



June 8, 2018

Arthur A. Elkins Jr.
Inspector General
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Inspector General Elkins:

The Campaign Legal Center (“CLC”) requests that you investigate EPA Administrator Scott Pruitt’s use of his government position to secure a competitive fast food franchise for his wife, Marlyn Pruitt. Administrator Pruitt’s behavior constitutes a misuse of his position for his family’s private financial gain in violation of the Standards of Ethical Conduct for Executive Branch Employees (Standards of Conduct).¹

In May 2017, Administrator Pruitt’s executive scheduler Sydney Hupp emailed Chick-fil-A Chairman, President and CEO Dan Cathy, writing, “Administrator Pruitt asked me to reach out to see if you might be willing to get a time set up for the two of you to have a meeting.”² Cathy connected Hupp with his senior aides, and in a subsequent email, Hupp specified that Administrator Pruitt wished to meet with the fast-food executive to “talk about a potential business opportunity.”³

Administrator Pruitt eventually spoke over the phone with a Chick-fil-A staff member, company officials told the *Washington Post*.⁴ A company representative said that “[t]he subject of that phone call was an expression of interest in his wife becoming a Chick-fil-A franchisee.”⁵ Subsequently, Marlyn Pruitt started, but did not complete, a Chick-fil-A franchisee application.⁶ According to current and former EPA aides, Administrator Pruitt had told them he was eager

¹ 5 C.F.R. part 2635.

² *EPA head Scott Pruitt’s Outreach to Chick-fil-A CEO on “a potential business opportunity,”* WASH. POST (June 5, 2018), <http://apps.washingtonpost.com/g/documents/national/epa-head-scott-pruitts-outreach-to-chick-fil-a-ceo-on-a-potential-business-opportunity/3006/>; see also *Emails Between Top Aides to Scott Pruitt and Chick-fil-A CEO Dan Cathy*, WASH. POST (June 5, 2018), <http://apps.washingtonpost.com/g/documents/national/emails-between-top-aides-to-scott-pruitt-and-chick-fil-a-ceo-dan-cathy/3007/> [hereinafter *Chick-fil-A emails*]. The emails were obtained by the Sierra Club under the Freedom of Information Act, 5 U.S.C. § 552.

³ *Chick-fil-A emails*, *supra* n. 2.

⁴ Juliet Eilperin et al., *Scott Pruitt enlisted an EPA aide to help his wife find a job—with Chick-fil-A*, WASH. POST (June 5, 2018), https://www.washingtonpost.com/national/health-science/scott-pruitt-enlisted-an-epa-aide-to-help-his-wife-find-a-job-at-chick-fil-a/2018/06/05/b798e4e4-5eac-11e8-9ee3-49d6d4814c4c_story.html.

⁵ *Id.*

⁶ *Id.*

for his wife to begin receiving a salary to cover the expenses of maintaining homes in both Tulsa and Washington, D.C.⁷

The misuse of an official position to advance the financial interests of a family member is prohibited by the Standards of Conduct, which provide: “an employee shall not use his public office for his own private gain . . . or for the private gain of friends [or] relatives.”⁸ Administrator Pruitt’s use of his public office and official authority to make an overture to the CEO of Chick-fil-A in order to secure a franchise for his wife violates this provision.

Administrator Pruitt contacted Chick-fil-A through his government scheduler, who used her epa.gov email account. Her email signature designates her as “Executive Scheduler, Office of the Administrator,” billing her as Administrator Pruitt’s official scheduler for his government duties. The subject line of the email chain is “Meeting with Administrator Scott Pruitt,” referencing the Administrator’s official title. Timestamps of the emails show that they were sent during the conventional workday.⁹ The initial email mentioned only a meeting with Administrator Pruitt, and did not mention or suggest that the subject of the meeting would be personal in nature.¹⁰ The exchange clearly implies that Administrator Pruitt sought the meeting in his official capacity.

