10 Predictions Concerning the Clinton Foundation in 2016

Evaluation of Clinton Foundation public filings inside and outside the United States continues.

Starting 11 January 2016, I will publish additional detailed analyses that are designed to serve the audience of journalists, professionals, and government authorities familiar with the suite of laws and accounting guidelines that regulate IRS-approved public charities operating internationally.

For now, this brief update targets the general public and spares you consideration of the voluminous body of financial figures and words that Clinton Foundation entities send to the IRS, to regulators in key U.S. states, and to foreign authorities.

Though the subject of a given charity’s public disclosures is ordinarily dull, this case is a special one, particularly during what shapes up now as a momentous election year.

Here are 10 predictions, centered on the Clinton Foundation, that could affect developments during 2016 in many geographic locations.

Prediction #1: Intense Focus on Clinton Foundation Public Disclosures will Lead Prime Money Sources to Abandon Support for Hillary Clinton’s Candidacy

January 2016 opens much as January 2008 began—Hillary Clinton is the presumptive front-runner in the race to secure the Democrat Party nomination to become president of the United States.

Unlike January 2008, when the public and investigative journalists knew little concerning the finances and the public disclosures of the Clinton Foundation (including its many affiliates and joint ventures), most likely voters actually want to understand how these charities have been organized, how much money has been raised, and what major donors got for their money.

Though disclosures lodged on Clinton Foundation websites are confusing, and perhaps purposefully so, answers to many questions are available in the public

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domain. All one has to do is look closely at filings lodged in key states including New
York and in many foreign nations where Clinton Foundation entities have been
operating and soliciting donations, all the while on the basis of false and materially
misleading registration statements and periodic reports.

Experts who have been studying defective public disclosures for months understand
there is no realistic way to keep the Clinton Foundation open for business as usual
forever--so, the longer that Hillary Clinton chokes off other rivals in her party,
political oddsmakers believe the stronger most Republican contenders become.

In the end, smart Democrat money will not rush to spend massive sums required to
beat the Republican nominee, behind a candidate who will fail to regularize and
explain activities of the Clinton Foundation, given its troubled history and active
involvement of family members and operatives.

For the Democrats, at this point the biggest unanswered question is: who stands
ready to replace Hillary so that the general election becomes a true contest?

**Prediction #2: Filings Submitted on 16 November 2015 by the Clinton Foundation
Compound Legal Problems for Trustees, for Major Donors, and for Other Insiders**

Some in the press errantly touted a decision late in December 2015 by Charity
Navigator\(^2\) to remove the Clinton Foundation from its “watch list” as a sign that the
last minute data dump quelled concerns, once and for all.

The opposite is likely the case.

Public charities such as the Clinton Foundation are run by their trustees--these
people have obligations to ensure they do not engage in any illegal activities.

At federal level, in many U.S. states, and in numerous foreign jurisdictions, it is a
crime to make false statements or omit material information in completing
registration statements and annual reports before government authorities.

Moreover, it is a serious crime to solicit donations for an improperly constituted and
registered public charity, on the basis of false and materially misleading public
disclosures in multiple legal jurisdictions.


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Scan the latest filings for yourselves—it should not take long to find numerous errors and inconsistencies, particularly if you follow the trail back to 2009 and know where to look.

**Prediction #3: Clinton Foundation Trustees and Insiders Will Grow to Understand Why They Face Legal Exposure for Creating “Public Gain” and “Inurement”**

Peter Schweizer’s excellent work presented information concerning some of the questionable financial arrangements that seem to have been struck with Clinton family members and other insiders, while they were tied to Clinton Foundation entities.

Tailored for the general audience, the work did not dive into details that are available and soon will become more widespread in the public domain, so it was difficult to evaluate the size of financial gains earned and in prospect for insiders in comparison to the scale of the Clinton Foundation IRS-authorized “tax-exempt purposes”.

Under U.S. law, public charities cannot be operated to create more than an insubstantial “private gain”—here, the IRS typically measures the collective private gain created and not merely gains accruing to one or more beneficiaries. To determine whether the collective gain is “more than insubstantial”, the IRS compares it to the annual level of expenditures on programs that have specifically been approved by the IRS, in advance.

