretary of the Army and the Secretary of State. The Army has determined that you did not obtain the necessary approvals before engaging in employment activities with Russia Today (RT), a foreign government-controlled entity. Specifically, between December 10-13, 2015, you traveled to Russia and spoke at a conference hosted by the Russian news agency Russia Today (RT). RT requested your participation, had control over the event, and paid for your roundtrip airfare, hotel accommodations, ground transportation, visa, and a speaker's fee through Leading Authorities, Inc. (LAI). Between December 10-13, 2015, RT transferred $45,386 to LAI, from which you received $33,750 as compensation for your speaking services. In addition, you received $4,807.06 in in-kind compensation for roundtrip airfare, visa costs, hotel accommodations, and ground transportation to and from the airport in Moscow.

On October 8, 2014, you were provided a written opinion from the General Counsel of the Defense Intelligence Agency regarding ethics restrictions applicable to you after retirement from the Army, a copy of which is attached.

In accordance with Department of Defense Financial Management Regulation (DoD FMR) 7000.14-R, AR 600-291, *Foreign Government Employment* (2016),[1] and Section 908, your failure to obtain the approvals of the Secretary of the Army and the Secretary of State resulted in a violation of the Emoluments Clause. When there is a finding that a military retiree has violated the Emoluments Clause, the United States Government may pursue a debt collection. That matter is referred to the Defense Finance and Accounting Service (DFAS), the entity responsible for processing debt collection actions.[2] The Army is requesting that DFAS seek recoupment from you of a debt in the amount of $38,557.06 in accordance with DoD FMR 7000.14-R, paragraphs 4.1.2.2[3] and 4.4.1.

Should you have any questions regarding your obligations under the Emoluments Clause, Section 908, or any other post-retirement restriction, please contact the Office of General Counsel, Department of Army, at (703) 697-2800.

Respectfully,

Craig R. Schmauder
Acting Principal Deputy General Counsel

Attachment

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[1] AR 600-291, *Foreign Government Employment*, was last updated on September 7, 2020.

[2] DoD FMR 7000.14-R (April 2021), volume 16, Chapter 2, paragraph 4.0.

[3] DoD FMR 7000.14-R (December 2021), volume 7B, paragraph 4.1.2.2., provides that "[c]ompensation received from a foreign government without approval from both the Secretary concerned and Secretary of State is considered received by the retired member for the United States. A debt in favor of the government is created which is to be collected by withholding from military retired pay. The debt is an amount equal to the compensation received from the foreign government."