



U.S. OFFICE OF SPECIAL COUNSEL

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March 14, 2019

Ms. Delaney Marsco
Legal Counsel, Ethics
Campaign Legal Center

VIA EMAIL (dmarsco@campaignlegalcenter.org)

Re: OSC File No. HA-18-6011

Dear Ms. Marsco:

This letter is in response to the complaint you filed with the U.S. Office of Special Counsel (OSC) alleging that Mr. Donald Benton, Director of the Selective Service System (SSS), violated the Hatch Act when he spoke at a Hawaii Republican Party (Party) fundraiser in late September 2018. As explained below, OSC has concluded that Mr. Benton did not violate the Hatch Act.

The Hatch Act governs the political activity of federal civilian executive branch employees, except for the President and Vice President.¹ Mr. Benton is an individual covered by the Hatch Act by virtue of his position as the Director of SSS. Among other things, the Hatch Act prohibits covered individuals from using their official authority or influence for the purpose of affecting the result of an election.² For example, an individual may not use his official title while participating in political activity.³

During our investigation, we learned that Mr. Benton was invited to speak at the Hawaii Republican Party's Constitution Day Dinner, which took place on Friday, September 21, 2018. After receiving the speaking request, Mr. Benton sought advice from agency counsel and relayed SSS counsel's advice about the restrictions on the use of official title to a contact person from the Party. Although Mr. Benton conveyed this information to the Party, his official title, "Director, Selective Service," was projected on a large screen behind him during his remarks at the Constitution Day Dinner. It is our understanding that Mr. Benton began his speech by stating he was speaking in his personal capacity and not on duty. Additionally, after the event, the Party took responsibility for the fact that, despite Mr. Benton's directions, Party interns had displayed his official title on the screen.

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7323(a)(1). The Hatch Act also prohibits covered employees from: knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; knowingly soliciting or discouraging the political activity of any individual with business before their employing office; and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle. See 5 U.S.C. §§ 7323(a)(2)-(4), 7324.

³ 5 C.F.R. § 734.302(b)(1).

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Because Mr. Benton provided the Party with advance notice about the restrictions on the use of his official title and during his speech he asserted that he was speaking in his personal capacity, we believe the Party acted without his permission when they displayed his title. Therefore, OSC has concluded that Mr. Benton did not violate the Hatch Act. Accordingly, we are closing our file without further action.

If you have any questions, please contact Hatch Act Unit Attorney Jacqueline Yarbrow at (202) 804-7139.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Galindo-Marrone". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Ana Galindo-Marrone
Chief, Hatch Act Unit