

EXHIBIT B



September 3, 2019

VIA CERTIFIED MAIL

The Honorable Eric M. Thorson
Inspector General
United States Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

Dear Mr. Thorson,

On behalf of Democracy Forward Foundation (“Democracy Forward”), I write to respectfully request that your office open an investigation into whether individuals in the U.S. Department of the Treasury’s (“Treasury’s”) Office of Public Affairs (“OPA”) violated federal law by engaging in prohibited covert propaganda.

As detailed further below, Democracy Forward obtained documents from Treasury through the Freedom of Information Act that captured various communications between OPA officials and officials at Fox News and Fox Business Network (“FBN”), including communications in which Treasury officials successfully directed a number of specific changes to Fox’s coverage of the administration across multiple media platforms.

These communications raise serious concerns about whether Treasury officials violated federal laws that prohibit the expenditure of public funds on covert propaganda.

I. Federal Law Prohibition on Covert Propaganda

A government-wide appropriations provision in effect during the time of the events in question provides that—

No part of any appropriation contained in this or any other Act shall be used directly or indirectly, including by private contractor, for publicity or propaganda purposes within the United States not heretofore authorized by Congress.¹

¹ 2016 Consolidated Appropriations Act, Pub. L. No. 114-113, § 718, 129 Stat. 2477 (2015); Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act, Pub. L. No. 114-595, § 101, 130 Stat. 908–909 (2016); Further Continuing and Security Assistance Appropriations Act, 2017, Pub. L. No. 114-254, § 101, 129 Stat. 1005–1006 (2016).

The Government Accountability Office (GAO) has interpreted this provision to prohibit the government from engaging in “covert propaganda.” The “critical element” of covert propaganda, the GAO has explained, “is the agency’s concealment from the target audience of its role in creating the material.” GAO, *Environmental Protection Agency—Application of Publicity or Propaganda and Anti-Lobbying Provisions*, B-326944, at 12 (Dec. 14, 2015), <https://www.gao.gov/assets/680/674163.pdf> (“GAO Thunderclap Opinion”). Accordingly, the GAO determined in an earlier ruling that the EPA violated the propaganda bar when it created an online page using a social media application called “Thunderclap” that encouraged supporters to disseminate EPA’s message without attributing the material to EPA. It was of no moment that the supporters doing the disseminating endorsed and adopted the message as their own. “A supporter’s adoption or acceptance of EPA’s message does not alter the fact that EPA used supporters as conduits of an EPA message campaign intended to reach a much broader audience than just these conduits, and EPA failed to disclose to that broader audience that the message was prepared and disseminated by EPA.” *Id.* at 13.

Similarly, the GAO has found that the Department of Health and Human Services (HHS) violated the covert propaganda prohibition when it used appropriated funds to produce and distribute video news releases that were packaged so as to allow the recipient television stations to understand that HHS was the source—but that were redistributed in a manner that concealed from the viewing public HHS’s role in creating the material. *See* GAO, *Department of Health and Human Services, Centers for Medicare & Medicaid Services—Video News Releases*, B-302710 (May 19, 2004), <https://www.gao.gov/decisions/appro/302710.pdf>.

The GAO determined that the Department of Education (ED) violated the propaganda ban when it contracted with a political commentator’s employer for him to provide views supporting the No Child Left Behind Act without disclosing his relationship with ED. GAO, *Department of Education—Contract to Obtain Services of Armstrong Williams*, B-305368 (Sept. 30, 2005), <https://www.gao.gov/decisions/appro/305368.pdf>. And the Small Business Administration’s transmittal of “suggested editorials” to newspapers violated the prohibition because the editorials were “misleading as to their origin.” GAO, *Small Business Administration—Public Information Activities*, B-223098 (Oct. 10, 1986), <https://www.gao.gov/products/475182#mt=e-report>.

The propaganda ban exists for good reason. The public has a right to know when their government is speaking to them in an attempt at political persuasion. When an agency “conceal[s] from the target audience . . . its role in creating the material,” GAO Thunderclap Opinion at 12, it misleads the American people and undermines the integrity of our public discourse. Thus, the propaganda ban has been rigorously applied by GAO across administrations of both parties, to prevent attempts to improperly and covertly influence discussion and debate on significant issues of national importance.

II. Treasury’s OPA communications with Fox News

On March 20, 2017, Jason Chung of Treasury emailed Julia Limitone of Fox Business Network concerning an article she wrote about Treasury Secretary Steve Mnuchin’s trip to the G20 Summit. E-mail from Jason Chung, U.S. Dep’t of the Treasury, to Julia Limitone, Fox Business Network (Mar. 20, 2017) (attached as Exhibit A).

Specifically, Chung first asked Limitone to “get a couple words inserted to the title of [her] article,” and requested a change. Limitone responded, “No problem—will add.” Chung then asked Limitone to “take out the reference on [sic] trade as well, since his trip was broader than the one issue.” Limitone responded, “ok.” Chung then emailed her again, asking her to “also remove ‘in building blocks’ as well” from the article, and asked her to “send out an amended tweet from the @FoxBusiness account.” Limitone responded, “Jason, I just did exactly what you asked me to do, I’m going to remove that now as well. I will notify our social media team that the headline has been updated and ask them to retweet.”

