



July 28, 2017

The Honorable Adam Miles
Acting Special Counsel
Office of Special Counsel
1730 M Street NW
Suite 218
Washington, DC 20036-4505

Dear Mr. Miles:

American Oversight respectfully requests that the Office of Special Counsel (“OSC”) immediately open an investigation into whether Sebastian Gorka, Deputy Assistant to the President, violated the Hatch Act by posting tweets promoting a campaign rally President Trump held in Youngstown, Ohio on July 25, 2017.

On July 25 and 26, 2017, Mr. Gorka posted several tweets covering the Youngstown rally, including quotations from the event, photographs supporters of Mr. Trump holding campaign signs and wearing Trump campaign shirts and other pro-Trump paraphernalia, photographs featuring the Trump campaign’s “Make America Great Again” slogan, and Mr. Gorka’s own use of both that slogan and Mr. Trump’s “Drain the Swamp” campaign slogan.¹ The overtly political

¹ Sebastian Gorka DrG(@SebGorka), TWITTER (July 26, 2017, 8:56 AM), <https://twitter.com/SebGorka/status/890194068126543872> (showing a photograph of Mr. Gorka with Eric and Lara Trump at the rally and using the “#MAGA” hashtag); Sebastian Gorka DrG(@SebGorka), TWITTER (July 26, 2017, 8:47 AM), <https://twitter.com/SebGorka/status/890191755416662017><https://twitter.com/SebGorka/status/890191755416662017> (showing a photograph of Mr. Gorka at the rally with a supporter wearing a “Trump Won Deal With It!” shirt and using the #MAGA hashtag); Sebastian Gorka DrG(@SebGorka), TWITTER (July 26, 2017, 8:42 AM), <https://twitter.com/SebGorka/status/890190587185561600> (including a photograph of President and Melania Trump with a man wearing a “Trump Won Deal With It!” shirt, praising the man for becoming “a proud member of Team @realDonaldTrump,” and welcoming the man “to the #MAGA Express”); Sebastian Gorka DrG(@SebGorka), TWITTER (July 26, 2017, 8:37 AM) <https://twitter.com/SebGorka/status/890189401187332096> (posting a video from the rally with the caption “Why @realDonaldTrump won.”); Sebastian Gorka DrG(@SebGorka), TWITTER (July 25, 2017, 11:35 PM), <https://twitter.com/SebGorka/status/890052940169347072> (posting a photograph of Mr. Gorka signing a “Make America Great Again” sign for a boy, with the caption “The next #MAGA Generation is already out there! God Bless the Republic.”); Sebastian Gorka DrG(@SebGorka), TWITTER (July 25, 2017, 11:32 PM), <https://twitter.com/SebGorka/status/890052301322416129> (posting a photograph of a person wearing a shirt that includes Mr. Trump’s “Drain the Swamp!” campaign slogan, with the caption “Seen this evening at the @realDonaldTrump rally. #MAGA”); Sebastian Gorka



overtone of Mr. Gorka's tweets are consistent with the "campaign-style" tenor of the Youngstown campaign rally and other similar campaign events Mr. Trump has hosted in recent months.²

Mr. Gorka's tweets constitute prohibited political activity under the Hatch Act, which bars executive branch employees from using their "official authority or influence for the purpose of interfering with or affecting the result of an election."³ Under this prohibition, an official may not "us[e] his or her official title while participating in political activity,"⁴ which is defined as "activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group."⁵

Mr. Trump is a candidate for partisan political office,⁶ and the Youngstown rally prominently featured political slogans in support of his candidacy and was presumably funded by Mr. Trump's political campaign. Mr. Gorka's tweets promote Mr. Trump's candidacy—and the broader success of the Republican Party—by publicizing a political "campaign-style" rally, posting photographs prominently featuring campaign signs and slogans, and quoting Trump campaign slogans in the captions and commentary of his tweets.

