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April 25, 2007

Fred Fielding, Esquire
White House Counsel
The Office of Counsel to the President
1600 Pennsylvania Ave.
Washington, D.C. 20580

Re: PCIE Referral of Complaint Against Scott J. Bloch, Special Counsel,
Office of Special Counsel (OSC) to White House Counsel

Dear Mr. Fielding:

By letters dated March 3, 2005, and March 31, 2005, I advised President George W. Bush that I had filed a Complaint of Prohibited Personnel Practices Against U.S. Special Counsel Scott J. Bloch (“OSC Complaint”) on behalf of a group of career OSC employees and four public interest organizations. Upon filing of the OSC charge, we requested that Mr. Bloch refer the OSC Complaint to the President’s Council on Integrity and Efficiency (“PCIE”) for an independent investigation. By letter dated April 29, 2005, then White House Counsel Harriet Miers referred the complaint to PCIE. Thereafter, the Chairman of the PCIE (and OMB Deputy Director), Clay Johnson, assigned the matter to Patrick McFarland, the Inspector General for the Office of Personnel Management. The investigation has been ongoing for almost two years now, and appears to be nearing completion.

We are writing to you now to request that you take immediate action to require Mr. Bloch to recuse himself and OSC from any involvement in his widely publicized and newly-launched investigation concerning alleged violations of law in connection with the termination of former U.S. Attorney, David Iglesias, alleged Hatch Act violations by the President’s political advisor Karl Rove, and related matters. Multiple conflicts of interest will result if Mr. Bloch continues to lead an investigation of high level officials in the White House while he himself is being investigated, essentially at the direction of the White House.

First, the ongoing investigation of Mr. Bloch compromises his own impartiality in leading the investigation of Mr. Rove and other White House officials. On the one hand, the pending charges against Mr. Bloch supply him with an incentive to whitewash violations of the law in the hopes of currying favor. On the other hand, were he to make

Fred Fielding, Esquire

April 25, 2007

Page 2

findings of violations, his findings could be viewed as an act of retribution and/or coercion to prevent the President from taking appropriate action against him, which he would surely portray as retaliation. If Mr. Bloch's investigation of White House officials is still underway when OPM completes its own investigation of Mr. Bloch (as appears to be certain), the White House will be put in the position of having to make a decision about Mr. Bloch's continued tenure, while it is itself being investigated by Mr. Bloch.

In fact, we believe that it is obvious that Mr. Bloch launched this wide-ranging inquiry in an attempt to deflect attention from his own serious acts of misconduct and obstruct the investigation that is being conducted by the OPM IG at the direction of the PCIE. While OSC, to be sure, has the authority to investigate violations of the Hatch Act, the scope of the investigation Mr. Bloch has announced (not to mention the media blitz that accompanied its announcement), betrays that is largely an act of political grandstanding. In fact, the OSC's "investigation" of a claim on behalf of Mr. Iglesias under USERRA (which OSC itself apparently solicited Mr. Iglesias to file) is clearly without any legal foundation. As you well know, Presidential appointees who have been confirmed by the Senate are not entitled to claim statutory protection against decisions regarding their continued tenure.

Moreover, there are many additional reasons to believe that Mr. Bloch's real motives here have nothing to do with enforcing the Hatch Act, and everything to do with his desire to try to immunize himself against any adverse consequences to him that may result from the findings of the IG investigation, including the possibility of his removal by the President. Indeed, Mr. Bloch's own handling of Hatch Act matters is under investigation by the OPM IG at this time. The amended OSC Complaint against Mr. Bloch alleges, among other things, that he engaged in partisan handling of high-profile Hatch Act cases and politicized OSC's enforcement of the Hatch Act. Specifically, the complaint alleges that Mr. Bloch treated two high profile Hatch Act complaints differently based on partisan political reasons, attempted to cover up this abuse by altering records in OSC's computerized case management system, and then misled Congress about his actions.