The article as it exists on the Fox Business website reflects the changes Chung sought, Julia Limitone, *Mnuchin Takes ‘Humongous Step Forward’ for Future Progress at G20: Sayegh*, FOX BUSINESS NETWORK (Mar. 20, 2017), <https://www.foxbusiness.com/politics/mnuchin-takes-humongous-step-forward-for-future-progress-at-g20-sayegh>, as does a Tweet posted by the official Fox Business Twitter account sixteen minutes after Chung’s request to Limitone. @FoxBusiness, TWITTER (Mar. 20, 2017), <https://twitter.com/FoxBusiness/status/843872037315731456>.

This was not the only such incident in which Treasury officials may have covertly directed Fox News content. On April 20, 2017, another Fox Business Network correspondent, Adam Shapiro, emailed Treasury’s Tony Sayegh (a former Fox News contributor), thanking Sayegh for making time for him, and telling Sayegh, “I candidly shared with my producer the need to be fair and not batter Secretary Mnuchin with the old soundbite about the August TAX Reform goal. Its [sic] old news. Never hesitate to contact me if my team gets anything wrong or is unfair.” Email from Adam Shapiro, Fox Business Network, to the Tony Sayegh, U.S. Dep’t of Treasury (Apr. 20, 2017) (attached as Exhibit B).

This email may have been a reference to earlier statements by Secretary Mnuchin that the administration intended to pass a tax reform package through Congress by August 2017. *E.g.*, *Mnuchin says goal is to pass tax reform by August*, FOX NEWS (Feb. 23, 2017), <https://www.foxnews.com/politics/mnuchin-says-goal-is-to-pass-tax-reform-by-august>. Secretary Mnuchin later withdrew the August 2017 goal, leading to a critical opinion piece in the New York Times by prominent Republicans, including then-TV personality Larry Kudlow (now President Trump’s Director of the National Economic Council), encouraging the Trump Administration to “make amends with a new tax bill and still hit the August deadline.” Steve Forbes, Larry Kudlow, Arthur B. Laffer and Stephen Moore, *Why Are Republicans Making Tax Reforms So Hard?* NEW YORK TIMES (Apr. 19, 2017). The opinion piece was published the day before Shapiro emailed Sayegh about no longer raising the August goal.

III. Request for Investigation

These emails raise serious concerns as to Treasury’s compliance with the statutory covert propaganda prohibition. Specifically, it appears that Treasury officials directed a number of changes to Fox Business Network’s coverage of Secretary Mnuchin’s G20 trip across both FBN’s website and social media account. The records released to Democracy Forward show Treasury officials directing specific wording changes at FBN, rewriting headlines of the network’s stories, and ensuring that the FBN Twitter account reflected their preferred changes,

with an FBN reporter acquiescing at each stage and acknowledging that she did “exactly what [Treasury] asked me to do.”

The exchange shows Treasury officials exerting substantial influence over FBN’s coverage and raises troubling questions regarding Treasury officials’ compliance with the covert propaganda ban. Neither the story on the FBN website nor the Tweet from its account acknowledge Treasury’s role in crafting the precise language used in FBN’s coverage, and the public would not have any reason to know the government’s substantial participation in the creation of this content. The ease with which Treasury officials convinced FBN to alter its work also raises questions about how common such direction of coverage by Treasury officials is, and what corrective measures are warranted to address the problem.

In light of the exchange concerning Secretary Mnuchin’s travels to the G20 summit, the exchange between Shapiro and Sayegh is similarly troubling, as it could be read to suggest that Sayegh was effectively directing Fox’s coverage of Secretary Mnuchin’s policymaking efforts—particularly his abandonment of a promise to achieve a tax reform bill by August 2017. And again, to the extent that Treasury officials were determining Fox News’s content, Treasury’s role went entirely undisclosed to the public.

Given the troubling facts outlined above, Democracy Forward respectfully requests that your office open an investigation that addresses the following issues:

- Whether Treasury officials effectively directed FBN’s coverage of Secretary Mnuchin’s 2017 trip to the G20 summit without disclosing to the public its role in the creation and revision of this content, when it caused a FBN producer to make a number of changes to an article and FBN’s social media account concerning Secretary Mnuchin’s trip;
- The extent of Treasury officials’ roles in creating, editing, or approving other content on FBN or other Fox networks covering the agency’s work, and whether any of these efforts were coordinated with the White House or other Executive Branch agencies;
- Whether Treasury officials directed FBN to cease citing Secretary Mnuchin’s promise to achieve a tax reform bill by August 2017 after Treasury realized that that promise would not be fulfilled.
- The extent of Treasury officials’ roles in crafting FBN’s coverage of the agency’s work, and whether any of these efforts were coordinated with the White House or other Executive Branch agencies;
- Whether these, or any other actions, by Treasury officials violate the statutory ban on covert propaganda; and
- A review of the processes and procedures within Treasury’s Office of Public Affairs to determine how any such violations occurred, and describing remedial

actions to be taken to address the harm caused to the American public and to prevent a recurrence in the future.

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Given the interactions that we have uncovered to date, we trust that your office will take these concerns seriously and investigate them fully. The conduct that has been uncovered thus far not only raises legal concerns about Treasury's compliance with federal law, but also raises grave questions regarding whether federal officials have eroded the foundations of the free and independent press that the American public expects and relies upon.

Please do not hesitate to contact Nitin Shah at (202) 701-1778 if we may provide anything further. Thank you for your time and consideration,

Sincerely,

/s/ Anne Harkavy

Anne Harkavy
Executive Director
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