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June 15, 2010

William E. Reukauf, Esq.
Associate Special Counsel
Hatch Act Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, DC 20036-4505

Re: Complaint Alleging Violation of the Hatch Act by Federal
Employees Jim Messina and Rahm Emanuel

Dear Special Counsel Reukauf:

Judicial Watch, Inc. is a non-profit educational foundation that is dedicated to promoting transparency, integrity, and accountability in government and fidelity to the rule of law. Judicial Watch, which has over 600,000 supporters, has a sixteen-year record of combatting government corruption.

Judicial Watch, in the public interest, hereby files this complaint and requests an investigation pursuant to 5 U.S.C. § 1216(a)(1) into violations of the Hatch Act (5 U.S.C. §§ 7321-7326) by federal employees Jim Messina and Rahm Emanuel.

As widely reported in the media, White House chief of staff Rahm Emanuel and deputy chief of staff Jim Messina, on behalf of the Obama Administration, have both used their position and influence as highly placed federal employees to affect the outcome of federal elections in direct violation of the Hatch Act, which states that an employee may not “use his official authority or influence for the purpose of interfering with or affecting the result of an election.”¹

¹ See 5 U.S.C. § 7323(a)(1).

Such activities prohibited by the statute include, but are not limited to:

- (1) Using his or her official title while participating in political activity;
- [and] (2) Using his or her authority to coerce any person to participate in political activity”²

Political activity is defined as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”³

White House Deputy Chief of Staff Jim Messina

Colorado Senator Ken Salazar was nominated for and confirmed as U.S. Secretary of Interior. Because he was serving as a senator at the time of his appointment, Colorado Governor Bill Ritter, under Colorado law, appointed Michael Bennet to fill the seat. The next election for the seat previously occupied by Mr. Salazar will occur in November 2010. According to *The Colorado Independent*, on August 29, 2009, Mr. Romanoff was planning to challenge Senator Bennet in the 2010 Primary for the Senate seat.⁴

On September 11, 2009, White House deputy chief of staff Jim Messina spoke with Andrew Romanoff. According to *The Washington Post*, during the conversation, Mr. Messina suggested that Mr. Romanoff might better use his time at the U.S. Agency for International Development instead of seeking election to the U.S. Senate. Subsequent to the conversation, Mr. Messina emailed three executive branch positions to Mr. Romanoff. The positions were Deputy Assistant Administrator for Latin America and Caribbean, USIAD, Director, Office of Democracy and Governance, USAID, and Director, U.S. Trade and Development Agency, USTDA.⁵ In response to the email, *The Washington Post* reports that Mr. Romanoff left a voice mail message for Mr. Messina informing him that Mr. Romanoff would continue his Senate campaign. On September 17, 2009, Mr. Romanoff officially announced his candidacy for the U.S. Senate.⁶

² See 5 C.F.R. § 734.302(b).

³ See 5 C.F.R. § 734.101.

⁴ See Exhibit 1, Ernest Luning, “Pueblo politico confirms Romanoff plans to mount challenge to Bennet,” *The Colorado Independent*, August 29, 2009 <<http://coloradoindependent.com/36699/pueblo-politico-confirms-romanoff-plans-to-mount-challenge-to-bennet>> accessed June 15, 2010.

⁵ See Exhibit 2, September 11, 2009, e-mail from Jim Messina to Andrew Romanoff (“Romanoff Admits White House Job Discussions,” cbs4denver.com, June 2, 2010 <<http://cbs4denver.com/local/romanoff.state.department.2.1729488.html>> accessed June 15, 2010).