In one case, Mr. Bloch immediately dispatched a team of investigators to the Kennedy Space Center in August 2004 to examine whether any Hatch Act violations had occurred in connection with a visit by then Democratic Presidential candidate Senator John Kerry. Two months later, Representative John Conyers filed a complaint alleging that then-Secretary of State Condoleezza Rice had violated the Hatch Act by making allegedly political speeches at the taxpayer's expense in the weeks before the 2004 Presidential election. This time, contrary to routine OSC procedure and to its handling of the complaint against Senator Kerry, Mr. Bloch took the matter away from career staff and assigned it to himself and his political deputy until after the election had been held. He then reassigned the matter back to the career staff after the election had passed. To cover his tracks, changes were made in OSC's computerized tracking system to delete the

records showing the earlier assignment of the cases to Mr. Bloch and his deputy. When asked about this incident by Congress, Mr. Bloch denied that the matter had ever been taken away from career staff. This statement was demonstrably false.

The favorable treatment afforded to the Secretary Rice complaint raises very troubling questions regardless of whether the allegations against Secretary Rice were ultimately substantiated. The deliberate decision to sit on the allegations until after the election while expediting the investigation of the Senator Kerry matter flies in the face of the Hatch Act itself, which was designed precisely to prevent partisan politics from undermining the impartial conduct of official government business.

Mr. Bloch's latest stunt – a widely publicized and legally dubious investigation of the White House – is consistent with this pattern. The only difference now is that he is turning his sights on the White House itself in the wake of the IG investigation, as well as public reports that as a result of his past misbehavior he has actually been asked to resign by the Administration on two occasions.

It bears noting that in addition to specific allegations about the mishandling of Hatch Act cases, the OSC Complaint also alleged that Mr. Bloch:

- created a hostile work environment with a series of retaliatory acts against career OSC staff members, culminating in the involuntary reassignment of twelve career employees for actual or perceived whistle blowing;
- imposed non-disclosure policies on career staff in violation of the Anti-Gag statute and in violation of the Lloyd LaFollette Act, 5 U.S.C. § 7211, which guarantees all federal employees the right to communicate with Congress;
- abandoned merit-based competitive hiring for career positions and misused special hiring authorities; and
- refused to enforce existing statutory prohibitions against sexual orientation discrimination in the federal workforce, and in some instances, provided misleading statements to Congress.

Finally, it should be noted that since the inception of the IG investigation, Mr. Bloch and his deputies have actively obstructed it. The acts of obstruction include, among others, requirements that the OPM IG arrange all interviews with OSC staff by coordinating them with Mr. Bloch's political deputy, requirements that interviews be held at OSC headquarters unless employees affirmatively requested otherwise, and reports that Mr. Bloch had expressed a desire to secure affidavits from employee witnesses describing their discussions with IG investigators.

Fred Fielding, Esquire

April 25, 2007

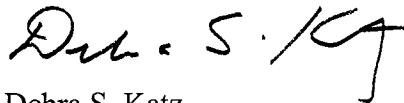
Page 4

We were recently notified by OPM that the IG intended to take sworn testimony from Mr. Bloch and his assorted deputies this month, as the final step in its investigation. It is in the wake of notification of these interviews that Mr. Bloch has now announced to the media the initiation of his broad-based investigation into the activities of Karl Rove.

It could not be any clearer that Mr. Bloch is not the one who should be leading the investigation he has announced. As was the case with the original OSC Complaints filed by my office, we would request that the White House direct OSC to contract out this new investigation to an Inspector General, who will have the credibility and, more importantly, the impartiality needed to address the allegations raised. Mr. Bloch's conflicts of interest regarding this investigation squarely clash with his ability to perform a fair and accurate investigation. Moreover, the mere appearance of such obvious conflicts here will undermine the perceived legitimacy of any report issued on this important subject.

I look forward to hearing from you.

Sincerely,



Debra S. Katz