

November 16, 2018

The Honorable Henry Kerner
Special Counsel
Office of Special Counsel
1730 M Street, N.W.
Suite 218
Washington, D.C. 20036-4505

Re: Violation of the Hatch Act by Larry Kudlow

Dear Mr. Kerner:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Special Counsel (“OSC”) investigate whether Assistant to the President for Economic Policy and Director of the National Economic Council (“NEC”) Larry Kudlow violated the Hatch Act when he participated in media interviews in his official capacity and expressed his political views about political parties and the midterm elections that were two weeks away. These actions were directed specifically toward the success or failure of a political party in partisan races as well as a candidate in a partisan race, Donald J. Trump. By participating in interviews with reporters from the grounds of the White House that mixed official government business with political views about a political party close to the November elections, Mr. Kudlow engaged in political activity prohibited by law.

Factual Background

Mr. Kudlow was appointed to serve as Assistant to the President for Economic Policy and Director of the NEC in early 2018 following his tenure as a budget aide in the Reagan administration, in the private sector at Bear Stearns, as an informal advisor to President Trump’s 2016 campaign, and most recently, as a CNBC commentator.¹ As NEC Director, Mr. Kudlow “advises the president on economic issues and works to implement policy goals.”² Since joining the Trump Administration, Mr. Kudlow has routinely appeared on television to promote President Trump’s agenda.

Use of White House Office and Title for Partisan Political Purposes

On October 23, 2018, 14 days before the 2018 midterm elections and amidst early voting in several states, Mr. Kudlow participated in television interviews with multiple reporters while standing on the White House grounds.³ In an interview on Fox & Friends at approximately 8:50

¹ Eamon Javers and Jacob Pramuk, Larry Kudlow to replace Gary Cohn as Trump's top economic advisor, *CNBC*, Mar. 14, 2018, available at <https://www.cnbc.com/2018/03/14/trump-to-name-larry-kudlow-as-gary-cohn-replacement.html>.

² *Id.*

³ *Id.*

a.m. while standing in front of the White House, Mr. Kudlow was asked about the President's proposed tax cuts and trade policy before answering a question about the midterm elections.⁴ During the segment, the chyron at the bottom of the screen identified Mr. Kudlow by his official title: "Dir, WH National Economic Council."⁵ After several policy questions, Mr. Kudlow was asked for a prediction regarding the midterm elections and offered his comments on the potential impact of power in the U.S. House of Representatives changing hands. Mr. Kudlow had the following exchange with the hosts:

Host: Larry Kudlow, joining us from the North Lawn. Larry, a prediction on the election, two weeks from today.

Kudlow: [Laughter] Just a flat out, "would you like me to forecast interest rates, stock market."

Host: Yeah, that's right, you don't do politics. Larry Kudlow, thanks so much.

Kudlow: I will say this, the biggest threat, the thing I worry about the most is a change in the House which will overturn the tax cuts and the regulatory reduction. My biggest worry.⁶



Later that same morning, Mr. Kudlow spoke with reporters on the White House driveway regarding tax policy, trade policy, and the midterm elections. C-SPAN captured video of the 11

⁴ Suzanne O'Halloran, *Democrats, not stock volatility, biggest risk to economic recovery: Larry Kudlow*, *Fox Business*, Oct. 23, 2018, available at <https://www.foxbusiness.com/markets/democrats-not-stock-volatility-biggest-risk-to-economic-recovery-larry-kudlow>

⁵ *Id.*

⁶ *Id.*

minute press event, which begins with Mr. Kudlow walking on the White House grounds towards the C-SPAN cameras and stopping to take questions from reporters.⁷ C-SPAN notes that the White House is the “hosting organization” of the interview and describes the footage as follows:

Larry Kudlow Comments on the Stock Market and Tax Cuts

National Economic Council Director Larry Kudlow speaks to reporters about President Trump’s proposal to cut taxes for the middle class, as well as current volatility in the stock market ahead of the November midterm elections.⁸

The screenshot shows the C-SPAN website interface. At the top, there is a navigation bar with the C-SPAN logo, a search bar, and a menu with options for Series, Congress, Executive, and Supreme Court. Below the navigation bar, the date "OCTOBER 23, 2018" is displayed. The video title is "Larry Kudlow Comments on the Stock Market and Tax Cuts", and the description states: "National Economic Council Director Larry Kudlow speaks to reporters about President Trump's proposal to cut taxes for the middle class, as well as current volatility in the stock market ahead of the November midterm elections." The video player shows a man in a suit (Larry Kudlow) speaking to reporters outdoors. The video player includes a play button, a progress bar, and a timestamp of 00:32 / 11:23. Below the video player, there are options to Clip, Bookmark To MyC-SPAN, Embed, and a Clipping Guide. A "Share This Video" button is also present. The hosting organization is identified as "White House".

