Symbol of ’80s Greed Stands to Profit From Trump Tax Break for Poor Areas

Michael Milken, who went to prison in the early 1990s for violating securities and tax laws, has worked to rebuild his reputation through the Milken Institute.Credit...Lindsay Morris for The New York Times

By Eric Lipton and Jesse Drucker

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RENO, Nev. — In the 1980s, Michael Milken embodied Wall Street greed. A swashbuckling financier, he was charged with playing a central role in a vast insider-trading scheme and was sent to prison for violating federal securities and tax laws. He was an inspiration for the Gordon Gekko character in the film “Wall Street.”

Mr. Milken has spent the intervening decades trying to rehabilitate his reputation through an influential nonprofit think tank, the Milken Institute, devoted to initiatives “that advance prosperity.”

These days, the Milken Institute is a leading proponent of a new federal tax break that was intended to coax wealthy investors to plow money into distressed communities known as "opportunity zones." The institute's leaders have helped push senior officials in the Trump administration to make the tax incentive more generous, even though it is under fire for being slanted toward the wealthy.

Mr. Milken, it turns out, is in a position to personally gain from some of the changes that his institute has urged the Trump administration to enact. In one case, the Treasury secretary, Steven Mnuchin, directly intervened in a way that benefited Mr. Milken, his longtime friend.

It is a vivid illustration of the power that Mr. Milken, who was barred from the securities industry and fined $600 million as part of his 1990 felony conviction, has amassed in President Trump's Washington. In addition to the favorable tax-policy changes, some of Mr. Trump's closest advisers — including Mr. Mnuchin, Jared Kushner and Rudolph W. Giuliani — have lobbied the president to pardon Mr. Milken for his crimes, or supported that effort, according to people familiar with the effort.

While the Milken Institute's advocacy of opportunity zones is public, Mr. Milken's financial stake in the outcome is not.

The former "junk bond king" has investments in at least two major real estate projects inside federally designated opportunity zones in Nevada, near Mr. Milken's Lake Tahoe vacation home, according to public records reviewed by The New York Times.

One of those developments, inside an industrial park, is a nearly 700-acre site in which Mr. Milken is a major investor. Last year, after pressure from Mr. Milken's business partner and other landowners, the Treasury Department ignored its own guidelines on how to select opportunity zones and made the area eligible for the tax break, according to people involved in the discussions and records reviewed by The Times.

The unusual decision was made at the personal instruction of Mr. Mnuchin, according to internal Treasury Department emails. It came shortly after he had spent time with Mr. Milken at an event his institute hosted.

"People were troubled," said Annie Donovan, who previously ran the Treasury office in charge of designating areas as opportunity zones. She and two of her former colleagues said they were upset that the Treasury secretary was intervening to bend rules, though they said they didn't realize at the time that Mr. Mnuchin's friend stood to profit. The agency's employees, Ms. Donovan said, "were put in a position where they had to compromise the integrity of the process."

The opportunity zone initiative, tucked into the tax cut bill that Mr. Trump signed into law in 2017, has become one of the White House's signature initiatives. It allows investors to delay or avoid taxes on capital gains by putting money in projects or companies in more than 8,700 federally designated opportunity zones. Mr. Trump has boasted that it will revitalize downtrodden neighborhoods.

But the incentive, also championed by some prominent Democrats, has been dogged by criticism that it is a gift to wealthy investors and real estate developers. From the start, the tax break targeted people with capital gains, the vast majority of which are held by the very richest investors. The Treasury permitted opportunity zones to encompass not only poor communities but some adjacent affluent neighborhoods. Much of the money so far has flowed to those wealthier areas, including many projects that were planned long before the new law was enacted.

Investors and others — including Mr. Milken's institute — have been pushing the Treasury Department to write the rules governing opportunity zones in ways that would make it easier to qualify for the tax break. That campaign worked, and Mr. Milken is among the potential beneficiaries.

Geoffrey Moore, a spokesman for Mr. Milken, confirmed that Mr. Milken had investments inside opportunity zones, though they are a sliver of his overall real estate holdings. He disputed that Mr. Milken had used his institute or Washington connections to benefit his investments and said no one at the institute "has any specific knowledge of Mike's personal investments."

