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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

September 1, 2020

The Honorable Henry Kerner
Special Counsel
Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, DC 20036

Dear Special Counsel Kerner:

We respectfully request that the Office of Special Counsel (OSC) investigate whether Secretary Benjamin S. Carson Sr., of the Department of Housing and Urban Development (HUD), violated the Hatch Act.

On March 2, 2017, Secretary Carson was sworn in as the 17th HUD Secretary. Secretary Carson serves as a Cabinet member and is the federal authority to the public on housing issues, policy, and oversees all of HUD's programs. Additionally, Secretary Carson leads a 9,000 employee workforce.

According to HUD's website, the Office of Public Affairs "strives to educate and keep the American people informed about the Department's mission to create strong, sustainable, inclusive communities and quality affordable homes for all."¹ On August 16, 2020, however, HUD's Office of Public Affairs sent out a troubling message on behalf of Secretary Carson entitled "In Case You Missed It... OPINION: We'll Protect America's Suburbs: We reject the ultraliberal view that the federal bureaucracy should dictate where and how people live."

As the public face of a Cabinet-level Department, Senate-confirmed officials and all officials at HUD must uphold the law as well as the ideals of public office. We are concerned that Secretary Carson may have violated the law and misused government resources to mass distribute a partisan message.

The partisan message included calling out the Biden- Sanders Unity platform; labeling cities as "liberal-run" and "Democrat-run"; and, statements about the "left".

¹ https://www.hud.gov/program_offices/public_affairs

The Hatch Act is an 80-year old law that limits certain political activities of federal employees, specifically prohibiting employees of the executive branch from using their official authority or influence for the purpose of interfering with or affecting the result of an election². Activities covered by this prohibition include the use of official title while participating in political activity. Further, political activity is an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.³

The distribution of this opinion piece through an official federal communications channel appears to violate both the letter and spirit of the Hatch Act. The letter makes repeated references to the President's opponent in the current election and echoes the messages the President is using repeatedly in his campaign. Also troubling, this message appears to have been distributed on a list that includes HUD grantees, who could fear retaliation if they do not adhere to the Trump Administration's opinions.

The American people must have confidence that government officials are serving the public regardless of party affiliation. It appears as though Secretary Carson may have knowingly violated the Hatch Act on August 16, 2020, by both publishing and sending a political message using government resources and employees.

It is deeply troubling that a Cabinet official would deliberately engage in Hatch Act violations. As you stated in your previous report on Kellyanne Conway's conduct, actions that send a message to federal employees that they need not abide by the Hatch Act "erode the principal foundation of our democratic system — the rule of law."

We respectfully request that you conduct a thorough investigation of this incident and advise us of your findings. If a Hatch Act violation is found, those who violated the law must reimburse taxpayers the money spent to support using public resources for political purposes.

Thank you for your consideration and we look forward to your timely response.

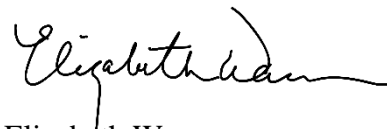
Sincerely,



Sherrod Brown
United States Senator



Jon Tester
United States Senator



Elizabeth Warren
United States Senator



Robert Menendez
United States Senator

/s/ Chris Van Hollen
Chris Van Hollen
United States Senator



Jack Reed
United States Senator

² Pub. L. 76-252, 53 Stat. 1147 (1939).

³ 5 C.F.R. § 734.101.