HOSTING ORGANIZATION
[White House](#)

During this exchange with reporters, Mr. Kudlow made several political statements that appear to be aimed at influencing voters in the November 6, 2018 midterm elections.⁹ Specifically, he made several comments regarding the potential impact of the House of Representatives changing

⁷ [Larry Kudlow Comments on the Stock Market and Tax Cuts](https://www.c-span.org/video/?453512-1/larry-kudlow-white-house-working-middle-income-tax-cut), C-SPAN, Oct. 23, 2018, <https://www.c-span.org/video/?453512-1/larry-kudlow-white-house-working-middle-income-tax-cut>.

⁸ *Id.* C-Span has subsequently edited the language on this page.

⁹ *Id.*

hands from the Republican to the Democratic Party. The relevant portions of Mr. Kudlow's exchanges include the following:

Q: [Cross talk] this tax cut several days before the midterms with no specific details. Isn't that in some ways a tacit admission that the previous tax cut didn't do a lot for the people that you guys need to show up in the midterms?

Kudlow: Blue collar people are booming, are booming. My favorite story is from the well-known supply-side media organ the Washington Post – front page, above the fold – “Blue Collar Workers are the Biggest Gainers.” Their employment has increased faster than anything since 1984 and their wages have gone up faster than white collar. I'm not saying they're higher, but their wages have gone up faster. ...

Q: Here we are 14 days before the midterms, you've described this as “planning stages,” “his proposal,” “let's wait and see,” I guess my question is why should we take this seriously considering we're so close to an election? It seems like these things just kind of get thrown out as we get closer to elections.

Kudlow: You know, all I'll say is – the last couple years, President Trump: Promises made. Promises kept. And take him seriously when he comes out with these things. That has been his pattern for a long time. People should not underestimate that. We're working through the Ways and Means, as you have to do in these things okay. And it may not surface for a while. But that's his goal. That's his policy intent. And I don't see anything wrong with that.

Q: You just said that your biggest fear is that there could be a change in the House --

Kudlow: Yes.

Q: -- that would overturn the President's tax cuts --

Kudlow: Yes.

Q: -- and regulatory reforms. Is the President's proposal of some sort of additional tax cut an indication that he is also really concerned that Republicans might lose the House?

Kudlow: Well, I don't know about that. I would just say if you look at the leading members of the other party, in the campaign, and when they talk about policy, which is very rare, they will tell you they want to overturn the tax cut signed earlier this year, or late last year. That would be the personal tax cut, that would be the family child tax credit, that would be the business tax cut. All these things have spurred confidence and given us a growth rate of the economy of 3 to 4%, which everybody said was impossible. I think it's the biggest story of 2018 to be honest with you. ... So without getting into more, I'm just saying what worries me is the possibility that the House will change and they would try to overturn our policies which have generated the best economic growth, the best business investment, the best wages in decades. That's my biggest worry.

Q: Do you think the President's trade policies play into some of the market weakness we've seen?

Kudlow: You know what I think? I think the stock market is worried that Congress will change and will overturn these pro-growth policies. I really believe that. I think that the so-called correction, and I've said before, as you know, these things come and go, that correction has to overcome the uncertainty about this election. And I think businesses – large, medium and small – do not want the tax cuts overturned, or the regulatory relief overturned, or the new energy revolution overturned. They do not want that. So I think that's the biggest worry Eamon. We've got what, a couple weeks to go?

Q: If the House changes hands, it's not like the tax cuts can be repealed. Right? I mean –

Kudlow: That's correct.

Q: President Trump would never sign a tax cut repeal bill. Right?

Kudlow: That's correct. That's correct.