Mr. Moore added that Mr. Milken's support for opportunity zones was based on his longstanding belief "that jobs and the democratization of ownership are the keys to helping people in economically struggling areas."

A spokesman for the Milken Institute, Geoffrey Baum, said that "to suggest that the work of the Milken Institute is motivated by or connected to Mr. Milken's investments is flat-out wrong." He said the institute advocated changes that were intended to spread the benefits to more low-income communities, not to help the wealthy.

The White House declined to comment on whether Mr. Trump is considering a presidential pardon for Mr. Milken.

A Notorious Symbol

Mr. Milken — operating from an X-shaped trading desk in Beverly Hills, Calif. — was a Wall Street legend. He pioneered the junk bond, which enabled financially risky companies to borrow billions of dollars and ignited a wave of often-hostile corporate takeovers that came to define a go-go era. His firm, Drexel Burnham Lambert, hosted an annual event, which came to be known as the Predators' Ball, where the era's greatest financiers mingled. Mr. Milken became a billionaire.

Then, in 1989, federal prosecutors charged him with violating securities and tax laws and with being part of a lucrative insider-trading ring. The next year, Drexel Burnham went bankrupt.

Mr. Milken pleaded guilty and was sentenced to 10 years in prison and paid $600 million in fines. After cooperating with the government, he ended up serving about two years behind bars.

Mr. Milken emerged with a considerable fortune intact. He invested in companies in for-profit education, health care and fast food, according to securities filings and company announcements. He also acquired lots of real estate, coming to own roughly 700 properties around the United States, Mr. Moore said.
He continued to attract scrutiny from regulators, including one case in which Mr. Milken paid $47 million to resolve the Securities and Exchange Commission's allegations that he had violated his lifetime ban from the securities industry.

Mr. Milken, however, has largely managed to restore his reputation — and his clout. His family gave tens of millions of dollars to his Milken Institute, which he founded in 1991 and whose board of directors he leads. After battling prostate cancer, he helped raise hundreds of millions of dollars to fund cancer research.

In Washington, Mr. Milken, 73, and his institute have courted influence, wooing and sometimes adding former federal officials. His family recently spent more than $85 million to buy three buildings opposite the White House and the Treasury Department, which he is transforming into his institute's new Washington offices.

The most public display of his renewed stature comes each spring in Los Angeles when Mr. Milken presides over a glitzy gathering at the Beverly Hilton — the same venue where his famed Predators' Balls took place three decades ago.

The Milken Institute's annual conference attracts thousands of the world's most powerful people — from government, finance, medicine, Hollywood and the like — for a frenzy of high-powered networking and conspicuous consumption. Recent guests have included Leon Black, the chairman of Apollo Global Management; David M. Solomon, the chief executive of Goldman Sachs; Eric Schmidt, the former chief executive of Google; and the New England Patriots quarterback Tom Brady.

Mr. Milken is the power broker at the center of the action. Onstage, he interviews famous guests. In private, he organizes exclusive dinners. Some have called the event the Davos of North America.

In the Trump era, cabinet secretaries and White House advisers have been among the event's marquee guests, more so than in other recent administrations. Coveted speaking roles have gone to Ivanka Trump and her husband, Mr. Kushner, giving them access to an elite audience.

Shaping the Rules of the Road

At last year's event in Beverly Hills, attendees included Commerce Secretary Wilbur Ross and Mr. Mnuchin. The Treasury secretary was accompanied by several senior aides, including Daniel Kowalski, who is overseeing the department's drafting of the opportunity zone rules.

Mr. Kowalski, who has spent months drumming up support across the country for opportunity zones, is well acquainted with the Milken Institute.

After the tax incentive became law, it was up to the Treasury, and Mr. Kowalski in particular, to put it in effect through a series of rules. Officials at the Milken Institute met repeatedly with him to try to influence that rule-writing process. The institute submitted a series of letters and presentations to the Treasury and the Internal Revenue Service, and at times directly to Mr. Mnuchin, pushing for rules that would make the tax break easier to qualify for.