Moreover, it is against U.S. (and some foreign laws) to hide private gains (and financial arrangements giving rise to these gains) that accrue to insiders such as trustees, founders, key donors, and their family members.

The Wall Street Journal recently concentrated upon potential conflicts created by Clinton family members with regard to accepting speaking fees—there are much

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3 One helpful source is the New York State Charity Bureau Search portal that is found following this link: http://www.charitiesnys.com/RegistrySearch/search_charities.jsp. Try comparing information found for 2009 on this site with comparable information found on the Clinton Foundation website and then keep digging.


5 Follow this link: http://www-wsj-com/articles-speaking-fees-meet-politics-for-clintons-1451504098

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more serious exposure areas involving establishment of business ventures and funds that are worth focus by determined investigators.

Ordinarily, this is only possible on a rigorous basis, after full and fair disclosure is finally made by the Clinton Foundation, and, in particular, by the Clinton Global Initiative, going all the way back to the real beginning of each entity, concerning the business interests of key donors and of Foundation insiders.

**Prediction #4: Creation, Operation, and Attempted Refinancing of Laureate Education, Inc. will Attract Focus for Many Reasons**

The American public, across the entire political spectrum, anxiously watches current developments on world capital markets, while also wondering why so few culprits have been identified and punished for events that triggered the financial crisis of 2008.

During 2007, an investor group led by a Clinton political and foundation donor completed a highly leveraged acquisition of for-profit educational institutions that operate outside and inside the U.S.

Once Hillary Clinton joined President Obama’s cabinet, Laureate may have received special attention from the U.S. State Department Then, starting in 2010, Bill Clinton served as “chancellor” for Laureate, earning an estimated $16.5 million for part-time work during the course of approximately four and one half years\(^6\).

In 2013, a branch of the International Finance Corporation invested $150 million in Laureate on economic terms that have yet to be fully disclosed\(^7\).

Late in 2015, Laureate filed documents with the U.S. Securities and Exchange Commission to raise equity and debt capital on public markets. These documents suggest that Laureate’s financial condition through 30 September 2015 was challenged by weak internal controls, far-flung international operations, and a substantial debt load.


\(^7\)Follow this link: [http://ifcext.ifc.org/ifcext/Pressroom/IFCPressRoom.nsf/0/D9B6433340A60E3385257AFC004EA5BE](http://ifcext.ifc.org/ifcext/Pressroom/IFCPressRoom.nsf/0/D9B6433340A60E3385257AFC004EA5BE)

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It is not clear these capital-raising efforts will succeed, or how Laureate may be affected should these capital-raising efforts fail.

Public disclosures for the Clinton Foundation do not describe financial and operating arrangements among Bill Clinton, Laureate and Clinton Foundation in appropriate detail.

Moreover, key professional advisors (DLA Piper, and PricewaterhouseCoopers) worked for Laureate and for the Clinton Foundation and should have been fully aware of these arrangements.

**Prediction #5: Voters Will Question Whether any Legal Agreement will Effectively Restrain the Clinton Foundation, if Hillary Clinton is Elected President**

The last time that the Clinton Foundation operated while Hillary Clinton held a cabinet level position in the U.S. Government, an agreement was in place that was supposed to regulate potential conflicts of interest.

Lawyers advise that the “Memorandum of Understanding” (which may not have been the final and complete agreement among interested parties) certainly could have been tightened.

That said, President Obama and other key members of his Administration held substantial power and influence that might have been brought Clinton Foundation entities into full compliance with applicable U.S., state, and foreign laws, yet this did not happen starting 20 January 2009.

During 2016, investigators and the general public will look closely into all applications filed by Clinton Foundation entities to constitute and to register themselves inside and outside the United States, to determine whether these applications were complete and truthful.

Voters in both political parties, and independent voters, will wonder, considering the public record, how any regulator will be able to ensure that the Clinton Foundation operates lawfully, if Hillary Clinton becomes the 45th president of the United States.