Amidst these trappings, Administrator Pruitt expressed his wife’s interest in establishing a business relationship with the company, according to Chick-fil-A officials—a business relationship that may have been otherwise unattainable if not for the weight of the U.S. EPA behind the request. According to a company representative, Chick-fil-A receives about 40,000 “expressions of interest” each year from prospective franchisees. The company selects approximately 100 per year, a success rate of .25%.¹¹ The difficulty in becoming a franchisee suggests that Administrator Pruitt leveraged his official position to grant his wife a competitive edge. Due to his position as a top-ranking Cabinet-level official, Administrator Pruitt accessed a direct line to the head of the company. His subordinates set up the meeting while operating under the apparent auspices of the EPA, using official government channels and invoking Administrator Pruitt’s official position. These actions seem designed to induce Chick-fil-A to look favorably on his wife’s business prospects with the company—prospects from which Administrator Pruitt and his wife both stood to reap private financial benefits.

The Standards of Conduct explain that it would be improper even for a government employee to write a letter of recommendation on official government stationery, or to sign such a recommendation using their official title, for someone they did not meet in the course of their

⁷ *Id.*

⁸ 5 C.F.R. § 2635.702.

⁹ *Chick-fil-A emails, supra* n. 2. Using a subordinate to coordinate a meeting for personal business is also a violation of 5 C.F.R. § 2635.705(b) (“[A]n employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.”).

¹⁰ *Chick-fil-A emails, supra* n. 2. Moreover, Chick-fil-A officials understood that the meeting pertained to Administrator Pruitt’s official role, as they included the company’s Director for Regulatory and Government Affairs on the planning emails. *Id.*

¹¹ Eilperin, *supra* n. 4.

government work.¹² Administrator Pruitt's relationship with his wife clearly falls outside the bounds of his official duties, as do her future interests in Chick-fil-A. And if merely penning a letter on government stationary violates Section 2635, then surely Administrator Pruitt's use of the prestige of his government title and his office resources to facilitate and promote his wife's fast-food franchisee endeavors would constitute a violation.

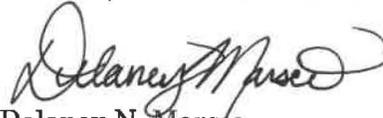
Relatedly, we note that Administrator Pruitt reiterated his and his wife's interest in Chick-fil-A as a franchise when faced with press scrutiny: "I love, she loves, we love [Chick-fil-A]" he said. "Chick-fil-A is a franchise of faith, and it's one of the best in the country. And so that's something we were very excited about. We need more of them in Tulsa and we need more of them across the country."¹³ Combined with Administrator Pruitt's use of his official authority to promote his wife's franchise application, this public expression of admiration for Chick-fil-A—and expression of support for its expansion in his hometown—imply both a government sanction of Marlyn Pruitt's aspirations with the company and Chick-fil-A as an enterprise generally. These comments could additionally violate the prohibition against using a government position for the endorsement of an enterprise.¹⁴

For these reasons, Administrator Pruitt has violated the executive branch's rules against misuse of position¹⁵ and its ethical principles.¹⁶ Even if you should find that his conduct does not technically violate the rules, he has fallen short of the ethical mandate to avoid even the appearance of a violation of these rules and principles.¹⁷ Accordingly, CLC asks that you investigate this matter and issue a public report of your findings.

Sincerely,



Brendan M. Fischer
Director, Federal and FEC Reform



Delaney N. Marseo
Ethics Counsel

Cc: David J. Apol
Acting Director
U.S. Office of Government Ethics

¹² 5 C.F.R. § 2635.702(b), example 1.

¹³ See Stephanie Ebbs, 'We love Chick-fil-A': Pruitt responds to report he tried to get franchise for wife, ABC News (Jun. 7, 2018), <https://abcnews.go.com/Politics/love-chick-fil-pruitt-responds-report-franchise-wife/story?id=55670705>.

¹⁴ 5 C.F.R. § 2635.702(c).

¹⁵ 5 C.F.R. pt. 2635, subpt. G.

¹⁶ 5 C.F.R. §§ 2635.101(b)(7) ("Employees shall not use public office for private gain.") & (8) ("Employees shall act impartially and not give preferential treatment to any private organization or individual.").

¹⁷ 5 C.F.R. §§ 2635.101(b)(14).