"Helping to shape the rules of the road" is how the Milken Institute describes its work on opportunity zones.

The institute "is incredibly active," Mr. Kowalski said in an interview. He said he thought he had discussed opportunity zones with Mr. Milken, although he said he could not specifically recall. He disputed that Mr. Milken or his institute exerted any special influence over the Treasury Department.

Among the Milken Institute's proposals was for the Treasury to give investors a generous amount of time to build on opportunity zone land and to reduce the amount that investors had to spend upgrading properties to be eligible for the tax break. Those changes would make it easier for investors to reap the benefits.

The institute also asked the Treasury a question that would clarify if investors who owned land in opportunity zones before the tax law was passed were eligible to receive the benefits. The Treasury ruled that such investments were permissible, a controversial decision since the purpose of the opportunity zone initiative was to spur new investments, not reward existing projects.

Mr. Milken's spokesman, Mr. Moore, said Mr. Milken "never attended any meeting focused on opportunity zone regulations with any federal agency, nor did he consult with any institute representatives who may have interacted with any agency."

But Aron Betru, who led the Milken Institute's opportunity zone efforts, told The Times in an interview that he did discuss opportunity zones with Mr. Milken, though he said he was not aware of Mr. Milken's specific investments. And in 2018 Mr. Mnuchin and Mr. Milken attended a small, private event, sponsored by the institute, to discuss opportunity zones.

Boomtown

High above Reno, on a vast hillside where wild horses roam, is the site of one of Nevada's biggest opportunity zones.

The center of this area is known as Comstock Meadows, a reference to the 1859 discovery of the so-called Comstock Lode, one of the largest deposits of silver ever found in the United States. The find generated hundreds of millions of dollars in wealth, creating a boomtown in nearby Virginia City.

Today it is home to the Tahoe-Reno Industrial Center. Lured by cheap land, Google is building a huge new complex inside the industrial park. Tesla and Switch, the data-center company, recently opened their own operations. And down the street, Mr. Milken co-owns a company that holds nearly 700 acres of empty land.

He and his partner — Chip Bowlby, president of a development company called Reno Land — planned to use that space to open a so-called tech incubator, where smaller companies could set up operations, among other possible uses.

Being inside an opportunity zone would potentially be a huge boon for the venture. It would mean that start-ups at the tech incubator could attract tax-advantaged money from outside investors.

Nevada officials wanted to nominate the census tract that included the industrial park as an opportunity zone. But in early 2018, Treasury officials had ruled that the area was ineligible because its residents were too affluent.

Major landowners at the site, including Mr. Bowlby, urged state and local officials to try to get the Treasury to reverse that ruling, said Kris Thompson, the project manager at the industrial center.

Storey County, where the industrial park is situated, deployed Jon Porter, a former House Republican from Nevada who is now a lobbyist, to push the matter. Dean Heller, at the time a Republican senator, and Brian Sandoval, then the governor, also were enlisted and had phone calls with Mr. Mnuchin around that time, according to Treasury records. Mr. Heller, Mr. Porter and Mr. Sandoval did not respond to requests for comment.

'My L.A. Friends'

Just as that lobbying intensified in the spring of 2018, Mr. Milken opened his institute's annual conference in Beverly Hills.

Mr. Mnuchin was a featured guest. "It's great to be here with you and all my L.A. friends," the Treasury secretary said in an onstage interview on April 30.

That afternoon, the institute organized an invitation-only meeting with Mr. Mnuchin and his staff to discuss opportunity zones. Other listed attendees included Sean Parker, the former Facebook president and an early advocate of opportunity zones, and Raymond J. McGuire, a top Citigroup executive. Mr. Betru was the moderator.

Within days, the Treasury Department had shifted its position and was now willing to let the state nominate the area around the Nevada industrial park as an opportunity zone.

Mr. Mnuchin told Mr. Kowalski to inform other Treasury officials that they should accept Storey County's nomination, according to email records reviewed by The Times. Mr. Mnuchin spoke on the phone on May 8 with Mr. Sandoval. Forty-five minutes later, Mr. Sandoval formally nominated the site to be part of an opportunity zone, email records, including documents from Nevada, show. And the decision was soon officially blessed by the Treasury Department. (While the Treasury's reversal has been reported, Mr. Milken's connection has not been previously disclosed.)

