

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

7/7/2021

Dear Treasury Secretary Janet Yellen:

The Biden Administration's nomination of corporate BigLaw attorney Neil MacBride for General Counsel at the Treasury Department is a troubling departure from its stated values and should be reversed immediately. As a private corporate attorney, MacBride defended fossil fuel companies, Wall Street giants, Big Tech monopolies, and a myriad of other corporate industries. His past work fighting vigorously and successfully on behalf of corporations against the public interest disqualifies him from a role in the administration. We call on the Biden Administration to withdraw his nomination and nominate a qualified and committed public servant in his stead.

As Treasury General Counsel, MacBride would advise Cabinet-level officials and provide input on key policy decisions, but his record gives no indication that he would act independently of the Wall Street interests deeply concerned with the policies of the Treasury Department. By his own admission, MacBride worked to keep corporate executives out of jail for "financial fraud, anti-corruption, money laundering, economic sanctions, False Claims Act violations, securities enforcement, and procurement and tax fraud." He represented Wall Street giant Morgan Stanley and credit rating agency S&P in litigation pertaining to their fraudulent ratings and sales of mortgage-backed securities, a direct cause of the 2008 financial crisis, and his recently filed Personal Financial Disclosure listed the embattled Wall Street giant Wells Fargo as a former client.

There are also indications that MacBride has undisclosed conflicts of interest for multiple other Wall Street giants. His firm-approved biography touted work securing declinations from the DOJ, the SEC, and state governments for "multiple global financial institutions," and boasts of representing multiple Fortune 100 multinational companies in global corruption investigations. His involvement with Cisco Systems illustrates his record impeding the federal government in its attempts to hold corporate actors accountable. He represented Cisco Systems in the Justice Department and SEC investigations into a "vast kickback corruption scheme" involving Russian government officials that allegedly breached U.S. anti-bribery law in Russia.

MacBride's nomination to the executive branch represents one more turn of the revolving door he has utilized throughout his career. After leaving the President's then-Senatorial office in 2005, MacBride immediately joined the industry lobbying group the Business Software Alliance, which was accused of working primarily on behalf of Microsoft to improve the company's image after its antitrust case. While MacBride was at the BSA, the organization reportedly threatened small

businesses using unlicensed Microsoft software – which, at the time, was due to its monopoly status among the only firms offering essential business software like word processing and spreadsheeting – with aggressive tactics. In 2006, 90 percent of the \$13 million collected by the BSA for low-level licensing violations came from small businesses. MacBride returned to government four years later to serve as the U.S. Attorney for the Eastern District of Virginia. As U.S. Attorney, MacBride led a crackdown on government whistleblowers including Chelsea Manning and Edward Snowden, even subpoenaing a New York Times journalist to compel him to testify against a source. He also defended the Defense Department against allegations that it failed to curtail “widespread rape” in the military, arguing that former soldiers could not sue the Department because it would violate the Feres Doctrine that the federal government was not liable for injury sustained by active duty personnel.

After MacBride left the federal government in 2013, he joined the corporate BigLaw firm Davis Polk as a partner and co-chair in their White Collar Defense and Investigations Group. MacBride litigated on behalf of corporate clients against the federal government, including the Justice Department he had just left. Davis Polk was unabashedly looking to leverage former government officials’ experience on behalf of their clients, explicitly touting MacBride’s prosecutorial experience, and hiring a number of other prominent revolvers (e.g., former FTC Jon Leibowitz and former SEC Commissioner Annette Nazareth).

Now, as MacBride seeks yet another spin through the revolving door, his clearly-demonstrated prioritization of private profit over the public good would be particularly harmful to the Biden Administration’s commitment to tackle the financial and societal impacts of climate change. As the Treasury Department and other financial regulators move towards stronger climate change-related financial risk disclosure requirements, MacBride’s work on behalf of major polluters, including ExxonMobil, contradicts the Biden Treasury Department’s values. MacBride’s corporate clients also included several automobile companies involved in emissions scandals. He defended these firms against the exact kind of scrutiny the Treasury Department seeks to increase. Notably, his clients included a senior Fiat Chrysler manager who manipulated emissions functions to deceive investors and unnamed executives from “multiple global automotive companies” following the VW emissions scandal.

MacBride’s previous work for ExxonMobil is particularly worrisome, as it directly thwarted the Treasury Department itself. MacBride sued on behalf of ExxonMobil after the Treasury Department fined the oil major \$2 million for violating U.S. sanctions against Russia related to the invasion of Crimea. Due to MacBride’s work, progressive activists previously spoke up to protest his involvement in the nascent Biden Administration in November 2020, arguing that “people who have profited off of climate chaos shouldn’t be anywhere near the federal government’s response to it.”

Moreover, as the Biden Administration increases scrutiny of Big Tech monopolies, MacBride’s long-lasting ties to Big Tech firms also pose a significant conflict of interest that could be

leveraged to stymie progress in the Biden Administration. In his Personal Financial Disclosure, MacBride disclosed work for Big Tech giant Facebook in the past year.

For these reasons, we urge you to revoke the nomination of Neil MacBride and instead nominate a public servant committed to using the Treasury Department's many powers to advance the public good, rather than to work only on behalf of profit-minded corporations.

Signed,

Blue Mountains Biodiversity Project
Businesses for a Livable Climate
CA Businesses for a Livable Climate
Call to Action Colorado
CatholicNetwork US
Center for Popular Democracy
CO Businesses for a Livable Climate
Colorado Small Business Coalition
Friends of the Earth US
Future Coalition
Grassroots Collaborative
North Range Concerned Citizens
Oil Change International
RapidShift Network
Revolving Door Project
Sierra Club
Spirit of the Sun
Stop the Money Pipeline MA
Strong Economy For All Coalition
Texas Campaign for the Environment
The Green House Connection Center
Unite North Metro Denver
Wall of Women