

October 10, 2007

Senator Joseph Lieberman, Chairman  
Senate Committee on Homeland Security and Governmental Affairs  
Senate Dirksen 340  
Washington, DC 20510

Senator Susan Collins, Ranking Member  
Senate Committee on Homeland Security and Governmental Affairs  
Senate Dirksen 344  
Washington, DC 20510

**Re: U.S. Office of Special Counsel**

Dear Senators Lieberman and Collins:

As you know, the U.S. Office of Special Counsel (OSC) has been lobbying Congress to appropriate an additional three million dollars to OSC for FY 2008, purportedly to fund Hatch Act investigations of allegations that the White House conducted improper political briefings on-site at a number of federal agencies. We write to you now to urge that you not support the provision of any additional monies to OSC for this or any other purpose, pending the completion of an investigation being conducted by the Inspector General for the Office of Personnel Management (OPM IG) into allegations of serious misconduct by Special Counsel Scott Bloch. We further ask that you require the OPM IG to provide you with an interim report or substantive briefing regarding what its investigation has uncovered.

Our organizations recognize the importance of ensuring the enforcement of the Hatch Act's prohibitions. But it is precisely because we value the Hatch Act's safeguards against mixing politics with governance that we urge you not to support additional appropriations to OSC while Mr. Bloch is the Special Counsel.

During the almost four years that Mr. Bloch has served as Special Counsel, OSC's credibility as an impartial investigative agency has reached an all time low. Mr. Bloch has developed a reputation for using the authority of his office to promote his own personal agendas, rather than OSC's mission. Beginning with the first few months of his term, Mr. Bloch has been a lightning rod for controversy. He has continuously faced allegations of mismanagement, misconduct, retaliation, and, ironically, politicization of OSC. These accusations have come from career OSC staff, from our groups, and from both sides of the aisle in Congress. As noted, Mr. Bloch has been the subject of an OPM IG investigation, ordered by the President's Council on Integrity and Efficiency (PCIE), for over two years. As we believe the OPM IG would confirm, Mr. Bloch has obstructed that investigation repeatedly either personally or through members of his political staff. In fact, his former and current political staff have refused to answer questions about Mr. Bloch's various misdeeds, because Mr. Bloch (though his political staff) has interposed

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claims of “attorney client” privilege in an effort to prevent the IG from getting at the truth.

Moreover, there is no guarantee that any additional monies provided to OSC would be used for its intended purpose. Shortly before Special Counsel Bloch arrived at OSC, Congress approved five additional slots for career staff positions in OSC’s Disclosure Unit (DU). The slots were authorized by Congress in order for OSC to better meet the demands of a post-September 11 increase in the number of whistleblower disclosures submitted to the agency. Mr. Bloch did not fill these positions, instead opting to double the size of OSC’s political staff. Now, after failing for the entirety of Bloch’s term to fill this unmet need, OSC asked that Congress increase the time period from 15 to 45 days for OSC to respond to disclosures of waste, fraud and abuse submitted to the DU.

In addition, OSC simply cannot take on any more responsibilities without further abandoning its primary constituency: government whistleblowers. A recent news article noted that “OSC reassigned eight of its staff to handle the [Hatch Act] investigation.” With the number and percentage of federal employees helped by OSC already at all-time lows, the immediate effect of OSC’s new “broad-based” investigation will be further deterioration of the quality of service that employees can expect when they turn to OSC for assistance.

At this point, Mr. Bloch cannot be trusted to oversee any investigation, much less a sensitive investigation of alleged Hatch Act violations by high level political appointees. Regardless of the outcome of those investigations, they will not be considered credible. As we explained in the attached letter of April 25, 2007 to White House Counsel Fred Fielding, multiple conflicts of interest preclude Mr. Bloch from being entrusted with responsibility for these important investigations, while he himself is also being investigated, essentially at the direction of the White House.

In fact, our concerns about having Mr. Bloch lead these efforts were recently confirmed when OSC conducted a Hatch Act investigation of GSA Administrator Lurita Doan. In that matter, because of Mr. Bloch’s involvement and actions, the focus was shifted from the allegations against Ms. Doan to Mr. Bloch’s own credibility. According to the enclosed letter from Attorney Debra Katz, who represents the OSC employees who initiated the PCIE investigation and our organizations in that matter, Mr. Bloch authorized James Mitchell, his Director of Communications, to leak OSC’s investigative report to the press, before Ms. Doan had an opportunity to respond to it. This action would be a serious breach of Ms. Doan’s rights and underscore the lack of professionalism which has permeated Mr. Bloch’s tenure. During OSC’s Reauthorization hearing, Mr. Bloch denied his action under intense questioning by members of the House Federal Workforce Subcommittee, testifying that he did not know whether OSC was the source of the leak.

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As the foregoing discussion illustrates, given OSC's critical role in protecting the merit system and enforcing the Hatch Act, it is unacceptable that after more than two years, the OPM IG still has not completed its investigation of the charges lodged against Mr. Bloch. Despite the delays, it has refused to interview witnesses to Mr. Bloch's abdication of responsibility and has failed to keep pace with new developments at the Office. We believe that to a large degree this is the result of Mr. Bloch's own obstruction of the investigation.

For all of these reasons we believe Mr. Bloch should not be given more money or authority unless and until the OPM IG investigation has reached its conclusion.

Finally, as is also explained in the attached letter to White House Counsel Fielding, for all of these reasons we believe the OPM IG should issue an interim report to you at this time. Mr. Bloch should not be permitted to benefit by his obstruction of the IG's investigation, including through the invocation of frivolous claims of privilege, and other high-profile gambits. Mr. Bloch's end-game here is obvious. He intends to run out the clock through the end of the President's term and avoid any responsibility or consequences for his misconduct. Neither the White House nor Congress should allow this to happen.

Thank you for your consideration of our concerns.

Sincerely,



Tom Devine, Legal Director  
Government Accountability Project



Jeff Ruch, Executive Director  
Public Employees for Environmental Responsibility



Danielle Brian, Executive Director  
Project On Government Oversight

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cc:

Chairman Henry Waxman and Ranking Member Tom Davis, House Committee on  
Oversight and Government Reform

Chairman Daniel Akaka and Ranking Member George Voinovich, Senate HSGAC  
Subcommittee on Oversight of Government Management, the Federal Workforce,  
and the District of Columbia

Chairman Danny K. Davis and Ranking Member Kenny Marchant, House Oversight and  
Government Reform Subcommittee on the Federal Workforce, Postal Service,  
and the District of Columbia

Chairman Richard Durbin and Ranking Member Sam Brownback, Senate Appropriations  
Subcommittee on Financial Services and General Government

Chairman Jose Serrano and Ranking Member Ralph Regula, House Appropriations  
Subcommittee on Financial Services and General Government