



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

August 30, 2021

Chairman Christopher A. Coons
Vice Chairman James Lankford
Senate Select Committee on Ethics
220 Hart Senate Office Building
United States Senate
Washington, DC 20510

Dear Chairman Coons and Vice Chairman Lankford,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We request the Senate Select Committee on Ethics immediately investigate Arizona Senator Mark Kelly for violating federal law and Senate ethics rules.

Federal law and Senate ethics rules require Senators to disclose financial information to the public, including financial disclosure reports that provide a “full and complete” statement of the Senator’s assets, debts, and income.¹ In addition to the annual report, a Senator must file a periodic report any time they have a financial transaction that exceeds \$1,000, which must be filed within 30 or 45 days from the date of the transaction.² This law is directly incorporated into Senate rules and is considered to be the “heart of the [Senate] code of conduct.”³

Contrary to this legal requirement, it was recently reported that Senator Kelly failed to publicly disclose stock transactions as required by law.⁴ Kelly purchased up to \$15,000 in Boom

¹ 5 U.S.C. app 4 sec. 101-111 (disclosure requirements); sec. 102(a)(5) (requirement for disclosure of financial transactions over \$1,000); Senate Rules 34, 41.

² *Id.*

³ Senate Rules 34, 41; Senate Ethic Manual, U.S. Senate Select Comm. on Ethics, at 124 (2003 ed), available at: https://www.ethics.senate.gov/public/_cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf (“The drafters of the original Senate Code of Official Conduct . . . considered full and complete public financial disclosure to be the heart of the code of conduct.” (internal citation and quotation marks omitted)).

⁴ Houston Keene, *Sen. Kelly May Have Violated Transparency Law By Waiting To File PTR Disclosing Chinese-Linked Company Stock*, Fox Business, Aug. 20, 2021, available at: <https://www.foxbusiness.com/politics/mark-kelly-transparency-law-violation>. Mark Kelly, Periodic Transaction Report, United States Senate Financial Disclosures, Filed Aug. 16, 2021, available at: <https://efdsearch.senate.gov/search/view/ptr/4430ac89-7784-4f2f-8417-2f0072874995/>

Technology by exercising his stock option on April 13, 2021, but he did not disclose the trades within the 30 or 45 day deadline and only did so months later on August 16, 2021.⁵

Any violation of the financial reporting requirements is serious and cannot be overlooked. The disclosure requirements are an integral part of an ethical and transparent government: accurate and timely filing is the only method for citizens to determine whether Members have conflicts of interest or are wrongfully profiting from their position. This is a well-known requirement of our public officials which Senators are well aware of and they each have a duty to affirmatively act to ensure compliance. There is no excuse for late filings and every violation has consequences.⁶

The Senate Select Committee on Ethics must act to ensure Senators comply with the most basic ethics requirements to maintain the public's trust. Senator Kelly's stock trades and any failure to comply with federal law must be investigated and appropriate sanctions imposed.

Sincerely,



Kendra Arnold
Executive Director, Foundation for Accountability & Civic Trust

⁵ *Id.*

⁶ The Ethics in Government Act does not allow Members to break the law without consequence. *See, e.g.*, 5 U.S.C. app 4 sec. 104(a)(1) (providing for a civil penalty not to exceed \$50,000); sec. 104(a)(2) (making it unlawful for any person to knowingly and willfully fail to file or report any information required under section 102, with penalties of up to \$50,000 and imprisonment of not more than one year); sec. 104(d) (providing for a late filing fee of \$200); *see also* Senate Select Comm. on Ethics, available at <https://www.ethics.senate.gov/public/index.cfm/financialdisclosure> (“Any individual who is required to file a report and files such report more than 30 days after the due date, or, if an extension is granted, more than 30 days after the last day of the filing extension period, **shall be subject to a \$200 penalty.**” (emphasis in original)).

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Sen. Kelly may have violated transparency law by waiting to file PTR disclosing Chinese-linked company stock

Kelly's office said the periodic transition record was filed this week under the advice of Senate Ethics

By [Houston Keene](#) | [FOXBusiness](#)

White House Overhauls 'Stock Act'

Scaling Back the 'Stock Act'

First-term Sen. Mark Kelly, D-Ariz., appears to have violated a federal transparency law by waiting to disclose an investment in a [technology](#) firm with ties to China.

According to the most recent periodic transaction [record](#) (PTR) published this week, Kelly exercised his [stock](#) option on an investment in Boom Technology Inc., on April 13 but did not report it for months on a PTR, in possible violation of the the Stop Trading on Congressional Knowledge (STOCK) Act of 2012.

[ARIZONA SEN. MARK KELLY SAYS HE ABANDONED STOCK ACT RULES](#)

The STOCK Act makes it illegal for lawmakers to engage in insider trading and requires that they disclose the purchase of any stock larger than \$1,000 between 30 to 45 days. Kelly appears to have failed to disclose his investment in Boom Technologies on the PTR before the 45-day deadline.

According to a review of Kelly's transaction by Fox News, the senator filed his PTR on Aug. 16, well outside of the 45-day deadline required by law. The amount disclosed by Kelly was between \$1,001 and \$15,000.

A spokesperson for Kelly told Fox News that the transaction was necessary for the asset to be moved into the senator's newly established qualified blind trusts. He then filed the PTR late, under the advice of the Senate Select Committee on Ethics.

The senator's ownership of both stock and stock options in Boom Technology had also been disclosed on each of his two previous personal financial disclosures.

Kelly served on the advisory board of Boom Technology, a Colorado company, from 2015 to 2019. The Washington Free Beacon [reported](#) last year that Boom Technology [partnered](#) with a Chinese travel company, Trip.com Group Unlimited, in 2018 to "bring supersonic flight to China."

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The Arizona senator's campaign also reportedly accepted a [donation](#) from a [Huawei](#) lobbyist — the Chinese technology company whose [CFO](#) is facing a possible extradition to the U.S. from Canada for criminal fraud charges.

Additionally, RealClearPolitics reported that Kelly [helped](#) a Chinese tech giant, [Tencent](#), secure an investment with the space exploration company he helped found, WorldView, in 2020.

A violation of the STOCK Act could trigger an investigation by the [Senate](#) Select Committee on Ethics and a fine for an amount determined by the committee.

The Senate Select Committee on Ethics did not respond for a request for comment before time of publication.

Conversation 382 Comments

What do you think?

United States Senate

Financial Disclosures

Periodic Transaction Report for 08/16/2021

Mr. Mark E Kelly (Kelly, Mark)

Filed 08/16/2021 @ 7:11 PM

The following statements were checked before filing:

- ☒ I certify that the statements I have made on this form are true, complete and correct to the best of my knowledge and belief.
- ☒ I understand that reports cannot be edited once filed. To make corrections, I will submit an *electronic* amendment to this report.

☰ Transactions (1 transaction total) 1 Self 0 Joint 0 Spouse 0 Dependent Child

#	Transac- tion Date	Owner	Ticker	Asset Name	Asset Type	Type	Amount	Comment
1	04/13/2021	Self	--	Boom Technology, Inc. <i>Company:</i> Boom Technology, Inc. (Denver, CO) <i>Description:</i> Aerospace Company	Non- Public Stock	Purchase	\$1,001 - \$15,000	Previously reported as Boom Aerospace. Exer- cised stock option.