Investing in My Generation: The Ethical Dilemma of Congressional Officials Holding Individual Stocks and Creating Public Policy

On March 20th, 2020, a revelation outraged the American people just as the economic toll of the COVID-19 pandemic began.

In January, four Senators had sold off stocks after a private briefing about the economic devastation of the coronavirus outbreak (The Hill). One Senator may have made as much as $18 million off the sales (Atlanta Journal-Constitution). Another Senator, as chairman of the Senate Intelligence Committee, spoke to a VIP audience on February 27th, where he warned about the cost of the pandemic (ProPublica) while downplaying the risks of COVID-19 to the American people in an op-ed penned 10 days earlier (NPR). It became clear that a conflict of interest between the secret briefing and the stock sell-offs could only be viewed as insider trading.

As of this writing, 16.6 million people have filed for unemployment during the pandemic (Wall Street Journal). As 42% of the working-age population possesses a 401(k) tied to stocks (Reuters) and stocks hold $352.4 billion in college savings for my generation (MarketWatch), the stock market crash will hurt Americans, and further their loss of confidence in politicians perceived to be profiting. To properly create public policy for my generation, congressional officials should be prohibited from trading on individual stocks while holding elected office. Policymakers should hold investments in blind trusts, and forgo individual stocks for indexed funds, avoiding direct holdings in corporations that may influence public policy.

When news of the Senators' stock purchases broke, figures from both sides of the aisle called for their resignations (New York Times). In a subsequent poll, 52% of Americans believed that members of Congress should not hold individual stocks (Data For Progress). This measure should extend beyond the end of the pandemic. Not only is it inherently unfair on the stock market for a trader to have advanced knowledge, as all congressional officials do based on classified intelligence briefings, but the possession of individual stocks presents an ethical dilemma for our leaders when they are creating public policy.

When members of Congress hold stocks in a corporation, their formulation of public policy meant to regulate these firms may be less stringent for fears that the corporation's stock price will fall. This gives corporations leverage over elected officials, supposed to be acting as watchdogs, who have a vested interest in the corporation's success. An example occurred when a House hearing on Megabanks in 2019 was conducted by ten House members with investments close to \$1.6 million in the banks (House Financial Services Committee). While prosecutors in court are forced to recuse themselves from cases in which they have a conflict of interest, politicians with vested interests can legislate and regulate while also serving as shareholders, presenting inherent hypocrisy.

This by no means implies that every politician with stock is committing insider trading. But the problem lies in whom the politicians answer to; politicians become unwilling to address misdeeds that corporations may commit against our generation and issues of policy affecting the youth from student loan fraud, to climate pollution, to economic inequality, because they are concerned that their portfolios may suffer. This is only natural for any trader to prioritize, but it epitomizes why elected officials should divest from individual stocks, as they should be accountable to the next generation, not focused on how their portfolio is performing.

Congress has taken action on this issue before. In 2012, both parties assented to the "Stop Trading On Congressional Knowledge", or STOCK, Act. Tyler Gellasch, a fellow at Duke University who drafted the law explained it this way: "Suppose a member of the Senate learns of a credible threat of a major impending terrorist attack in New York City. The STOCK Act would make it illegal for the senator to then sell a slew of hotel stocks" (Politico). The law prohibited "Members of Congress… from using nonpublic information derived from their official positions for personal benefit, and for other purposes" (Congress) by banning insider trading for governmental officials, creating a database of elected officials' holdings, and requiring them to submit a report within 45 days of a trade (NPR).

Unfortunately, the law was partially repealed after the National Academy of Public Administration found that a public database would be a national security risk, and Congress voted on an amendment to remove it (Forbes). At the same time "portfolios of the 50 most commonly held stocks by Congress significantly outperformed the market in the days leading up to the amendment" (Utah State University). As a result, no database has ever been created to track elected officials' stock holdings, but independent investigations have illuminated over $96 million in holdings by 51 Senators alone (Guardian). Gellasch, meanwhile, regrets that the STOCK Act did not go far enough, writing: "given that Congress's first obligation is to the American people... why should members of Congress be permitted to trade individual stocks at all?"

Several bills have been proposed to go further where the STOCK Act failed, such as the Anti-Corruption and Public Integrity Act and the Ban Conflicted Trading Act, which has been introduced to the House after this new scandal (The Hill) and would "prohibit Members of

Congress from purchasing or selling certain investments" while mandating blind trusts (Congress). This would go a long way to restoring Americans' confidence in government and assuaging the fears of the 82% of Americans who believe large corporations have too much influence and power (Pew). The Coronavirus has served as a wakeup call for the need to limit individual stock holding in Congress, and regulation should not just be introduced to disincentivize pandemic profiteering, but to prevent our elected officials' votes from being influenced by their individual stocks. As long as politicians benefit from their access to private information, the voters should make our sentiments public and oppose the possession of individual stocks, because our leaders and our public policy should be motivated by the people, not profit.

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