

July 15, 2020

The Honorable Henry Kerner  
Special Counsel  
Office of Special Counsel  
1730 M Street, NW, Suite 218  
Washington, DC 20036-4505

Re: Violation of the Hatch Act by Mark Meadows

Dear Mr. Kerner:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Special Counsel (“OSC”) investigate whether White House Chief of Staff Mark Meadows violated the Hatch Act when he advocated for President Trump’s reelection and against his opponent, Joe Biden, while appearing in his official capacity in two Fox News interviews on July 6, 2020, one of which was filmed on the White House’s North Lawn. CREW further requests that OSC investigate whether Mr. Meadows violated the Hatch Act in the first of these two interviews when he endorsed a Republican candidate for Congress, Madison Cawthorn.

**Factual Background**

On Monday, July 6, 2020, Mr. Meadows participated in an interview on Fox News while standing on the grounds of the White House.<sup>1</sup> A Fox News host introduced him at the beginning of the interview as “Chief of Staff of the White House, Mark Meadows,” noting that it was his first television interview in that capacity.<sup>2</sup> Another host concluded the interview by saying: “All right, Mark Meadows, the Chief of Staff of the White House. Mark, thank you very much for joining us from the North Lawn.”<sup>3</sup> During the interview, Mr. Meadows discussed several official matters with the hosts, including the White House’s reaction to nationwide protests for racial justice, the administration’s response to the pandemic, the distribution of bailout funds, and the administration’s opposition to China’s territorial claim to a disputed region of the Pacific Ocean. Unprompted, Mr. Meadows used the interview as an opportunity to compare President Trump favorably to his leading opponent in the upcoming election: “The interesting thing is this President will do more in the next four weeks than Joe Biden and his team did in the last 40 years.”<sup>4</sup> The hosts had not mentioned Mr. Biden.

One of the hosts then asked Mr. Meadows about the contest for his former seat in the U.S. House of Representatives from North Carolina. Mr. Meadows responded by endorsing the

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<sup>1</sup> Mark Meadows previews Trump’s upcoming rally in New Hampshire, *Fox News*, Jul. 6, 2020, <https://bit.ly/3gAjrLr>.

<sup>2</sup> *Id.* (video beginning at approximately 0:01).

<sup>3</sup> *Id.* (video beginning at approximately 12:35).

<sup>4</sup> *Id.* (video beginning at approximately 8:15).

Republican nominee, Mr. Cawthorn, and predicting that he will beat the Democratic nominee, Moe Davis:

Well, Madison will be a great member of Congress. I know Madison, actually nominated him to the Academy before that tragic event. Obviously, he'll be a great member of Congress. Moe Davis needs to understand that Madison's going to bring it. The people of Western North Carolina have rallied behind him, will continue to do so, and in November, we will keep that seat – but not only that seat, we will pick up additional seats because it's time that Congress starts getting things done and helping this President instead of being an obstructionist.<sup>5</sup>

Later that same day, Mr. Meadows appeared on Sean Hannity's program on Fox News.<sup>6</sup> Mr. Hannity introduced him as "White House Chief of Staff Mark Meadows."<sup>7</sup> During the interview, Mr. Meadows discussed the White House's reaction to nationwide protests and the deployment of federal resources to various localities. Again unprompted, Mr. Meadows launched into a complaint about the candidate challenging President Trump in the 2020 election: "It is time that Joe Biden eventually condemns all of these people that are saying that we should defund the police. It's not enough to be against that policy, he needs to come out and say you have to go the other way and support our law enforcement officers."<sup>8</sup> Mr. Hannity had not mentioned Mr. Biden before this remark. Shortly thereafter, Mr. Meadows argued that the choice between the two candidates was a stark one, with Mr. Biden representing "anarchy" and Mr. Trump representing the "rule of law":

[MEADOWS:] You mentioned the speech there at Mt. Rushmore, not only was it a historic speech but he laid out really the difference: Are we going to be for anarchy or are we going to be for the rule of law and making sure that our American citizens feel safe once again in their home. This President is willing to do that. Where is Joe Biden? In his basement. You know, it's amazing. We've seen Joe Biden for 40 years talk a good game—

[HANNITY:] over, fif—

[MEADOWS:] —but we've seen no results.

[HANNITY:] No, no, fifty-one.