White House Chief of Staff Rahm Emanuel

On May 27, 2009, U.S. House of Representatives member Joe Sestak told CNN that he intended to challenge Senator Arlen Specter in the Pennsylvania democratic primary in 2010. According to Robert F. Bauer, White House Counsel, "efforts were made in June and July of 2009 to determine whether Congressman Sestak would be interested in service on a Presidential or other Senior Executive Branch Advisory Board, which would avoid a divisive Senate primary."⁷

Moreover, "White House Chief of Staff [Rahm Emanuel] enlisted the Support of former President Clinton" to raise the executive branch positions with Congressman Sestak. After saying that he was not interested in such positions, on August 4, 2010, Mr. Sestak officially announced his candidacy for the U.S. Senate.⁸

Both Mr. Messina and Mr. Emanuel violated the Hatch Act. Both used their official authority for the purpose of affecting the result of an election. Mr. Messina used his position as White House deputy chief of staff to offer three positions to Mr. Romanoff in exchange for Mr. Romanoff not seeking election to the U.S. Senate. Such action was directed toward the success of Senator Bennet, who was a candidate for partisan political office. Similarly, Mr. Emanuel used his position as White House chief of staff to offer, through former President Clinton, executive agency positions to Congressman Sestak in exchange for Congressman Sestak not seeking election to the U.S. Senate. Such action was directed toward the success of Senator Specter, who was a candidate for partisan political office.

The Office of Special Counsel is specifically authorized to investigate and charge employees of the federal government for violations of the Hatch Act. If an employee is found to have violated the Hatch Act, the employee shall be removed from his position.⁹

Accordingly, we request an investigation into violations of the Hatch Act by Messrs. Messina and Emanuel as alleged herein.

⁶ See Exhibit 3, Philip Elliott, "Senate candidate says White House discussed 3 jobs," *The Washington Post*, June 3, 2010 <<http://www.washingtonpost.com/wp-dyn/content/article/2010/06/02/AR2010060203585.html>> accessed June 15, 2010.

⁷ See Exhibit 4, Alan Silverleib, "White House admits effort to keep Sestak out of Senate race," CNN.com, May 28, 2010 <<http://www.cnn.com/2010/POLITICS/05/28/sestak.obama.senate/index.html>> accessed June 15, 2010.

⁸ *Id.*

⁹ 5 U.S.C. § 7326.

William E. Reukauf, Esq.

June 15, 2010

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Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas Fitton', with a stylized, cursive script.

Thomas Fitton
President

Enclosures

By: Fax (w/o Exhibits) and Mail

Exhibit 1



- [Suthers to file contempt motion against Doug Bruce, 'Mr X'](#)
- [Kuhner and Ackerman on Obama and Bush bad language](#)
- [Making Muslims justify their Americanness](#)

Pueblo politico confirms Romanoff plans to mount challenge to Bennet

By [Ernest Luning](#) 8/29/09 2:05 AM



It's not just unnamed sources suggesting former Colorado House Speaker Andrew Romanoff intends to challenge incumbent U.S. Sen. Michael Bennet in a Democratic primary next year. The Denver Post, which first reported Romanoff's plans Friday night, quotes Pueblo-based political consultant [Wally Stealey confirming that Romanoff is running](#), in a lengthier story posted on its website just after midnight.

Wally Stealey, a longtime lobbyist and political mover in Pueblo, said Romanoff called him Friday morning to tell him he had decided to run.

"If I'd have had my choice, I'd have him running against Ritter," Stealey said. "But I didn't get my choice. That doesn't matter. You don't always get your choice in politics."

The Post's Michael Riley and Christopher Osher report that Romanoff's supporters had urged the 43-year-old Denver Democrat to challenge Democratic Gov. Bill Ritter in a primary, building on discontent with the first-term governor's veto of two bills backed by organized labor. But, according to sources the Post didn't identify in its first report, [Romanoff has decided instead to take on Bennet](#), whose controversial appointment by Ritter in January surprised political observers and angered supporters of more high-profile state Democrats, including Romanoff.

Stealey said Bennet's early fundraising advantage — mostly raised from out-of-state donors — could disappear once Romanoff tapped disgruntled Democrats and labor groups, described as "eager to funnel money toward a primary challenge."

Stealey said early feelers that he has made suggest there is "\$1.5 million out there that's real early money" that Romanoff will pick up.

Bennet, who had never run for elective office before winning the Senate appointment from Ritter, vastly outpaced potential Republican rivals with strong fundraising during the first two quarters of this year, raking in more than \$2.6 million.