Treasury officials said the change was part of an effort to iron out inconsistencies in different Treasury rules. But the switch provoked intense protests from Treasury and I.R.S. employees.

"Failure to apply the designation standards equally across the board will call into question the legitimacy of the process by which the designations were made," an unnamed I.R.S. employee wrote in an internal memo in May 2018. It added that the appearance of "arbitrary" Treasury standards risked "opening the door for accusations that the determination process was influenced by political considerations or bias."

"Any such controversy would in turn taint the opportunity zones and potentially chill or cloud the incentive for investors to invest in the opportunity zones," the memo said.

In an interview this month at an event co-sponsored by the Milken Institute in Jackson, Miss., Mr. Kowalski would not comment on whether Mr. Mnuchin had been the driving force behind the Treasury's reversal. "I can certainly say he was apprised of the situation," Mr. Kowalski said.

Brett Theodos, a senior fellow at the Urban Institute, which has advised state governments including Nevada on their nominations of opportunity zones, said the Treasury's decision-making appeared problematic. "Making exceptions for the politically connected is deeply troubling," he said.

Spokesmen for Mr. Milken and Mr. Mnuchin said the two men had never discussed the Storey County issue. Mr. Mnuchin's spokesman, Devin O'Malley, said Mr. Mnuchin "had no knowledge of Milken's investments in Nevada."

Wins for Milken

In August 2018, Mr. Mnuchin and Mr. Milken met again. This time, the occasion was a small conference hosted by the Milken Institute to discuss opportunity zones. The event took place at the Hamptons home of the real estate developer Richard LeFrak, a friend of and donor to Mr. Trump, according to the event's agenda.

A handout from the event, which was later posted online, showed a map of all 8,764 opportunity zones in the United States, but focused on the virtues of just one specific area: Reno. The handout promoted the city as a "hub to the western United States."

The handout did not mention that Mr. Milken was a major investor in two projects in opportunity zones in that area: the tech incubator in the industrial park and a housing, hotel and retail development on the site of an old shopping mall in Reno.

As his institute was continuing to push the Treasury to tinker with its opportunity zone rules, Mr. Milken gave Mr. Mnuchin a flight in January on his private jet to Los Angeles, where both men have homes.

Three months later, the Treasury Department heeded the institute's request and clarified that investors could receive the opportunity zone tax benefits by simply leasing properties to themselves. As a result, investors who had long owned land inside opportunity zones were now eligible for the tax break.

In a separate round of rule changes, Treasury agreed to loosen rules governing how quickly developers had to start work on opportunity zone projects and how much money they had to spend — both revisions that the Milken Institute, among many others, had sought.

This was a potential win for Mr. Milken. His partner, Mr. Bowlby, had bought the Nevada real estate — for both the tech incubator and the residential and retail complex — before the areas were designated as opportunity zones.

Mr. Bowlby, who didn't respond to requests for comment, said at a public event this year that he was using a lease on his Reno project with Mr. Milken "so we can still be qualified for the opportunity zone."

The Treasury's leasing decision has faced criticism.

"Anybody who owned property in the zone prior to 2018 would have been out of luck until these rules," said Michelle Layser, a tax law professor at the University of Illinois College of Law. "This really opens the door."

Mr. Moore, the spokesman for Mr. Milken, denied that he received special treatment.

"Your insinuation that Mike has reaped personal financial benefits from Milken Institute programs is outrageous," he said. "It's clear that you are less interested in the objective truth than in assigning to Mike Milken sinister motives that simply do not exist."

Mr. Moore said that Mr. Milken hadn't hidden the fact that he had investments in the Nevada opportunity zones. He said Mr. Milken had described them at the Hamptons event that Mr. Mnuchin attended. "There was nothing secretive about it," he said.

Mr. Kowalski said he hadn't been aware that Mr. Milken was an investor in the Nevada projects at the same time that his institute was seeking to change the rules governing opportunity zones.

Was he surprised? Mr. Kowalski paused. "Nothing surprises me anymore," he said.