



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

January 19, 2024

The Honorable Charles E. Grassley
Ranking Member
Committee on the Budget
United States Senate
c/o [REDACTED]

VIA EMAIL

Re: Timothy Thibault Hatch Act Complaint (OSC File No. HA-22-000145)

Dear Senator Grassley:

This letter responds to your request that the U.S. Department of Justice, Office of the Inspector General, and Federal Bureau of Investigation (FBI) investigate former FBI Assistant Special Agent in Charge Timothy Thibault and allegations that he engaged in prohibited political activity on social media. Because the U.S. Office of Special Counsel (OSC) has exclusive jurisdiction over civil Hatch Act matters, DOJ OIG referred your request to our office. Although Mr. Thibault has left government service, we completed our investigation and concluded that he violated the Hatch Act, as explained below. Accordingly, we issued him a warning letter and are closing this matter without further action.

The Hatch Act governs the political activity of all federal civilian executive branch employees and prohibits them from: using their official authority or influence for the purpose of interfering with or affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office.¹ The Hatch Act also prohibits employees from engaging in political activity while on duty, in a federal room or building, wearing an official uniform or insignia, or using a government vehicle.²

In addition, employees in certain agencies, such as the FBI, are “further restricted” and prohibited from actively participating in partisan political management and campaigning by

¹ 5 U.S.C. § 7323(a).

² 5 U.S.C. § 7324. Political activity is defined as activity directed toward the success or failure of a political party, candidate for a partisan political office, or partisan political group. 5 C.F.R. § 734.101.

engaging in activity that is “in concert” with a political party, partisan political group, or candidate for partisan political office.³ Examples of active participation with said entities include volunteering for a partisan political campaign, or leafleting or otherwise distributing material that is from a political party, partisan political group, or candidate for partisan political office. As applied to social media, OSC has advised that further restricted employees may not share or retweet messages from a partisan political group because like traditional leafletting, social media communications also promote the group’s message.⁴

As part of our investigation, OSC reviewed posts from Mr. Thibault’s Twitter and LinkedIn accounts. One such post was a July 21, 2020 retweet from the Lincoln Project, a hybrid political action committee (PAC), which is considered a partisan political group as defined by the Hatch Act.⁵ The Lincoln Project’s tweet included an article from *The Atlantic* entitled, “Donald Trump Is a Broken Man.”

By retweeting the Lincoln Project’s message, Mr. Thibault engaged in modern-day leafletting on social media. Although Mr. Thibault was on leave when he retweeted this message, the Hatch Act’s prohibition against acting in concert with a partisan political group applies to further restricted employees at all times, even when they are off duty and away from work. Accordingly, because Mr. Thibault shared a message from a partisan political group on Twitter, OSC has concluded that he acted in concert with a partisan political group, in violation of the Hatch Act.

Mr. Thibault has been warned that if in the future he engages in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Should you have any questions, please contact OSC Hatch Act Unit Attorney [REDACTED] at [REDACTED].

Sincerely,



Ana Galindo-Marrone
Chief, Hatch Act Unit
U.S. Office of Special Counsel

³ 5 U.S.C. § 7323(b)(2); 5 C.F.R. § 734.401(a).

⁴ See *In re Slade*, 1 PAR 666 (1953) (finding that an employee actively participated in partisan political management and campaigning when he placed campaign literature on vehicles parked at his workplace).

⁵ The Hatch Act regulations define a “partisan political group” as any committee, club, or other organization that (a) is affiliated with a political party or candidate for partisan political office, (b) is organized for a partisan purpose, or (c) engages in partisan political activity.⁵ 5 C.F.R. § 734.101. OSC has consistently found that PACs, for example, are partisan political groups because they exist for the purpose of engaging in partisan political activity. See, e.g., OSC Advisory Opinion dated Apr. 13, 2005, available at [OSC.gov](https://osc.gov).