Among announced GOP candidates, Weld County District Attorney Ken Buck, who is [reportedly dropping from the race early next week](#), raised \$330,000, followed by Aurora City Councilman Ryan Frazier, who took in \$140,000 through June.

Buck's withdrawal could come just a week after [reports former Lt. Gov. Jane Norton plans to enter the race for](#)

the Republican nomination with the backing of National Republican Senatorial Committee officials.

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Lately, professionals selected by vote for the most attractive women. According to the result published on the U.S. media, Michelle Obama ranked first. [links of london](#) Nothing deserves your wondering why such sweeties like Angelina Jolie and Gisele Bundchen are left behind. [links of london](#) It can't be simpler. What do you think will happen if such women appear in the office? [links of london](#) Maybe Michelle Obama has no advantages in figure and appearance, but her taste on fashion and ability on costume and jewelry deserve the admiration of all people. [links of london](#) With a view to her age, figure, status, and taste, it goes without saying that she is an ideal model for women in the middle class throughout the world. [links of london](#) On the other hand, these professional women in high positions also find a valuable cufflinks icon finally. [links of london](#) It is well acknowledged that Michelle Obama has a special affection toward pearls. Besides, she tries to stack up her jewels by wearing Cartier upon links of london, winning a

Exhibit 2

From: **Messina, Jim** (*e-mail address redacted*)
Date: Fri, Sep 11, 2009 at 3:24 PM
Subject:
To: **Romanoff, Andrew** (*e-mail address redacted*)

Deputy Assistant Administrator for Latin America and Caribbean, USAID

As one of five geographic bureaus in the Agency and as a major contributor to the broader U.S. foreign policy objectives in the region, the Bureau for Latin America and Caribbean (LAC) promotes stable democracies, prosperous economies, secure borders, and cooperative neighbors in the Western Hemisphere. The LAC Bureau is taking a proactive approach to maximizing the impact of foreign assistance and continuing its efforts to transform and improve business operations that support Agency-wide reforms. In line with the new Foreign Assistance Framework, priorities include consolidating democracy, fostering growth through free trade and business opportunities, investing in people through education and health, and enhancing security by promoting alternatives to illegal drug cultivation. Additionally, the Bureau is implementing a number of highly visible programs in the Western Hemisphere, including support for the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA); the Andean Counter-Narcotics Initiative; the Global Fund to Fight Aids, Tuberculosis, and Malaria; and the recommendations for the Presidential commission for Assistance to a Free Cuba.

This position reports to the Assistant Administrator for Latin America and the Caribbean. The position functions as advisor to the Assistant Administrator, LAC. The position is responsible for oversight and general management of one or more LAC Bureau offices.

Director, Office of Democracy and Governance, USAID

The Director is the chief operations officer of the Office and a principal advisor to senior Bureau and USAID management in defining the scope and objectives of the Agency's and the Administration's initiatives to support democracy and foster good governance. Activities of the Director include oversight for all staffing and personnel functions in the Office, as well as oversight of technical officer recruitment, selection, and placement, and direct supervision of the senior democracy and governance advisors for the Agency. The Director provides program definition, design and oversight, and evaluation for USAID's democracy and good governance programs and serves as a senior advisor in the administration for developing democracy and good governance program strategies. The Director supports democracy and good governance programs in all parts of the Agency and leads in the development of strategic approaches to democracy support and good governance. The Director represents the Agency at the senior level with other U.S. Government departments and agencies, with senior officials of foreign governments, with senior political officials from host countries, and with senior officials of U.S. implementing organizations. This position reports to the Assistant Administrator for Democracy, Conflict and Human Rights (DCHA).

