



March 21, 2025

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Washington, D.C. 20024

John Guenther  
Designated Agency Ethics Official  
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*Sent via email ([usoge@oge.gov](mailto:usoge@oge.gov) and [publicaffairs@doc.gov](mailto:publicaffairs@doc.gov))*

Dear Acting Director Collins and DAEO Guenther:

Campaign Legal Center (“CLC”) respectfully requests that the Office of Government Ethics (“OGE”) and the Department of Commerce (“Commerce”) investigate whether Commerce Secretary Howard Lutnick violated the federal ban on government officials using their public positions for private gain. Specifically, on March 19, 2025, Secretary Lutnick appeared on a national television news program in his official capacity and told viewers to purchase Tesla stock.<sup>1</sup> Public officials are prohibited from promoting any “product, service, or enterprise,” and Secretary Lutnick’s actions require an investigation of this apparently flagrant violation of federal law.

The ethics laws that prohibit using public office for private gain exist to hold public officials accountable to their responsibility of serving the public good. No public good is served

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<sup>1</sup> Jesse Watters Primetime, *Elon Musk is probably the best person to bet on, says Howard Lutnick*, Fox News Video (Mar. 19, 2025), <https://www.foxnews.com/video/6370257080112>.

when a cabinet official acts as an influencer promoting a company's stock. If senior officials in the executive branch are allowed to blatantly ignore ethics laws without consequence, it decreases public trust in our institutions. It is therefore imperative that OGE and Commerce investigate whether Secretary Lutnick improperly used his position to promote Tesla stock.

### **I. Federal Ethics Laws Prohibit Executive Branch Employees from Promoting any Company in their Official Capacity**

Pursuant to 5 C.F.R. § 2635.702, “employees may not use their public office for their own private gain; [or] for the endorsement of any product, service, or enterprise.”<sup>2</sup> Specifically, the law provides that “[e]mployees may not use or permit the use of their Government position or title or any authority associated with their public office to endorse any product, service or enterprise,” with two narrow exceptions.<sup>3</sup>

One exception to the rule is if an official offers an endorsement “in furtherance of statutory authority to promote products, services, or enterprises.”<sup>4</sup> The second exception is if the endorsement is the “result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency’s mission.”<sup>5</sup>

This prohibition is well established and recognized and understood, including by the first Trump Administration. White House ethics lawyers acknowledged that Kellyanne Conway improperly promoted Ivanka Trump’s products when she appeared on television and urged the public to buy them after she was introduced on the show with her government position.<sup>6</sup>

Regarding enforcement of this prohibition, it “is the responsibility of the employing agency to initiate appropriate disciplinary or corrective action in individual cases.”<sup>7</sup> “However, corrective action may be ordered or disciplinary action recommended by the Director of the Office of Government Ethics.”<sup>8</sup>

### **II. Secretary Lutnick Promoted Tesla Stock on National Television in His Official Capacity**

Secretary Lutnick’s appearance on Fox News established substantial evidence to believe that he used his office for private gain and promoted a product, service or enterprise.

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<sup>2</sup> 5 C.F.R. § 2635.702.

<sup>3</sup> 5 C.F.R. § 2635.702(c).

<sup>4</sup> 5 C.F.R. § 2635.702(c)(1).

<sup>5</sup> 5 C.F.R. § 2635.702(c)(2).

<sup>6</sup> White House Letter to Office of Government Ethics Regarding Kellyanne Conway (Feb. 28, 2017), [white-house-letter-office-of-government-ethics-feb28.pdf](#); see also Joanna Walters, *White House rebukes Kellyanne Conway for promoting Ivanka Trump products*, The Guardian (Feb. 9, 2017), <https://www.theguardian.com/us-news/2017/feb/09/kellyanne-conway-ivanka-trump-nordstrom-ethics-laws>.

<sup>7</sup> 5 C.F.R. § 2635.106(b).

<sup>8</sup> *Id.*

First, Secretary Lutnick appeared in his official capacity, not his personal capacity. On March, 19, 2025, Fox News host Jesse Watters introduced him as the Secretary of Commerce, while the title underneath his video referred to him as “Howard Lutnick | Commerce Secretary” throughout the interview.<sup>9</sup>



During the interview, Watters states “you wanted to talk about these gold cards,”<sup>10</sup> referring to a visa program President Trump recently proposed. The interview then turns to a discussion about the gold card program. This suggests that Secretary Lutnick appeared on Jesse Watters Primetime in his capacity as an administration official to discuss an administration policy proposal.

Second, Secretary Lutnick unambiguously promoted Tesla stock. For two minutes and fifty-three seconds of a four minute and fourteen second interview, Secretary Lutnick and Watters discussed Elon Musk’s various companies and products. Secretary Lutnick’s statements included: “I think, if you want to learn something on this show tonight, buy Tesla. It’s unbelievable that this guy’s stock is this cheap. It’ll never be this cheap again;”<sup>11</sup> “people are going to be dreaming of today and Jesse Watters and thinking ‘gosh I should’ve bought Elon Musk’s stock.’ I mean who wouldn’t invest in Elon Musk, you’ve gotta be kidding me;”<sup>12</sup> and “Elon Musk is probably the best person to bet on.”<sup>13</sup>

Finally, Secretary Lutnick may personally profit from an increase in Tesla’s stock value. He currently has an ownership interest in the investment bank Cantor Fitzgerald L.P., which has

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<sup>9</sup> Jesse Watters Primetime, *supra* note 1.

<sup>10</sup> *Id.* at 2:54.

<sup>11</sup> *Id.* at 58-1:09.

<sup>12</sup> *Id.* at 1:15-1:25.

<sup>13</sup> *Id.* at 1:32-1:35.

owned stock in Tesla since 2022.<sup>14</sup> In 2024, its investment in Tesla increased to approximately \$300 million.<sup>15</sup>

While Secretary Lutnick has agreed to divest from Cantor Fitzgerald according to his Ethics Agreement,<sup>16</sup> there is no public record of him having done so yet. Cantor Fitzgerald clearly stands to benefit from Tesla stock increasing in value. If Secretary Lutnick has not divested from Cantor Fitzgerald, then he stands to benefit from such an increase as well.

### III. Conclusion

The circumstances surrounding Secretary Lutnick's appearance on a national television news program and his explicit endorsement of Tesla suggest that he violated 5 C.F.R. § 2635.702 by using his public office for private gain by endorsing and encouraging viewers to purchase Tesla stock. Neither exception that would allow Secretary Lutnick to endorse Tesla applies, as there is no statutory authority that would allow the Commerce Secretary to promote enterprises like Tesla, nor was the endorsement made in recognition of achievement given under an agency program.

As a result, CLC respectfully requests that OGE and Commerce enforce federal ethics rules by reviewing whether Secretary Lutnick did in fact improperly endorse Tesla, and if he did, take appropriate disciplinary action.

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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Campaign Legal Center

\_\_\_\_\_/s/\_\_\_\_\_  
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<sup>14</sup> Fred Lambert, *Trump's US Commerce Secretary, who owns Tesla stocks, publicly recommends to buy TSLA*, Electrek (Mar. 19, 2025), <https://electrek.co/2025/03/19/trump-us-commerce-secretary-owns-tesla-recommends-buy-tesla-stocks/>.

<sup>15</sup> *Id.*

<sup>16</sup> Howard Lutnick Ethics Agreement, [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/436440318CFB67BE85258C1C003219C1/\\$FILE/Lutnick%20C%20Howard%20%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/436440318CFB67BE85258C1C003219C1/$FILE/Lutnick%20C%20Howard%20%20finalEA.pdf) (last visited Mar. 21, 2025).