[MEADOWS:] No results.

[HANNITY:] Fifty-one. Get it right. Fifty-one— A hundred and twenty-five years combined failure between him, Pelosi and Schumer.

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<sup>5</sup> *Id.* (video at approximately 10:52).

<sup>6</sup> Mark Meadows: When Democrats fail to act[,] there are real consequences, *Fox News*, July 6, 2020, <https://bit.ly/3fbISCI>.

<sup>7</sup> *Id.* (video at approximately 0:01).

<sup>8</sup> *Id.* (video at approximately 01:21).

[MEADOWS:] Well, as we look at that, it's not only that they're just talking a good game, but they fail to act, and when they fail to act, there are real consequences from that, and, sadly, what we're seeing is, each and every day, those consequences really are played out on Main Street across America, and we've got to do something about it, and the time is now, and this President is committed to do that. He's—

[HANNITY:] God forbid.

[MEADOWS:] —instructed his entire team to work on that.

[HANNITY:] America will be unrecognizable if it's Pelosi, Schumer and Biden and they implement this insane agenda.

[Meadows nods.]<sup>9</sup>

### **Potential Violations**

#### **The Hatch Act - 5 U.S.C. § 7323(a)(1)**

The Hatch Act provides that an executive branch employee may not “use his official authority or influence for the purpose of interfering with or affecting the result of an election.”<sup>10</sup> Activities covered by this prohibition include the official “[u]sing his or her official title while participating in political activity.”<sup>11</sup> “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.”<sup>12</sup> In a report recommending the firing of Senior Counselor to the President Kellyanne Conway, OSC explained that “a federal employee violates the Hatch Act if she promotes the election or defeat of candidates for partisan political office while speaking in her official capacity.”<sup>13</sup>

Mr. Meadows violated 5 U.S.C. § 7323(a)(1) when he appeared on Fox News on two occasions in his official capacity as a White House official. He advocated in both interviews for President Trump and against Mr. Biden. In the first interview, he endorsed and advocated for the election of Mr. Cawthorn. There is no doubt that Mr. Meadows was appearing in his official capacity. In both interviews, he was identified by his official title and spoke on behalf of the Trump administration about its activities. In the first interview, he also stood on the White House's North Lawn.

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<sup>9</sup> *Id.* (video beginning at approximately 3:17).

<sup>10</sup> 5 U.S.C. § 7323(a)(1).

<sup>11</sup> 5 C.F.R. § 734.302(b)(1).

<sup>12</sup> 5 C.F.R. § 734.101.

<sup>13</sup> U.S. Office of Special Counsel, *Report of Prohibited Political Activity, OSC File Nos. HA-19-0631 & HA-19-3395 (Kellyanne Conway)*, at 4, May 30, 2019, <https://go.aws/36TBeIu> (“Conway Report”).

This conduct parallels OSC's description of Hatch Act violations that Ms. Conway committed during televised interviews. In a report on Ms. Conway's misconduct, OSC found that "while speaking in her official capacity, Ms. Conway also engaged in campaign rhetoric, remarking on the strength of President Trump's candidacy and/or the weaknesses of the Democratic Party's candidates in the upcoming 2020 presidential election."<sup>14</sup> As in the case of Ms. Conway, Mr. Meadows's apparent violation of the Hatch Act reached a nationwide television audience. This conduct runs the risk of inappropriately leveraging the power and prestige of the federal government for the advancement of a candidate, one of the harms against which the Hatch Act aims to protect, and appears to be the kind of conduct which would result in employment consequences if engaged in by lower-level employees.

### **Conclusion**

The Hatch Act is intended to prevent federal employees from engaging in partisan political activity in their official capacity. Mr. Meadows's remarks during two nationally televised interviews violated the Hatch Act's prohibition against using official authority or influence for the purpose of interfering with or affecting the result of an election. It was inappropriate for him to advocate for President Trump and against Mr. Biden during an appearance as a White House official to discuss official Trump administration policies. It was equally inappropriate for him, acting in an official capacity, to endorse the Republican candidate vying for his former seat in Congress. Therefore, OSC should commence an immediate investigation of this apparent violation and take appropriate corrective action.

Sincerely,



Noah Bookbinder  
Executive Director

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<sup>14</sup> Conway Report, at 6.