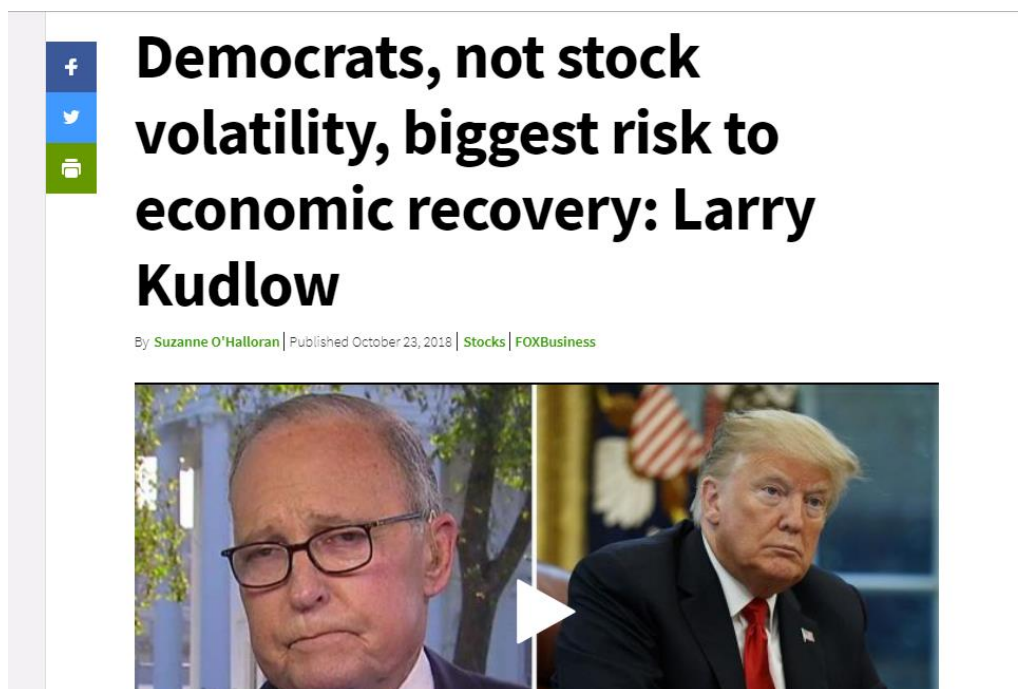
Q: So the tax cuts are safe for two years?

Kudlow: But there's uncertainty about – you know, I'm not a political genius – I'm just saying there's uncertainty about the whole story. But I think that is the biggest worry. That's my biggest worry to be honest with you. So I think stocks may be gyrating – perhaps. There's a million reasons, you know that. I worked in that business for a long time. Nobody knows.¹⁰

¹⁰ *Id.*

While Mr. Kudlow directly addressed questions from reporters regarding the midterm elections, he did avoid one question that related to a national security issue. When asked about the impact of Navy warships in the Taiwan strait on trade negotiations with China, Mr. Kudlow said, “I don’t want to make any comments about the forces going through the ocean.”¹¹

Several media outlets that covered Mr. Kudlow’s October 23, 2018 interviews on the White House grounds concluded that his statements were political in nature. For example, the *Fox Business* headline covering Mr. Kudlow’s Fox & Friends interview reads, “Democrats, not stock volatility, biggest risk to economic recovery: Larry Kudlow.”¹²



Similarly, the *CNBC* article covering Mr. Kudlow’s subsequent interview was entitled, “Kudlow says stocks are falling on fear Democrats will win midterms and end ‘pro-growth policies.’”¹³ The article stated, “Kudlow, speaking to reporters outside the White House on Tuesday, blamed the [stock] market decline on the midterm elections.”¹⁴ *NewsMax* covered Kudlow’s comments with a headline that reads, “Kudlow: Market Worried Democrats Will Overturn Trump Growth

¹¹ *Id.*

¹² O’Halloran, *Fox Business*, Oct. 23, 2018.

¹³ Liz Moyer, [Kudlow says stocks are falling on fear Democrats will win midterms and end ‘pro-growth policies.’](https://www.cnbc.com/2018/10/23/kudlow-says-stocks-are-falling-on-fear-democrats-will-win-midterms.html) *CNBC*, Oct. 23, 2018, available at <https://www.cnbc.com/2018/10/23/kudlow-says-stocks-are-falling-on-fear-democrats-will-win-midterms.html>.

