



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

August 13, 2025

The Honorable Jamieson Greer
Acting Special Counsel
Office of Special Counsel
1730 M Street NW
Suite 218
Washington DC 20036-4505

Re: Violation of the Hatch Act by Secretary of Commerce Howard Lutnick

Dear Mr. Greer:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Special Counsel (“OSC”) investigate U.S. Secretary of Commerce Howard Lutnick’s apparent violation of the Hatch Act when he participated in a media interview in his official capacity during which he urged citizens of New York City to take action to ensure the defeat of a current candidate in the upcoming mayoral election in November 2025. Secretary Lutnick expressed his political views about a partisan candidate and made comments that were directed specifically toward the success or failure of a political party and candidate in a partisan race during his July 31, 2025 appearance on *Kudlow*, a media program hosted by Larry Kudlow on Fox Business.¹ By stating his personal partisan beliefs advocating for the outcome of a pending partisan election, he engaged in political activity prohibited by law.

Factual Background

Secretary of Commerce Howard Lutnick appeared on *Kudlow*, a television program hosted by Larry Kudlow on Fox Business channel on July 31, 2025.² In the episode’s introduction, Larry Kudlow announced the agenda of the show, including “President Trump nails trade deals;” “Commerce Secretary Howard Lutnick is going to give us the latest;” and “Senator Tommy Tuberville is going to talk about the evils of Caracas on the Hudson about

¹ *Kudlow* (Fox Business television broadcast aired July 31, 2025), available at <https://www.foxbusiness.com/video/6376424022112>.

² *Id.*

socialist Zohran Mamdani.”³ Mamdani is currently a candidate for New York City mayor, having won the nomination of the Democratic Party.⁴

Appearing outside the White House, Secretary Lutnick was introduced and appeared in his official capacity in a segment that began with the caption, “Dems & Media Critics Proven Wrong on Trump Tariffs,”beginning at approximately the 6:00 minute mark.⁵



The host welcomed “Commerce Secretary Mr. Howard Lutnick” and immediately stated, “Before we get to the trade stuff, I just want to ask you [...] are you worried, is the administration worried that this Mamdani character, socialist, whatever is going to wreck the fact that New York and the US is the center of the world financial markets as well as the economy?”⁶

Secretary Lutnick responded:

The people of New York have to get off their couch and get out there and vote. Voting and elections have consequences. If they all sit on their couches and everybody in New York doesn't vote then that's what they'll get. They'll get a communist and fortunately you have Donald Trump in the White House so

³ *Id.*

⁴ *New York City Mayoral Primary Election Results*, N.Y. TIMES, July 23, 2025, available at <https://www.nytimes.com/interactive/2025/06/24/us/elections/results-new-york-city-mayor-primary.html>.

⁵ *Kudlow* (Fox Business television broadcast aired July 31, 2025), available at <https://www.foxbusiness.com/video/6376424022112>.

⁶ *Id.*

he's not going to give this guy any money. And I don't know who the governor will be but hopefully they won't give this guy any money. But these people in New York had better get off their butts and get out there and vote and make sure this communist doesn't run New York City.⁷

During these remarks, the caption below his image identified him as “Howard Lutnick | Commerce Secretary.”⁸



After Secretary Lutnick's statement, Kudlow responded, "Well said Howard, well said Mr. Secretary. We appreciate that very much."⁹ The interview then transitioned to the Trump administration's actions related to trade policy and financial markets. Secretary Lutnick never indicated that any remarks during the segment were intended in his personal capacity.

As detailed below, Secretary Lutnick's statements likely violate the Hatch Act.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

Potential Violations

The Hatch Act prohibits any executive branch employee from “us[ing] his official authority or influence for the purpose of interfering with or affecting the result of an election.”¹⁰ Activities covered by this prohibition include the official “[u]sing his or her official title while participating in political activity.”¹¹ “Political activity” is defined as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”¹² OSC has consistently enforced these prohibitions against senior officials in presidential administrations who have appeared in their official capacities on television interviews and other public appearances and made comments during those events advocating for the success or defeat of a current candidate for partisan political office.¹³

Secretary Lutnick’s appearance and remarks on *Kudlow* on July 31, 2025 easily satisfy the statutory and regulatory requirements to find that he violated federal law. The Hatch Act’s prohibitions related to political activity apply regardless of whether an official is advocating for or against a particular outcome of an election and regardless of whether that election is federal, state or local. The critical elements of a violation require that the official uses their official authority such as their title and position and that the official engage in political activity, including remarks that advocate for a particular outcome in a partisan political election.

Secretary Lutnick appeared in the interview in his official capacity. He was announced as a guest on the agenda at the outset of the show using his official title and

¹⁰ 5 U.S.C. § 7323(a)(1).

¹¹ 5 C.F.R. § 734.302(b)(1).

¹² 5 C.F.R. § 734.101.

