U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

MSPB Orders Removal of Employee for Hatch Act Violations

FOR IMMEDIATE RELEASE **CONTACT: Nick Schwellenbach, (202) 254-3631; nschwellenbach@osc.gov**

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In response to a U.S. Office of Special Counsel (OSC) complaint, yesterday, an administrative law judge with the Merit Systems Protection Board (MSPB) ordered the removal of an Army Corps of Engineers employee from federal service for violating the Hatch Act. The employee, James Murry, ran as an independent candidate in a partisan election for sheriff in Jefferson County, Arkansas, and also hosted a campaign fundraiser. The Hatch Act generally prohibits federal employees from being candidates in partisan elections – even as independent candidates – and from knowingly soliciting, accepting, or receiving political contributions at any time.

OSC filed its complaint for disciplinary action with the MSPB in October 2014 after providing Mr. Murry several warnings that he could not legally remain a federal employee while being a candidate in a partisan election. The Army Corps of Engineers also advised Mr. Murry that he was covered by the Hatch Act and regularly circulated notices about the Hatch Act among its employees. According to the administrative law judge's order, Mr. Murry "adamantly continued his campaign for partisan political office despite being advised of the prohibitions of the Hatch Act on multiple occasions [which] may be considered as an aggravating factor regarding the seriousness of the offense."

In another significant Hatch Act enforcement case, OSC found that a GS-15 employee with the Federal Emergency Management Agency hosted a political fundraiser for a U.S. Senate candidate (who did not win her party's nomination in 2012) and invited others to attend or make contributions to the campaign. The candidate attended the fundraiser and the employee introduced her. He also forwarded fundraising invitations – sometimes while he was at work – for a state senate candidate and a state attorney general candidate. While at work, the employee also recruited political campaign volunteers, planned political events, and posted several political messages to a party committee's Facebook page. The Hatch Act generally allows most federal employees to participate in partisan political campaigns as long as they do so while not on duty or in the workplace. Despite receiving general information about the Hatch Act from the agency and a specific warning from his supervisor to stop his prohibited activities, the employee continued to solicit contributions and engage in political activity while on duty. The employee admitted to OSC that he violated the Hatch Act's prohibitions. As a penalty for his violations, he agreed to accept a 112-day suspension without pay.

"These cases should remind federal employees that the Hatch Act restricts their political activities, particularly while at the workplace and with regard to running for office. When put on notice that they may be in violation of the law, employees should cease their unlawful activities," said Special Counsel Carolyn Lerner.

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The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at www.osc.gov.