Director, U.S. Trade and Development Agency (USTDA)

USTDA was first created as part of USAID through the Foreign Assistance Act of 1961 and made independent in 1991. Their stated mission is to "advance economic development and U.S. commercial interests in developing and middle-income countries." Unlike Ex-Im, OPIC and other international development agencies, USTDA does not directly finance exports and development. Instead, the agency seeks to achieve its mission by making small grants to fund feasibility studies, reverse trade missions, conferences, trainings, and other technical assistance programs that link U.S. companies to overseas development projects. With a budget of \$55.2 million (FY 2010) and a staff of 78 professionals (48 full-time, 25 contractors and 5 foreign-service nationals), USTDA's success is dependent on being able to seek out new opportunities, leverage its private and government relationships, and find development opportunities for both private business and larger federal foreign assistance/development agencies. A testament of USTDA's success is its ratio of grant dollars spent versus dollars in exports created, which is nearly 1:35. This position requires Senate confirmation.

Exhibit 3

The Washington Post

Senate candidate says White House discussed 3 jobs

By PHILIP ELLIOTT

The Associated Press

Thursday, June 3, 2010; 12:08 AM

WASHINGTON -- One of President Barack Obama's top advisers suggested to a Colorado Democrat that he forgo a primary challenge to Sen. Michael Bennet and instead apply for one of three international development jobs.

The disclosure came just days after the White House admitted orchestrating a job offer in the Pennsylvania Senate race with the similar goal of avoiding a messy or divisive Democratic primary.

The back-room deals - former President Bill Clinton led the Pennsylvania effort and White House deputy chief of staff Jim Messina worked with former Colorado House Speaker Andrew Romanoff - called into question Obama's repeated promises to run an open government.

Romanoff said in a statement Wednesday night that he was contacted by Messina last fall and told that the White House would support Bennet in the primary. When he said he would seek the nomination anyway, Messina "suggested three positions that might be available to me were I not pursuing the Senate race," Romanoff said. "He added that he could not guarantee my appointment to any of these positions."

Romanoff added: "At no time was I promised a job, nor did I request Mr. Messina's assistance in obtaining one."

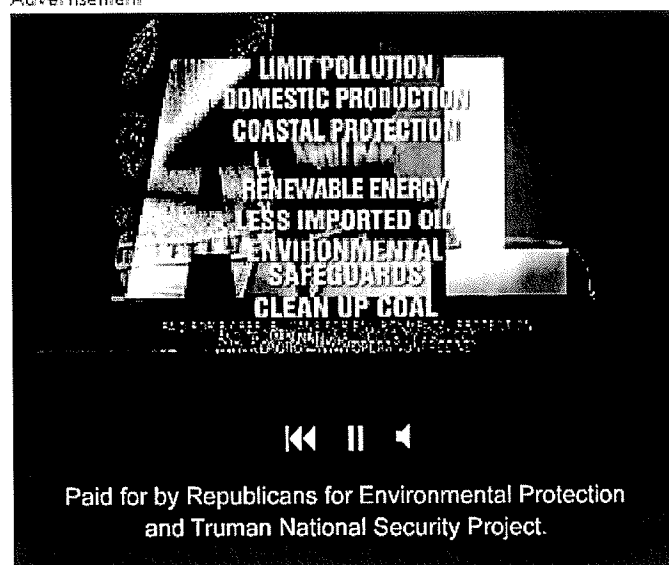
Earlier Wednesday, a White House official insisted nothing inappropriate or illegal took place but didn't provide the details Romanoff offered in his statement and a copy of an e-mail he had received from Messina.

"Mr. Romanoff was recommended to the White House from Democrats in Colorado for a position in the administration," White House deputy press secretary Bill Burton said. "There were some initial conversations with him, but no job was ever offered."

Yet even the appearance of trading taxpayer-funded jobs to ease an ally's political path left questions for an administration that was the most transparent in history.

Messina, a tough-minded veteran of Senate politics and one of the president's best fixers, spoke with Romanoff on Sept. 11, 2009, and suggested that Romanoff might better use his time at the U.S. Agency for International Development.

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Messina sent Romanoff job descriptions for three positions: an administrator for Latin America and Caribbean; the chief of the Office of Democracy and Governance; and the director of the U.S. Trade and Development Agency.

Romanoff said he later left a message on Messina's voice mail saying he would continue his Senate campaign.