Mr. Gorka's use of a personal Twitter account to promote the rally and Mr. Trump's candidacy does not shield him from the Hatch Act. OSC has provided guidance on when an official's use of a personal social media account violates the Hatch Act, noting that the Act prohibits employees from "referring to their official titles or positions while engaged in political activity at any time."⁷

DrG(@SebGorka), TWITTER (July 25, 2017, 8:05 PM), <https://twitter.com/SebGorka/status/890000161270882305> (posting a photograph of Mr. Trump speaking at the rally with "Make America Great Again" signs in the background and quoting Mr. Trump with the caption "Biggest cheer tonite??"); Sebastian Gorka DrG(@SebGorka), TWITTER (July 25, 2017, 7:37 PM), <https://twitter.com/SebGorka/status/889993100726349824> (posting photograph of rally with caption "Electric crowd in Youngstown chanting their greeting for @POTUS: 'DRAIN THE SWAMP, DRAIN THE SWAMP, DRAIN THE SWAMP!!'"); Sebastian Gorka DrG(@SebGorka), TWITTER (July 25, 2017, 7:24 PM), <https://twitter.com/SebGorka/status/889989859640737792> (posting a photograph of Melania Trump speaking at the rally, with "Make America Great Again" signs, Trump Pence campaign signs, and Women for Trump campaign signs visible in the background).

² Seth A. Richardson, *President Donald Trump Comes to Youngstown*, Cleveland.com (July 25, 2017, 8:18 PM),

http://www.cleveland.com/open/index.ssf/2017/07/donald_trump_comes_to_youngsto.html.

³ 5 U.S.C. § 7323(a).

⁴ 5 C.F.R. § 734.302(b)(1).

⁵ 5 C.F.R. § 734.101.

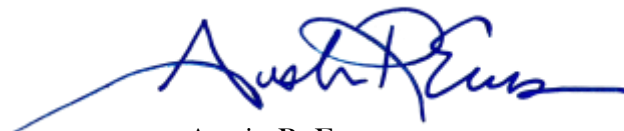
⁶ Donald J. Trump, MISCELLANEOUS TEXT (Form 99), FEDERAL ELECTION COMMISSION, Jan. 20, 2017 http://docquery.fec.gov/cgi-bin/fecimg?_201701209041436569+0.

⁷ *The Hatch Act: Frequently Asked Questions on Federal Employees and the Use of Social Media and Email*, OFFICE OF SPECIAL COUNSEL, <https://osc.gov/Pages/The-Hatch-Act-Frequently-Asked->

Although OSC has indicated that simply including a title or position in a social media profile is not improper use of authority,⁸ Mr. Gorka’s Twitter account goes well beyond a mere mention of his title and overtly highlights his official position. In addition to describing himself as a “Deputy Assistant to the 45th American President,” Mr. Gorka uses a picture of himself with President Trump in the Oval Office (with a “White House Photograph” watermark) as his profile picture; displays a banner photo of President Trump and Vice President Pence across the top of his Twitter page; and has a tweet containing a quote from and a photograph of Mr. Trump’s inauguration permanently pinned to the top of his page. Mr. Gorka’s extensive references to his White House role imbue his personal account with official authority and bring his activity on that account within the purview of the Hatch Act. Indeed, OSC recently issued Senior White House aide Dan Scavino a Hatch Act warning under very similar circumstances.⁹

American Oversight is a non-partisan organization dedicated to accountability and ethics in government. No doubt we share that commitment with you. Consistent with OSC’s authority to investigate allegations of wrongdoing by government actors, including “[v]iolation[s] of a law, rule, or regulation,” “gross wastes of funds,” and “abuse[s] of authority,” as well as enforcement of the Hatch Act,¹⁰ we urge you to investigate Mr. Gorka’s use of social media to engage in partisan political activity.

Respectfully submitted,



Austin R. Evers
Executive Director
American Oversight

Questions-on-Federal-Employees-and-the-Use-of-Social-Media-and-Email.aspx (last visited July 26, 2017).

⁸ *Id.*

⁹ Daniella Diaz, *White House Social Media Director Dan Scavino Warned After Tweet*, CNN (June 10, 2017, 9:43 AM), <http://www.cnn.com/2017/06/09/politics/office-of-special-counsel-hatch-act-dan-scavino/index.html>.

¹⁰ *Disclosure of Wrongdoing*, OFFICE OF SPECIAL COUNSEL, <https://osc.gov/Pages/DOW.aspx> (last visited July 24, 2017).