

# Bloomberg Businessweek

**PLUS**

Will Disney's  
theme park  
magic pay off with  
Pandora?

# The Showbiz Issue

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**Robert De Niro and  
producer Jane Rosenthal,  
co-organizers of  
the Tribeca Film Festival,  
discuss the future of movies**

◀ only C\$675 million in revenue for the federal and provincial governments in 2018.

The higher the tax, the less Canada's LPs would be able to charge and still be able to undercut the black market—though Canopy claims to have lower production costs than the Hells Angels biker gang, which is widely seen as the dominant player in Canada's black market.

It will also help if marijuana remains in legal limbo in the U.S. Although an increasing number of states have passed recreational use laws, including California in November, U.S. Attorney General Jeff Sessions recently ordered a review of an Obama-era policy of noninterference with state laws on marijuana, raising questions about whether the Trump administration will go after legal pot markets.

That could end up being good news for Canada's pot business. "The longer U.S. prohibition remains in place, the more dominant the Canadian companies will become," says Mark Zekulin, president of Canopy. "American operators are still stuck, because at the federal level it's still a crime. With that comes uncertainty and risk. Not having to worry about crossing state lines creates an environment where we can grow our scale and capital to unprecedented levels." —*Brett Popplewell*

**The bottom line** Trudeau is aiming for a July 1, 2018, target for legalizing marijuana, already a big business in Canada, for recreational use.

The Constitution

## A Trump Lawsuit Gets a Boost From Restaurants

▶ **A Top Chef judge and others argue Trump should divest**

▶ **"The president is taking business away from me and others"**

A public watchdog group that sued President Donald Trump in January has added allegations and plaintiffs to bolster its claims that his business dealings violate the Constitution. On April 18, Citizens for Responsibility and Ethics in Washington, or CREW, filed a revised complaint to add an advocacy



Colicchio, who owns Riverpark and other restaurants, says Trump properties have an unfair advantage

group representing 200 restaurants and 25,000 workers, and a luxury hotel event booker as plaintiffs.

CREW initially claimed that Trump is in violation of the Constitution's emoluments clause because his businesses get money from foreign governments without congressional approval. CREW has added claims that the president is receiving business and other benefits from federal and state officials, in violation of a separate constitutional provision. "Never before have the people of the United States elected a president with business interests as vast, complicated and secret as those of President Donald J. Trump," the group said in its amended complaint. His "business interests are creating countless conflicts of interest, as well as unprecedented influence by foreign governments," leading to "numerous" violations of the Constitution, according to the complaint.

The new plaintiffs and claims may bolster the case. After it was first filed, critics said it should be dismissed because CREW hasn't suffered any harm and therefore doesn't have the standing to sue. Now, the restaurants and their employees offer a much more robust claim of injury—that they face unfair competition from Trump's properties, such as Trump International Hotel Washington, D.C. The lawsuit alleges that since the election, the hotel has marketed itself to the diplomatic community and has received payments from countries including Kuwait and Saudi Arabia.

Trump "is enriching himself," says Tom Colicchio, head judge on TV show *Top Chef*, owner of restaurant operator **Crafted Hospitality**, and member of the group added to CREW's suit, Restaurant Opportunities Centers United. "He's clearly created a competitive disadvantage for restaurants

and hotels." Jill Phaneuf, a Washington-based event booker, has joined the suit, even though she says she's a Republican. "The president is taking business away from me and others with unfair business practices that violate the Constitution," she says.

CREW argues that Trump should liquidate his business holdings, then put the proceeds in a blind trust as previous presidents have done. In the original complaint, filed on Jan. 23, the first business day after Trump's inauguration, CREW cited payments from diplomats and foreign officials to Trump's hotels and golf courses. The complaint also challenged as improper Trump Tower leases by the **Industrial & Commercial Bank of China Ltd.** and the Abu Dhabi Tourism & Culture Authority. "We've never had a president who was in immediate violation of the Constitution as soon as he took the oath," says Norman Eisen, a former ethics lawyer in the Obama White House, who leads CREW along with Richard Painter, a former ethics lawyer with the George W. Bush administration.

CREW's new claims involve events that have occurred in the past three months, including China's granting of trademarks to the president and the federal government's decision to permit him to continue leasing the site of his Washington hotel despite claims he's in violation of the lease. As part of the suit, CREW seeks access to Trump's tax returns and other financial records.

The Department of Justice is expected to ask a Manhattan federal judge to dismiss the case on the grounds that CREW doesn't have the right to sue and that Trump hasn't violated the Constitution. Trump's lawyers contend that the money his companies receive from foreign governments is payment for services rendered,



which doesn't violate the Constitution.

Even if CREW prevails at first on the question of standing, it may be some time before appeals are exhausted. The issue could eventually make its way to the U.S. Supreme Court, which has imposed stricter standing requirements in recent years, says Josh Blackman, an associate professor at the South Texas College of Law, who is preparing a brief supporting the government's position.