The Colorado episode follows a similar controversy in Pennsylvania. An embarrassed White House admitted last Friday that it turned to Clinton last year to approach Rep. Joe Sestak about backing out of the primary in favor of an unpaid position on a federal advisory board.

Sestak declined the offer and defeated Sen. Arlen Specter late last month for the Democratic nomination after disclosing the job discussions. His supporters highlighted it as evidence of Sestak's antiestablishment political credentials. He said last week he rejected Clinton's feeler in less than a minute.

In a two-page report on the Sestak case, the White House counsel said the administration did nothing illegal or unethical.

Republicans have strongly criticized the offer to Sestak and challenged the White House's ethics.

"Just how deep does the Obama White House's effort to invoke Chicago-style politics for the purpose of manipulating elections really go?" said Rep. Darrell Issa, a California Republican who unsuccessfully sought a Justice Department investigation into Sestak and showed no sign of slowing.

"Clearly, Joe Sestak and Andrew Romanoff aren't isolated incidents and are indicative of a culture that embraces the politics-as-usual mentality that the American people are sick and tired of. Whatever the Obama brand use to stand for has been irrevocably shattered by the activities going on inside Barack Obama's White House," Issa said.

Unlike Sestak, Romanoff had ducked questions on the subject until issuing his statement Wednesday night. Also unlike Sestak, Romanoff was out of office and looking for his next act after being forced from his job because of term limits.

Romanoff had sought appointment to the Senate seat that eventually went to Bennet, publicly griped he had been passed over and then discussed possible appointment possibilities inside the administration, one of the officials said.

After being passed over for the Senate appointment, the out-of-power Romanoff made little secret of shopping for a political job. Romanoff also applied to be Colorado secretary of state, a job that came open when Republican Mike Coffman was elected to Congress. Gov. Bill Ritter again appointed a replacement, and again passed over Romanoff.

Next, according to several Colorado Democrats speaking on condition of anonymity to discuss internal negotiations, Romanoff also approached Ritter about being Ritter's running mate for Ritter's re-election bid. It was only after that attempt failed, the Colorado Democrats said, that Romanoff joined the Senate contest.

Romanoff still wasn't settled on the Senate race. When Ritter announced in January that he wouldn't seek a second term after all, Romanoff publicly talked about leaving the Senate race to seek the governor's office, though he ended up staying in the Senate contest.

Bennet has outpaced Romanoff in fundraising and support from Washington, although party activists attending the state party assembly last month favored the challenger by a margin of 60 percent to 40 percent. The primary is Aug. 10.

Bennet was appointed by Ritter to fill out the final two years of the term of Ken Salazar, who resigned to become interior secretary.

Associated Press writers Kristen Wyatt and Ivan Moreno in Denver contributed to this report.

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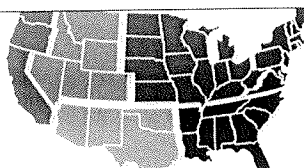
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Exhibit 4

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White House admits effort to keep Sestak out of Senate race

By Alan Silverleib, CNN

STORY HIGHLIGHTS

- **NEW:** Sestak says Clinton spoke to him only once, insists nothing improper occurred
- Sestak confirms White House attempt to keep him out of Senate race
- A White House memo says Bill Clinton tried to persuade Sestak not to run for senator
- The White House insists no laws were broken, but GOP asks for an FBI investigation

Washington (CNN) -- White House Chief of Staff Rahm Emanuel used former President Bill Clinton as an intermediary last year as part of a failed administration effort to dissuade Pennsylvania Rep. Joe Sestak from running for the U.S. Senate, according to a publicly released memorandum from the White House legal counsel's office.

Top White House lawyer Robert Bauer conceded that "options for Executive Branch service were raised" for Sestak, but insisted that administration officials did not act improperly. He characterized the attempt to influence Pennsylvania's Democratic Senate primary -- ultimately won by Sestak -- as no different from political maneuvers by past administrations from both political parties.

Key Republicans disagreed with Bauer's assessment. Several House GOP members sent a letter to the FBI Friday asking for an investigation.