¹⁴ *Id.*

Policies.”¹⁵ The article notes that while “many experts contend the latest wave of selling came as investors grew increasingly unsettled by the prospects for China’s economy and the cost of Trump’s aggressive trade policies,” Kudlow “sees a much more political [sic] angle to the selloff.”¹⁶

Donald J. Trump Becomes a Candidate for Partisan Office

On February 27, 2018, Donald J. Trump announced his candidacy for re-election to the Office of President of the United States.¹⁷ President Trump and his campaign have routinely used the slogan, “Promises Made, Promises Kept” to promote his reelection in 2020. For example, on March 6, 2018, Brad Parscale, campaign manager for President Trump’s reelection campaign tweeted, “Promises made. Promises kept. @realDonaldTrump is fixing the disasters of previous administrations. #MAGA”¹⁸ In June 2018, the Trump campaign launched the website www.promiseskept.com, to promote President Trump’s accomplishments.¹⁹ On August 21, 2018, President Trump tweeted, “Bill DeBlasio, the high taxing Mayor of NYC, just stole my campaign slogan: PROMISES MADE PROMISES KEPT! That’s not at all nice. No imagination!”²⁰ In addition, the Trump campaign website features the image of a person holding a campaign sign that reads “PROMISES MADE PROMISES KEPT.”²¹

¹⁵ F McGuire, Kudlow: Market Worried Democrats Will Overturn Trump Growth Policies, *NewsMax*, Oct. 23, 2018, available at <https://www.newsmax.com/finance/streettalk/kudlow-dow-democrats-pro-growth/2018/10/23/id/887562/>.

¹⁶ *Id.*

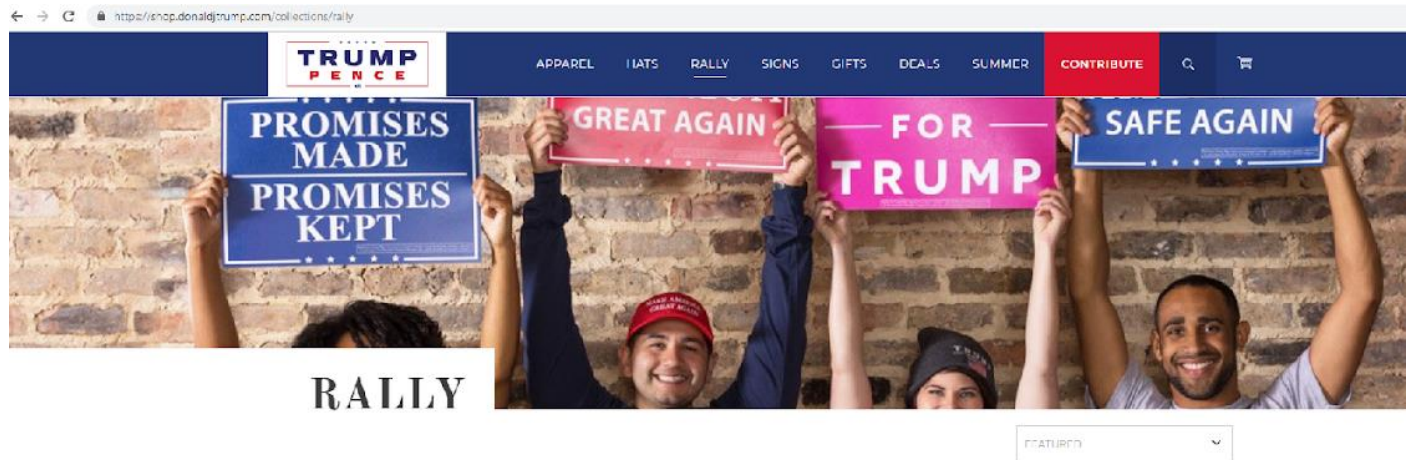
¹⁷ Katie Rogers and Maggie Haberman, Trump’s 2020 Campaign Announcement Had a Very Trumpian Rollout, *New York Times*, Feb. 27, 2018, available at <https://www.nytimes.com/2018/02/27/us/politics/trump-2020-brad-parscale.html>.

¹⁸ Brad Parscale (@parscale), Twitter Mar. 6, 2018, available at <https://twitter.com/parscale/status/971013823636426752>.

¹⁹ Solange Reyner, Trump 2020 Campaign Unveils New Website PromisesKept.com, *NewsMax*, June 5, 2018, available at <https://www.newsmax.com/politics/kept-promises-2020-keep-america-great-again-maga/2018/06/05/id/864426/>.

