



**U.S. OFFICE OF SPECIAL COUNSEL**

1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

The Special Counsel

June 8, 2007

The President  
The White House  
Washington, DC 20500

Re: OSC File No. HA-07-1160

Dear Mr. President:

The United States Office of Special Counsel received a referral from the General Services Administration's Office of the Inspector General concerning allegations that the Administrator, Ms. Lurita A. Doan, engaged in political activities in violation of 5 U.S.C. § 7323(a)(1) of the Hatch Act. Specifically, it was alleged that Administrator Doan violated the Hatch Act during a January 26, 2007, meeting held at the General Services Administration's headquarters building, by soliciting her subordinate employees to participate in political activity.

Upon receipt of the complaint, the Office of Special Counsel conducted an independent, thorough and impartial investigation into the allegations that Administrator Doan engaged in prohibited political activity. My office interviewed over twenty of the political appointees who attended the January 26, 2007, meeting, during which the alleged prohibited political activity occurred. We also interviewed the invited guest speaker, Deputy Director of the White House's Office of Political Affairs J. Scott Jennings, and Administrator Doan. Each interview was electronically recorded to preserve accurately the testimony of each witness, and each witness testified under oath. In addition, my office reviewed over 1100 pages of documentary evidence collected during this investigation.

The Office of Special Counsel has completed its investigation into the Hatch Act allegations, and as discussed in the attached Report of Prohibited Political Activity, I have determined that Administrator Doan violated the Hatch Act's prohibition against using her official authority or influence for the purpose of interfering with or affecting the result of an election when she solicited the political activity of over thirty subordinate employees and implied that GSA could be used to help get Republican candidates elected. In accordance with 5 U.S.C. § 1215(b), I am transmitting the attached Report of Prohibited Political Activity, Administrator Doan's Response to the Report, and the Office of Special Counsel's Reply to Administrator Doan's Response. In addition, I am including the following exhibits concerning this investigation: (1) a copy of the January 26, 2007, PowerPoint Presentation; (2) copies of the Hatch Act training materials received by Administrator Doan; (3) documentation of Administrator Doan's email activity; (4) the transcript of my office's interview of Administrator Doan; (5) documentation of the most recent performance ratings for the Schedule C and non-

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career SES employees who attended the January 26, 2007, brown bag luncheon<sup>1</sup>; and, (6) the General Services Administration's January 11, 2007, press release concerning the departure of a non-career SES employee.

In 1939, Congress enacted the Hatch Act to protect federal executive branch employees from, inter alia, being coerced into engaging in political activity. Congress found that this law was necessary to ensure:

that employment and advancement in the Government service not depend on political performance, and at the same time to make sure that Government employees would be free from pressure and from express or tacit invitation to vote in a certain way or perform political chores in order to curry favor with their superiors rather than to act out their own beliefs.<sup>2</sup>

Indeed, soliciting political services from a subordinate has historically been viewed as the most pernicious acts of political activity prohibited by the Hatch Act.<sup>3</sup> Thus, Congress' primary purpose in enacting the Hatch Act was to protect federal employees from the type of inherently coercive political activity that occurred in this case.

Another, but no less important consideration in enacting the Hatch Act was to prevent the federal government from being used as a political machine. In an 1801 Federal circular, President Jefferson expressed "with dissatisfaction officers of the government taking on various occasions active parts in the elections of public functionaries." The document stressed government officers retained their right to vote but cautioned that they were expected not to "attempt to influence the votes of others, nor take any part in the business of electioneering, that being deemed inconsistent with the spirit of the constitution and their duties to it." As political machines and the boss system developed, so too did the need to reform the federal civil service. From the Pendleton Act, to Teddy Roosevelt's reforms on the civil service commission, to passage of the Hatch Act, the intent has been to prevent federal agencies from becoming a tool for a partisan machine to keep its hold on power.

Despite engaging in the most pernicious of political activity prohibited by the Hatch Act, Administrator Doan has shown no remorse and lacks an appreciation for the seriousness of her

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<sup>1</sup> Please be advised that at this time my office is not releasing the performance appraisal narratives of these individuals in order to respect their privacy interests.

<sup>2</sup> Civil Service Commission v. National Ass'n of Letter Carriers, 413 U.S. 548, 566 (1973).

<sup>3</sup> See e.g., In re Bambrick, 3 P.A.R. 224, 233-34 (1973), where the U.S. Civil Service Commission noted:

It seems hardly necessary to observe that a public officer or employee who acts to induce subordinate employees to contribute funds or services for political purposes commits a serious violation, almost universally disapproved. . . . It ranks among the most pernicious forms of political activity condemned by the statute, and consequently calls for strong measures in the enforcement process.

See also, Special Counsel v. Purnell, 37 M.S.P.R.184 (1988); In re Martin, 2 P.A.R. 726, 733 (1965).

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violation. This is evidenced by Administrator Doan's enclosed response in which she attempts to minimize her illegal political activity by arguing that her solicitation of political activity was directed at her political appointees and "one may assume, any such political activity likely would be in line with 'their own beliefs.'" The Hatch Act, however, protects all federal employees, regardless of an employee's status as a career civil servant or a political appointee. Moreover, the language of the Act is unambiguous - a federal official can never solicit or accept the political services from a subordinate, even uncompensated, voluntary services. It is those political appointees who might otherwise be inclined toward political activity who most need leaders to reinforce their obligation to avoid the hint of use of official authority to affect elections or to get subordinates to engage in political activity in a federal building or on the job.

Administrator Doan's violation is further aggravated by the position of trust she holds both as a Presidential appointee and as the highest-level federal official within the General Services Administration. It is well established that high-level government officials who hold a position of public trust have a heightened responsibility to be aware of and avoid violations of public law.<sup>4</sup> However, despite Administrator Doan's heightened responsibility to uphold the law, she engaged in the most pernicious type of political activity prohibited by the Hatch Act and now argues that any violation of the Act was merely *de minimis*.

In closing, Administrator Doan solicited the political services of over thirty subordinate employees in violation of the Hatch Act - a federal law intended to protect the federal workplace from political influence and ensure that government resources are being administered in a nonpartisan fashion. Her disregard and lack of appreciation for such protections and safeguards is serious and warrants punishment.

I know that you have spoken of your commitment to demanding ethics and integrity from those who are entrusted with the care of the agencies of the federal government. Our commitment to good government, accountability and results for the taxpayer are undermined when a leader of government demonstrates a laxity toward how resources of the government might be used for partisan purposes.

Mr. President, you have much to weigh in deciding what course of action to take. On the one hand you have Administrator Doan's list of achievements in office and a distinguished career in the private sector. On the other, you have evidence of misconduct under the Hatch Act and, in a light most favorable to Administrator Doan, a proclivity toward misrepresentation and obstructing an official investigation. She has shown little ability to appreciate how her actions have affected the public trust or others in the administration who are watching.

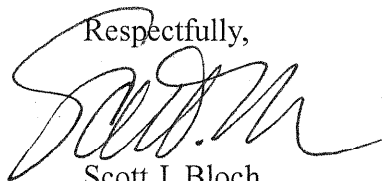
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<sup>4</sup> Purnell, 37 M.S.P.R. at 229; see also, Special Counsel v. Gallagher, 44 M.S.P.R. 57, 70, 93 (1990).

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Accordingly, I recommend that Administrator Doan be disciplined to the fullest extent for her serious violation of the Hatch Act and insensitivity to cooperating fully and honestly in the course of our investigation.

Respectfully,

A handwritten signature in black ink, appearing to read 'S. Bloch', with a stylized flourish extending to the right.

Scott J. Bloch  
Special Counsel

Enclosures