The White House was instrumental in last year's switch by Pennsylvania Sen. Arlen Specter from the GOP to the Democratic Party. President Barack Obama backed Specter in his bid for a sixth term in the Senate, and the administration was eager to clear the field of any primary opponents.

Bauer stated in the memo that efforts "were made in June and July of 2009 to determine whether Congressman Sestak would be interested in service on a presidential or other Senior Executive Branch Advisory Board, which would avoid a divisive Senate primary, allow him to retain his seat in the House, and provide him with an opportunity for additional service to the public in a high-level advisory capacity."

Sestak would not have been paid for any advisory work, Bauer insisted.

Emanuel "enlisted the support of former President Clinton who agreed to raise with ... Sestak options of service," Bauer said. Sestak declined the suggested options, he said.

"Last summer, I received a phone call from President Clinton," Sestak confirmed Friday in a written statement. "During the course of the conversation, he expressed concern over my prospects if I were to enter the Democratic primary for U.S. Senate. ... He said that White House Chief of Staff Rahm Emanuel had spoken with him about my being on a presidential board while remaining in the House of Representatives. I said no."

Bauer said that the White House, contrary to one widely circulated rumor, did not offer Sestak the position of secretary of the Navy. He noted Obama nominated Ray Mabus for the position on March 26, 2009, more than a month before Specter switched to the Democratic Party.

Bauer insisted there was no impropriety in the White House's efforts.

"The Democratic Party leadership had a legitimate interest in averting a divisive primary fight and a similarly legitimate concern about the congressman vacating his seat in the House," he wrote. The White House's attempt to keep Sestak out of the Senate race was "fully consistent with the relevant law and ethical requirements."

California GOP Rep. Darrell Issa, who has pushed for the appointment of a special prosecutor to examine the incident, vehemently disagreed with Bauer's conclusions.

The White House "has admitted to a misdemeanor ... and co-opted President Clinton" in it, Issa insisted. "Is Rahm Emanuel going to stay if in fact he violated the law?"

Clinton "of all people would be held to a standard of knowing exactly where the line is," Issa said. "If he crossed it, he crossed it knowingly."

Issa said that it is "not the job offer [but] the quid pro quo. ... It's the 'I will give you this job to clear a primary.' "

Issa joined several other House Republicans in urging the FBI to investigate allegations of bribery.

"Assurances by the Obama White House that no laws were broken are like the Nixon White House promising it did nothing illegal in connection with Watergate. Clearly, an independent investigation is necessary to determine once and for all what really happened," they wrote in a letter to FBI Director Robert Mueller.

Sestak, a former Navy admiral and two-term Philadelphia-area congressman, dismissed the GOP's allegations of wrongdoing, telling reporters that if he had thought something was wrong, he would have reported it.

"Washington, D.C., is often about political deals," Sestak said. He insisted that Clinton spoke to him only once about the proposal.

Obama said Thursday that he can "assure the public that nothing improper took place." The president, however, refused to give any more details, even as some Democrats have demanded the White House be more forthcoming about the matter.

Since Sestak's May 18 primary victory, Republicans have been relentless in keeping the controversy in the news. On Wednesday, all seven Republican members of the Senate Judiciary Committee called for a special prosecutor to look into the matter.

One of the unpaid positions that the White House suggested offering Sestak was an appointment to the president's Intelligence Advisory Board, which gives the president independent oversight and advice. But it was determined that Sestak could not serve on the board, since he was an active a member of Congress.

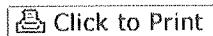
It appears that Emanuel picked Clinton as a go-between with Sestak because of the former president's stature as an elder statesman and prominent figure in the Democratic Party, and because Sestak worked on the National Security Council during Clinton's years in the White House. Sestak backed former first lady and then-Sen. Hillary Clinton in the 2008 Democratic presidential primaries.

According to a source at the State Department, Emanuel remains on a trip to Israel and is not expected to be back in the country until Monday.

CNN's Dana Bash, John King, Suzanne Malveaux and Deirdre Walsh contributed to this report.

Find this article at:

<http://www.cnn.com/2010/POLITICS/05/28/sestak.obama.senate/index.html>



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