²⁰ Donald J. Trump (@realDonaldTrump), Twitter, Aug. 21, 2018, available at <https://twitter.com/realDonaldTrump/status/1031907600219209728>.

²¹ Donald J. Trump for President Inc., Rally, available at <https://shop.donaldjtrump.com/collections/rally>, accessed Oct. 24, 2018.



Potential Violations

The Hatch Act - 5 U.S.C. §§ 7321-26

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.”²² Activities covered by this prohibition include the official “[u]sing his or her official title while participating in political activity.”²³ “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.”²⁴

On March 5, 2018, OSC published a document entitled, “Updated Guidance Regarding the Hatch Act and President Donald Trump Now That He Is Officially a Candidate for Reelection.”²⁵ The document acknowledged that President Trump became a “candidate for partisan political office” as described in the Hatch Act in February when he publicly announced his candidacy.²⁶ OSC’s updated guidance stated that the Hatch Act’s prohibition related to political activity “is broad and encompasses more than displays or communications (including in-person and via email or social media) that expressly advocate for or against President Trump’s reelection.”²⁷ The OSC guidance included the following example:

[W]hile on duty or in the workplace, employees may not: wear, display, or distribute items with the slogan “Make America Great Again” or any other materials from President Trump’s 2016 or 2020 campaigns; use hashtags such as

²² 5 U.S.C. § 7323(a)(1).

²³ 5 C.F.R. § 734.302(b)(1).

²⁴ 5 C.F.R. § 734.101.

²⁵ Office of Special Counsel, Updated Guidance Regarding the Hatch Act and President Donald Trump Now That He Is Officially a Candidate for Reelection, Mar. 5, 2018, available at <https://osc.gov/Resources/Candidate%20Trump%20Hatch%20Act%20Guidance%203-5-2018.pdf>.

²⁶ *Id.*

²⁷ *Id.*

#MAGA or #ResistTrump in social media posts or other forums; or display non-official pictures of President Trump.²⁸

On March 6, 2018, OSC found that Counselor to the President Kellyanne Conway violated the Hatch Act when she gave two television interviews regarding the December 2017 Alabama special election to fill the U.S. Senate seat vacated by Attorney General Jeff Sessions.²⁹ OSC noted that in both interviews, she was identified by her official title and spoke about substantive issues including “tax reform” and made political statements regarding the upcoming Senate race. OSC noted that given several factors including “the use of her official title, the discussion of official topics, and her standing in front of the White House during the interview” it was clear “Ms. Conway gave the interview in her official capacity as Counselor to the President.”³⁰

OSC found that in one of the interviews, Ms. Conway engaged in prohibited political activity when she made an “unprompted” introduction of candidate Doug Jones into the interview and that “[h]er intentional partisan jabs against Doug Jones were made in her official capacity and meant to persuade voters not to support him in the Alabama special election.”³¹ OSC noted that Ms. Conway’s statements implied “that voters should support Roy Moore, so the President could get the votes in the Senate needed to pass tax reform” and constituted political activity under the Hatch Act.³² OSC found that Ms. Conway violated the Hatch Act in a second interview by “providing voters with reasons to vote for Roy Moore and against Doug Jones.”³³ OSC found that Ms. Conway’s statements advocating for the defeat of one candidate and the election of another constituted political activity under the Hatch Act.³⁴

In reaching its findings, OSC explicitly rejected arguments from the White House Counsel’s Office that during her interviews, Ms. Conway “provided policy commentary about the ‘prospects of the President’s agenda in Congress.’”³⁵ OSC found that such argument “lacks merit” and that “adopting it would render meaningless the Hatch Act’s prohibition against using one’s official authority or influence for the purpose of interfering with or affecting the result of an election.”³⁶ OSC explained further that speaking on behalf of the President, who is exempt from the Hatch Act, does not allow White House employees to use their own position to engage in political activity.³⁷ OSC’s report stated:

²⁸ *Id.*

²⁹ 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/Resources/Conway%20HA-18-0966%20Final%20Report.pdf>.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

