



U.S. OFFICE OF SPECIAL COUNSEL

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April 25, 2018

Citizens for Responsibility
and Ethics in Washington
Attn: Mr. Noah Bookbinder
455 Massachusetts Avenue, NW
Washington, DC 20001

Re: OSC File No. HA-18-2727

Dear Mr. Bookbinder:

The U.S. Office of Special Counsel (OSC) has completed its investigation into your allegations that Senior Advisor and Assistant to the President Jared Kushner violated the Hatch Act. You allege that Mr. Kushner used his official authority or influence to affect the result of an election on two occasions. After careful review, we have concluded that Mr. Kushner did not violate the Hatch Act, and we are closing our file in this matter.

The Hatch Act restricts the political activity of "any individual, other than the President and the Vice President, employed or holding office in . . . an Executive agency other than the Government Accountability Office." 5 U.S.C. § 7322(1). The White House Office is a component of the Executive Office of the President (EOP), which is considered an Executive agency for Hatch Act purposes. Therefore, Mr. Kushner, a presidential appointee employed by the White House Office, is subject to the Hatch Act. Among other things, the Hatch Act prohibits covered employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election. § 7323(a)(1). The attendant Hatch Act regulation explains that an officer or employee can violate this prohibition by using his official title while engaging in political activity or by using his authority to coerce another person to participate in political activity. *See* 5 C.F.R. § 734.302(b)(1)-(2). The regulation further defines "political activity" as activity directed at the success or failure of a political party, candidate for partisan political office, or partisan political group. § 734.101.

You first allege Mr. Kushner violated the Hatch Act on February 27, 2018, when President Trump's reelection campaign issued a press release concerning the appointment of Brad Parscale as campaign manager. The article identified Mr. Kushner with his official title and included a quote in which he praised Mr. Parscale's appointment and anticipated that the President's 2020 campaign will be "best-in-class." During OSC's investigation, we learned that Mr. Kushner did not authorize the campaign to use his official title in the press release. And as noted in your complaint to OSC, the campaign removed Mr. Kushner's title from the press release at the White House Office's request when the error was identified. Under these circumstances, Mr. Kushner did not violate the Hatch Act.

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You further allege Mr. Kushner violated the Hatch Act on Wednesday, February 28, 2018, during a senior staff meeting at the White House. According to an article published by *The Washington Post*, Mr. Kushner announced the appointment of Mr. Parscale as President Donald Trump's reelection campaign manager at the meeting, again praising the selection and stating that Mr. Parscale had the full support of the President and his family. The "senior staff" is comprised of individuals who, like Mr. Kushner, hold the title Assistant to the President, and no subordinate officers and employees attended the meeting. Therefore, Mr. Kushner did not violate the Hatch Act by announcing Mr. Parscale's appointment to other members of the White House Office senior staff.¹

In light of these findings, we are closing our file in this matter. Please contact me at (202) 804-7084 if you have any additional questions.

Sincerely,



Ana Galindo-Marrone
Chief, Hatch Act Unit

¹ As you are aware, certain EOP employees are permitted to engage in political activity while on duty or in the federal workplace under certain circumstances. See 5 U.S.C. § 7324(b)(2)(B)(i). Commissioned officers like Mr. Kushner and other Assistants to the President are among those employees who may do so.