



U.S. OFFICE OF SPECIAL COUNSEL

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October 26, 2022

Mr. Gene P. Hamilton
Vice President and General Counsel
America First Legal Foundation
611 Pennsylvania Avenue, SE #231
Washington, DC 20003

VIA EMAIL: info@aflegal.org

RE: OSC File No. HA-22-000143

Dear Mr. Hamilton:

This letter responds to a complaint you filed with the U.S. Office of Special Counsel (OSC) alleging that White House Chief of Staff Ronald Klain violated the Hatch Act when he retweeted a message on his official Twitter account that solicited political contributions to a partisan political group. Although OSC has concluded that Mr. Klain violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead issued him a warning letter.

As White House Chief of Staff, Mr. Klain is subject to the provisions of the Hatch Act.¹ The Hatch Act prohibits employees from, among other things, using their official authority or influence for the purpose of interfering with or affecting the result of an election and knowingly soliciting, accepting, or receiving political contributions from any person.² An employee would violate these prohibitions while using social media by, for example, engaging in political activity on an official account or liking, sharing, or retweeting a post that solicits political contributions.³

OSC confirmed that Mr. Klain retweeted a May 22, 2022 message from Strike PAC (@StrikePAC) from his official Twitter account (@WHCOS). The tweet read, "Operation Fly Formula delivers 70,000 pounds of infant formula for American mothers and their infants. Thank you @POTUS." The tweet also read, "Get your Democrats Deliver merch today!" and included a link to Strike PAC's online store and an image of the group's "Democrats Deliver" t-shirt.

Strike PAC is a partisan political group, and according to its website, it "supports campaign finance reform and will help elect Democrats who support these vital policies." It also has a "nationalized strategy" aimed at promoting the Democratic Party by "tell[ing] stories of

¹ See 5 U.S.C. § 7322(1)(A).

² See 5 U.S.C. § 7323(a)(1)-(2).

³ Political activity is defined as activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office. See 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 2

how Democrats deliver on their promises to improve the lives of voters.” In this vein, Strike PAC’s message thanking President Biden served to further the group’s nationalized strategy of promoting Democrats as the party that delivers on its promises to voters. By retweeting this message, Mr. Klain used his official Twitter account to promote a partisan political group’s interests and, therefore, OSC has concluded that he violated the Hatch Act’s use of official authority prohibition.

In addition, Strike PAC’s tweet constituted a solicitation for political contributions because it encouraged others to buy the group’s merchandise. A political contribution is defined as any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose (i.e., to promote or oppose a partisan political group).⁴ The sale of Strike PAC’s merchandise supports the group’s objective of electing Democrats, and so the purchase price is a political contribution for purposes of the Hatch Act. Thus, Strike PAC’s tweet solicited political contributions, and because Mr. Klain retweeted this message, he also violated the Hatch Act’s solicitation prohibition.

Although OSC has concluded that Mr. Klain violated the Hatch Act, we understand that he promptly removed the retweet upon being notified of this complaint. Accordingly, we have decided not to pursue disciplinary action and will close this matter. Mr. Klain has been warned that if in the future he engages in activity prohibited by the Hatch Act while employed in a covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC attorney Kelley Resendes with any questions at (202) 804-7086.

Sincerely,



Ana Galindo-Marrone
Chief, Hatch Act Unit
U.S. Office of Special Counsel

⁴ See 5 C.F.R. § 734.101.