



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

U.S. OFFICE OF SPECIAL COUNSEL WINS DISCIPLINARY RULING IN HATCH ACT CASE

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CONTACT: LOREN SMITH, 202-254-3714, lsmith@osc.gov

In Pennsylvania, a Navy Department employee has been recommended to be suspended without pay for 60 days for violating the Hatch Act, the law that prohibits engaging in political activity while on duty or in a federal building.

On December 27, 2005, an administrative law judge (ALJ) for the Merit Systems Protection Board (Board) granted OSC's petition for disciplinary action against Rocky Morrill, a civilian employee at the Naval Inventory Control Point in Mechanicsburg. At issue is Morrill's use of his official email account to advance the reelection campaign of a Congressional candidate.

In a 26-page recommended decision, ALJ Robert A. Giannasi found that, while on duty and in a federal building, Morrill, at the time president of an American Federation of Government Employees (AFGE) local, sent an e-mail with an attached announcement for a "Halloween party for Tim Holden," a U.S. Representative seeking reelection. Morrill sent the e-mail to more than 300 coworkers and other individuals. Giannasi, in finding that this message described the candidate in highly favorable terms and strongly encouraged attendance at the event, concluded that the text and the attachment of Morrill's e-mail "obviously were directed toward the success of Mr. Holden's reelection campaign."

Giannasi further noted that Morrill was warned at least twice by his employing agency that his previous communications to union members on political matters violated the Hatch Act. Giannasi concluded that Morrill was on notice that the Act prohibited employees from engaging in political activity while on duty and that Morrill either failed to seek clarification on these warnings or ignored any advice he may have been given. In recommending a penalty less than removal, the judge found mitigating the fact that Morrill's violation consisted of a single action taken at the request of the parent organization of his union and the fact that Morrill no longer holds the union office he held at the time of the violation, which makes it seem unlikely that he will commit a similar violation in the future.

Because a penalty has been recommended other than removal, the presumptive penalty for a violation of the Hatch Act, members of the Board will now consider this case. Unless the Board finds by unanimous vote that the violation does not warrant removal, removal will be ordered.

Special Counsel Scott J. Bloch stated, "Despite changes in technology, particularly the rise of the internet, it remains the law that government resources must not be used for political activities. The Hatch

Act remains an important principle our office is dedicated to enforcing.”

The U.S. Office of Special Counsel is an independent investigative and prosecutorial agency. Among other functions, it investigates and prosecutes complaints alleging violations of the Hatch Act and provides advisory opinions regarding the Act's requirements. For more information about OSC, please visit our web site at www.osc.gov or call 1-800-872-9855.