CREW disagrees, pointing to a 1982 Supreme Court ruling that found standing for a housing-rights group that sent black and white "testers" to determine if a real estate firm was discriminating against black people in its rentals. CREW filed its suit in New York, where lower federal courts have given a relatively broad reading to that case. As for Colicchio, he's hoping this all resolves itself without a long, tortuous run through the legal system. "I just hope that the president does the right thing and divests himself." —*Bob Van Voris*

**The bottom line** An advocacy group representing 25,000 workers has joined a lawsuit claiming Trump's business interests violate the Constitution.

## The Fed A Safe Choice to Regulate Banks

▶ **Utah investor Randal Quarles will be nominated to the Fed**

▶ **"The administration is becoming very conventionally Republican"**

The populist, end-the-Fed wing of the Republican Party isn't going to like President Trump's choice for the critical job of overseeing bank regulation at the Federal Reserve. Randal Quarles, who founded and runs a Utah investment firm named Cynosure Group, is a Wall Street lawyer who worked for both Bush presidents and is married to a member of the powerful and wealthy Eccles family—as in Marriner Eccles, who was chairman of the Federal Reserve from 1934 to 1948.

In other words, Quarles, 59, is an important part of the GOP's financial establishment. Not exactly the type to walk into the Fed's headquarters—aka the Marriner S. Eccles Federal Reserve

Board Building—and start channeling Ron or Rand Paul, the father-son anti-Fed duo. "Whatever else he would be, I don't think he would be a disrupter of the Federal Reserve," says Edwin Truman, a nonresident senior fellow at the Peterson Institute for International Economics.

Though his nomination isn't official, on April 17 a person familiar with the selection process confirmed news reports that Quarles will be Trump's pick to be the Fed's vice chairman of supervision, a post created by the Dodd-Frank Act. "The administration is becoming very conventionally Republican," says Gerald O'Driscoll, a senior fellow at the Cato Institute. "There were all sorts of people on the list" of potential nominees "who would have stirred things up."

President Barack Obama never nominated anyone for the job. Instead, Fed governor Daniel Tarullo, a liberal Democrat, informally filled the role. A protégé of the late Senator Ted Kennedy of Massachusetts, Tarullo had a testy relationship with chief executives of big banks, including JPMorgan Chase & Co.'s Jamie Dimon, who accused him of being unnecessarily harsh. Tarullo announced his resignation in February, effective this month.

Quarles marks a big change from Tarullo. He favors lightening regulation of banks, curbing mortgage giants Fannie Mae and Freddie Mac, and using explicit rules to conduct monetary policy, according to his own writings and interviews with analysts. "He sees things clearly without being an ideologue," says Lawrence Uhlick, a former president of the Institute of International Bankers, who dealt with him when Quarles worked for George W. Bush's Treasury Department and when he represented banks as a senior lawyer at Davis Polk & Wardwell.

Quarles will have a lot of discretion over the annual stress tests of major banks, which the Fed conducts to ensure they can withstand a severe financial crisis without needing a bailout. Bank CEOs complained that under Tarullo, stress tests were not only too tough but too unpredictable. "That's an area where we will see a shift in ideology, and he could do it himself," says Isaac Boltansky, an analyst at Compass Point Research & Trading LLC. Quarles told Bloomberg TV in 2015

that the Volcker Rule, which is supposed to keep deposit-taking institutions from trading for their own profit, was "not well-designed." That's what a lot of people have been saying lately, including Tarullo, who in his valedictory speech on April 4 said the Volcker Rule is too complicated and "may be having a deleterious effect on market-making."

Last year Quarles co-wrote a *Wall Street Journal* op-ed disagreeing with Minneapolis Federal Reserve Bank President Neel Kashkari, who wants the

### Randal Quarles



**1984**  
Graduates from Yale Law School

**1984-1990**  
Works for Wall Street law firm Davis Polk & Wardwell

**1990-1993**  
Serves in George H.W. Bush's Treasury Dept.

**1993-2001**  
Back to Davis Polk

**2001-06**  
Serves as George W. Bush's undersecretary for domestic finance

**2006-14**  
Partner at private equity firm Carlyle Group

**2014**  
Co-founds Cynosure Group, an investment firm in Salt Lake City for wealthy families

biggest banks to have much wider safety margins, calculated by the value of assets vs. liabilities. Quarles and Lawrence Goodman, president of the Center for Financial Stability, said that demanding more capital would slow economic growth. Policymakers, they wrote, should "fully measure and evaluate the impact of Dodd-Frank on the financial system before arbitrarily taking an ax to big banks and irreparably damaging the economy."

The same op-ed called for the Fed to be more formulaic in setting interest rates by following a rule such as the one propounded by Stanford economist John Taylor. Quarles served under Taylor when Taylor was George W. Bush's undersecretary of the Treasury for international affairs.

One thing Quarles won't do is threaten the Fed's existence. In 2014 bronze sculptures of Eccles, the former Fed chief, were installed at Fed headquarters and on the grounds of the Utah State Capitol. Quarles and his wife, Hope Eccles, whose grandfather was Marriner's brother, helped pay for the memorials. —*Peter Coy*

**The bottom line** Trump's pick as the Fed's top bank regulator may try to scale back the Volcker Rule and stress tests.

**B** Edited by Matthew Philips  
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