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Prediction #6: Investigators Will Re-Examine the Creation of the Clinton Foundation, Starting in 1997

The period when the Clinton Foundation came into existence was tumultuous—numerous reports suggest that the Clinton family struggled financially for a variety of reasons.

Available records show that the Clinton Foundation raised millions of dollars during its first few years, yet deployed only modest sums in furtherance of its original, stated, tax-exempt purposes, which were to operate an archival records repository and research center in Little Rock, Arkansas.

With the benefit of hindsight, some investigators will want to reconsider the motives of early donors to the Clinton Foundation and to re-examine who may have benefitted and how as tax-deductible contributions were channelled towards the Clinton family, while they struggled to meet debts and to finance Hillary Clinton’s campaign to serve New York in the U.S. Senate.

Prediction #7: Bill Clinton’s Ongoing Role with the American India Foundation and Clinton Foundation Ties With McKinsey will Receive Focus

Starting early in 2001, Bill Clinton worked closely with McKinsey Managing Partner Rajat Gupta and other prominent Indian-Americans to create, solicit funds for, and operate American India Foundation, from its base inside New York State.

So far, Clinton Foundation filings do not yet expose the nature and extent of Bill Clinton’s involvement with the Indian disaster relief efforts, or with the raft of insiders who subsequently were involved in for-profit activities with Bill Clinton and with other Clinton Foundation insiders.

Significant attention will be placed upon the American India Foundation, particularly on the early period, when Rajat Gupta and others seem to have been involved operating a business entity called MindSpirit LLC⁹.

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Prediction #8: Bill Clinton's Work with International Aids Trust and His Early Work Fighting HIV/AIDS Internationally will be Re-Examined

Numerous published accounts suggest that Bill Clinton began charitable efforts to fight HIV/AIDS with Ira Magaziner and the Clinton Foundation starting in July 2002.

Recently, work that Bill Clinton performed with International Aids Trust, an Atlanta, Georgia nonprofit, starting around January 2001 have come to light as have numerous defects in public filings relating to this organization. During 2016, special focus will fall on Bill Clinton’s record fighting HIV/AIDS internationally both as president, and afterwards in connection with various purportedly tax-exempt organizations to which he and the Clinton Foundation have been connected, inside and outside the United States.

Prediction #9: Bill Clinton’s Work with Other Presidential Foundations and Accounting Treatment for this Work will be Compared and Contrasted

Starting in 2005, Bill Clinton engaged with former presidents George H.W. Bush, and George W. Bush to pursue disaster relief efforts in Asia, along the Gulf Coast in America, and in Haiti.

Accounting treatment for these efforts, as well as accounting treatment for each presidential library will be compared and contrasted, and any meaningful discrepancies noted and evaluated.

In this regard, special focus will fall upon applications that were made to form these joint disaster relief efforts and to register these legal entities within key domestic and foreign locations to solicit donations.

Moreover, attention will fall upon how financial consequences for each of these joint efforts were included, year to year, in the consolidated financial statements of the Clinton Foundation, to ensure that treatment taken was proper and consistent.

Prediction #10: The Evolving History of the Clinton Foundation will Affect How President Obama Shapes and Ultimately Directs His Foundation

Follow this link: http://www.guidestar.org/organizations/58-2608343/international-aids-trust.aspx

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As a man with much in front of him, President Obama certainly will continue to think carefully about how he and his advisors organize and then operate his presidential foundation\textsuperscript{11}.

Assuming President Obama wishes to operate internationally, he and his team will likely take great pains to ensure that the purposes and geographic concentration of his operation are approved, in advance, by the IRS and that his foundation registers properly in each domestic and foreign location, where it conducts activities.

With concerns likely to mount in numerous places where the Clinton Foundation has not fully complied with applicable registration and reporting requirements, trustees of the Barack Obama Foundation\textsuperscript{12} will redouble efforts to ensure that they continue fine examples set by most participants in the vital nonprofit sector, here and abroad.

\textsuperscript{11} Follow this link: http://www.nytimes.com/2015/08/17/us/politics/with-high-profile-help-obama-plots-life-after-presidency.html?_r=0
\textsuperscript{12} Follow this link: http://www.barackobamafoundation.org/foundation

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