Ms. Conway's statements, made in her official capacity, went beyond providing "commentary" on the Administration's policies, and thus constituted political activity. While the President is exempt from the Hatch Act, his exemption does not extend to any other employee, including those employed in the White House Office. OSC understands that Ms. Conway's job duties may include publicly reinforcing the Administration's positions on a host of policy issues. And the Hatch Act does not prohibit Ms. Conway from doing so, provided she carries out her job duties in a manner that complies with the law.³⁸

Mr. Kudlow is Subject to the Hatch Act

There is no doubt that Mr. Kudlow's television interviews on behalf of the White House are covered by the Hatch Act. 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."³⁹ The White House Office is a component of the Executive Office of the President, which is considered an Executive agency for purposes of the Hatch Act.⁴⁰ Therefore, Mr. Kudlow, a presidential appointee employed by the White House Office, is subject to the Hatch Act.

Mr. Kudlow's October 23, 2018 Interview on Fox & Friends Violated the Hatch Act

Mr. Kudlow's October 23, 2018 appearance on Fox & Friends violated the Hatch Act. In fact, the interview bears significant similarity to Ms. Conway's violations of the Hatch Act when OSC found her to have impermissibly engaged in political activity while participating in two media interviews in her official capacity from the White House grounds.⁴¹ Mr. Kudlow stood for the interview on the White House grounds with the White House visible in the background and was periodically identified on the chyron at the bottom of the interview by his name and official title "Dir, WH National Economic Council." To reinforce the location of the interview, one of the Fox News hosts stated that Mr. Kudlow was speaking "from the North Lawn" of the White House. There is no question Mr. Kudlow was using his official title, position, and authority while participating in the interview on government property.

Mr. Kudlow's Fox & Friends interview initially focused on the official business of the White House – the President's proposed tax cuts and trade policy – but then veered into a discussion of his political views. When asked to offer his prediction on the results of the upcoming midterm elections, Mr. Kudlow explained that his primary concern was the "threat" of Democrats taking over control of the U.S. House of Representatives. He stated explicitly, "I will

³⁸ *Id.*

³⁹ 5 U.S.C. § 7322(1).

⁴⁰ See 19 U.S. Op. Off. Legal Counsel 103 (May 5, 1995), 1995 WL 1767065 (concluding that for Hatch Act purposes, the White House Office is an Executive agency); 27 U.S. Op. Off. Legal Counsel 118 (May 23, 2003), 2003 WL 25728359 (reaffirming conclusion that the Hatch Act applies to employees of the White House Office).

⁴¹ See Office of Special Counsel, Report of Prohibited Political Activity under the Hatch Act OSC File No. HA-18-0966 (Kellyanne Conway), Mar. 6, 2018.

say this, the biggest threat, the thing I worry about the most is a change in the House which will overturn the tax cuts and the regulatory reduction.” Although Mr. Kudlow does not specifically mention the Democratic or Republican Party in his interview, the context of his comments was clearly designed to disparage the Democratic Party. This interpretation is supported by the *Fox Business* article covering the interview which summarized his comments as, “Democrats, not stock volatility, biggest risk to economic recovery.”

Mr. Kudlow’s comments are even more troubling because the Fox & Friends host provided him with an opportunity to avoid answering the political question. When Mr. Kudlow initially hesitated to offer a prediction on the midterm elections, one of the Fox & Friends hosts responded, “Yeah, that’s right, you don’t do politics. Larry Kudlow, thanks so much.” Instead of taking this opportunity to avoid making political statements, Mr. Kudlow offered his political views about the potential consequences of a Democratic victory in the midterms. This commentary was made in his official capacity and meant to persuade voters to support the Republican majority in the forthcoming elections. By stating that a Democratic Party victory in the midterms was a “threat” to and cause for people to “worry” about the economy, Mr. Kudlow advocated for the failure of the party and its candidates in partisan races. This conduct is reminiscent of Ms. Conway’s prior Hatch Act violations in which she encouraged voters to oppose a Democratic candidate who would vote against the tax bill that President Trump supported. Under these circumstances, this portion of Mr. Kudlow’s interview is political activity that violates the Hatch Act.

Mr. Kudlow’s October 23, 2018 White House Press Conference Violated the Hatch Act

Mr. Kudlow’s exchange with reporters on the White House grounds later in the day on October 23, 2018 also violated the Hatch Act. Mr. Kudlow approached reporters standing on the White House grounds to answer questions regarding the Trump Administration’s economic policy. C-SPAN’s footage of the presser identifies Mr. Kudlow by his official title, “National Economic Council Director.” There is no question Mr. Kudlow was using his official position and authority while participating in the interview on government property.