¹³ See U.S. Office of Special Counsel, *Report of Prohibited Political Activity under the Hatch Act OSC File No. HA-18-0966* (Kellyanne Conway), Mar. 6, 2018, available at [https://osc.gov/Documents/Hatch%20Act/Reports/Report%20of%20Prohibited%20Political%20Activity.%20Kellyanne%20Conway%20\(HA-18-0966\).pdf?csf=1&e=UhySSA](https://osc.gov/Documents/Hatch%20Act/Reports/Report%20of%20Prohibited%20Political%20Activity.%20Kellyanne%20Conway%20(HA-18-0966).pdf?csf=1&e=UhySSA); U.S. Office of Special Counsel, *Investigation of Political Activities by Senior Trump Administration Officials During the 2020 Presidential Election*, Nov. 9, 2021, available at <https://osc.gov/Documents/Hatch%20Act/Reports/Investigation%20of%20Political%20Activities%20by%20Senior%20Trump%20Administration%20Officials%20During%20the%202020%20Presidential%20Election.pdf> (highlighting eleven administration officials who violated the Hatch Act during official interviews or media appearances); U.S. Office of Special Counsel, Letter from Erica S. Hamrick, Office of Special Counsel, to Noah Bookbinder, Citizens for Responsibility and Ethics in Washington, Re: OSC File Nos. HA-22-000004, Dec. 1, 2021, available at <https://www.citizensforethics.org/wp-content/uploads/2021/12/HA-22-000004.pdf> (confirming OSC’s conclusion and actions taken regarding a Hatch Act violation by Press Secretary Jen Psaki); U.S. Office of Special Counsel, Letter from Charles N. Baldis, Office of Special Counsel, to the President Re: OSC File No. HA-25-000080, May 16, 2025 available at <https://osc.gov/Documents/Hatch%20Act/Reports/25.05.16%20Report%20of%20Prohibited%20Political%20Activity%20-%20O%27Malley.pdf> (confirming OSC’s conclusion regarding a Hatch Act violation by Social Security Commissioner Martin O’Malley).

position as “Commerce Secretary Howard Lutnick,” and the host explained that he would be joining the show to “give us the latest” with respect to the Trump administration’s trade deals. During the course of the interview, including specifically while he made the remarks that are the subject of this complaint, the network identified him on screen using his title and position as “Commerce Secretary.” The host addressed Lutnick by peppering his title into the conversation throughout the segment, whether they were discussing New York mayoral politics or Trump administration trade issues. Even during the discussion about New York politics, when the host began to refer to Secretary Lutnick by just his first name, he corrected himself to use his title when responding with his appreciation for Secretary Lutnick’s message to New Yorkers to take action to defeat Mamdani in the upcoming election.

At no point during his appearance did Secretary Lutnick attempt to correct the host’s salutation or indicate that any of his comments during the appearance were intended in his personal capacity. Secretary Lutnick appeared for the duration of the segment standing on the White House grounds with the White House in the background, a factor that OSC has considered in the past when determining that White House officials were appearing in their official capacity when making political comments during media interviews.¹⁴

After being introduced to discuss trade issues, the interview immediately veered to discussion of the New York City mayoral race, with the host asking Secretary Lutnick about his concerns about the potential outcome of the November 2025 election with regard to one particular candidate’s impact. The discussion specifically named an individual candidate in a partisan political election, including a characterization of the candidate’s political affiliation. Regardless of whether the party identification used by the host or Secretary Lutnick was accurate, participation in a discussion about the outcome—and what actions an executive branch official believes should be taken to achieve that outcome—related to a candidate for partisan election constitute “political activity” for purposes of the Hatch Act. Secretary Lutnick engaged in the line of questioning and made unequivocal statements urging New York City voters to “make sure this communist doesn’t run New York City.” His statements clearly advocated for the defeat of Zohran Mamdani in the upcoming mayoral election in New York City.

Conclusion

The Hatch Act is intended to prevent federal employees from engaging in partisan political activity in their official capacity. The statute prohibits an employee from undertaking any activity directed toward the success or failure of a political candidate or a

¹⁴ See U.S. Office of Special Counsel, *Report of Prohibited Political Activity under the Hatch Act* OSC File No. HA-18-0966 (Kellyanne Conway), Mar. 6, 2018, available at [https://osc.gov/Documents/Hatch%20Act/Reports/Report%20of%20Prohibited%20Political%20Activity.%20Kellyanne%20Conway%20\(HA-18-0966\).pdf?csf=1&e=UhySSA](https://osc.gov/Documents/Hatch%20Act/Reports/Report%20of%20Prohibited%20Political%20Activity.%20Kellyanne%20Conway%20(HA-18-0966).pdf?csf=1&e=UhySSA).

political party while using his official title or position. By using his official position, authority, and title to advocate for the defeat of a candidate in an upcoming partisan election, Secretary Lutnick appears to have violated the statute. OSC should commence an immediate investigation into the conduct described in this letter and take any appropriate disciplinary action against Secretary Lutnick.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Sherman', with a long horizontal flourish extending to the right.

Donald Sherman
Executive Director and Chief Counsel