Mr. Kudlow’s press conference focused on a range of issues including the official business of the White House, including President Trump’s proposed tax cuts and trade policy, but then veered into a discussion of Mr. Kudlow’s political views. As an initial matter, when Mr. Kudlow was asked about the upcoming midterm elections, he invoked one of President Trump’s reelection campaign slogans in response, stating “You know, all I’ll say is – the last couple years, President Trump: Promises made, Promises kept.” While “Promises Made, Promises Kept” is not one of the slogans referenced in OSC’s March 2018 guidance, there is no indication that the examples provided were meant to be exhaustive. Furthermore, President Trump’s campaign and President Trump himself have treated “Promises Made, Promises Kept” as one of the slogans for his campaign. Mr. Kudlow’s statement appears to invoke support for President Trump’s reelection and by offering it in response to a question regarding the midterm election, seeks to influence voters to support President Trump’s party in the midterms.

In addition to Mr. Kudlow's statement invoking President Trump's campaign for reelection, Mr. Kudlow also made statements encouraging the success or failure of a political party. When asked about his prior comment that his biggest fear is the possibility that the House of Representatives would change hands to Democratic Party control, Mr. Kudlow reiterated his political statements. He said, "[I]f you look at the leading members of the other party, in the campaign, and when they talk about policy, which is very rare, they will tell you they want to overturn the tax cut signed earlier this year, or late last year." Mr. Kudlow added that he "worries" about the possibility that power in the House will change hands and jeopardize economic growth. These statements appear to be clearly directed at encouraging voters to oppose the "change" of power in the House from Republicans to Democrats. Perhaps most troubling was Mr. Kudlow's unprompted insertion of partisan politics into a reporter's question about trade policy. When asked about whether the president's trade policies had a role in weaknesses in the stock market, Mr. Kudlow again invoked the possibility that Democrats might take control of one chamber of Congress in the upcoming elections, saying, "I think the stock market is worried that Congress will change and will overturn these pro-growth policies." Once again, Mr. Kudlow could have avoided making a political statement – he explicitly dodged a question from a reporter in the pool about national security – but chose to comment on the upcoming election. This statement appears to be nakedly political in light of Mr. Kudlow's later admission that even if Democrats seized control of the House, President Trump's tax cuts were still unlikely to be repealed.

By indicating that a Democratic Party victory in the midterm elections "worries" him, among other negative comments, Mr. Kudlow advocated for the failure of the party and its candidates in partisan races. Although Mr. Kudlow does not specifically name the Democratic Party in his answers, his reference to "the other party" and the context of his comments demonstrate they were designed to disparage the Democratic Party. This interpretation is supported by the *CNBC* article which summarizes his comments as, "Kudlow says stocks are falling on fear Democrats will win midterms and end 'pro-growth policies'." These interviews took place exactly 14 days before Election Day while many states across the country have already begun early voting. This conduct is reminiscent of Ms. Conway's prior Hatch Act violations in which she encouraged voters to oppose a Democratic candidate who would vote against the tax bill that President Trump supported. Under these circumstances, this portion of Mr. Kudlow's interview is reasonably viewed as political activity that violates the Hatch Act.

By conducting interviews with reporters on the White House grounds using his official position and authority where he mixed discussion of Trump Administration business with expressions of his political views about a political party and a candidate in partisan elections, Mr. Kudlow ran afoul of the Hatch Act, which requires him to remain politically neutral when engaging in official government conduct.

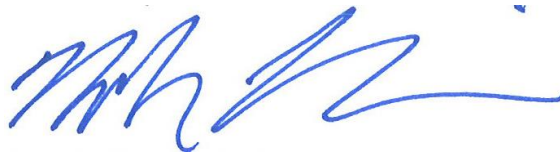
Conclusion

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

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any activity directed toward the success or failure of a political candidate or a political party while using her official position. Based on the conduct at issue, which advocates the success or failure of a political party and the election or defeat of a partisan political candidate, Mr. Kudlow appears to have violated the Hatch Act. OSC should commence an immediate investigation and take or recommend appropriate disciplinary action against Mr. Kudlow.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Noah Bookbinder', with a stylized flourish at the end.

Noah Bookbinder
Executive Director