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March 10, 2010

The Honorable Robert Bauer
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Bauer:

I write to request additional information about Rep. Joe Sestak's admission that the White House tried to secure his withdrawal from Pennsylvania's Democratic Primary for the United States Senate. On February 18, 2010, Rep. Joe Sestak acknowledged that the White House offered him a high ranking federal job – believed to be Secretary of the Navy – in exchange for bowing out of the Senate race.

While the White House may think this is politics as usual, what is spectacularly unusual is when a candidate – a U.S. Congressman no less – freely acknowledges such a proposal. Almost always candidates keep quiet about such deals, and for good reason – they are against the law.¹

As you know, Rep. Sestak is currently challenging party-switching Republican turned Democratic Senator Arlen Specter. Sen. Specter left the Republican party last April when it became obvious he could not earn the party's 2010 nomination.²

According to the *Philadelphia Inquirer*, Rep. Sestak made the disclosure that the White House offered him a high ranking federal job in exchange for his commitment to leave the Senate race. Rep. Sestak's disclosure came during an interview with veteran Philadelphia newsman Larry Kane during a taping of a news show for the Comcast Network. According to the *Inquirer*:

Rep. Joe Sestak (D., Pa.) said yesterday that the White House offered him a federal job in an effort to dissuade him from challenging Sen. Arlen Specter in the state's Democratic primary.

* * *

¹ See 18 U.S.C. §§ 211, 595, and 600.

² Martin Kady II and John Bresnahan, *Specter: I'm Not an Automatic 60th Vote*, POLITICO, April 28, 2009.

Sestak would not elaborate on the circumstances and seemed chagrined after blurting out 'yes' to veteran news anchor Kane's direct question.

'Was it secretary of the Navy?' Kane asked.

'No comment,' Sestak said.

'Was it [the job] high-ranking?' Kane asked. Sestak said yes, but added that he would 'never leave' the Senate race for a deal.

* * *

Sestak said he recalled the White House offer coming in July, as he was preparing to formally announce his Senate candidacy in August.

* * *

'I'm not going to say who or how and what was offered,' Sestak said in an interview. 'I don't feel it's appropriate to go beyond what I said,' because the conversation was confidential.

* * *

'He asked me the question, and I had to answer it honestly,' Sestak said of his exchange with Kane.

* * *

Still, Sestak's account was startling.

'Clearly, the offers are made,' said Ross Baker, a Rutgers University political science professor who specializes in Congress. 'When a White House wants to preempt a challenge, they'll dangle something. But it is almost never uttered.'

In addition, Baker said, conversations in such cases are nuanced, and savvy operators know not to use explicit quid pro quo language.

He said he could not, off hand, think of another instance in which a candidate has divulged an approach from White House officials.³

Rep. Sestak's account is startling because it is an open admission that Chicago-style political tactics are used by this White House.

On March 4, 2010, former Justice Department official Hans A. von Spakovsky wrote for the *National Review* that such an arrangement may violate three specific sections of Title 18 – the federal criminal code.⁴ Specifically von Spakovsky cited section 211, which proscribes bribery; section 595 which prohibits interference by government employees into nominations or elections of candidates for office; and section 600 dealing with corrupt government officials who use federal jobs for political purpose.

The full text of the criminal and penal code sections are as follows:

18 U.S.C. § 211 – Acceptance or solicitation to obtain appointive public office

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, **in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined under this title or imprisoned** not more than one year, or both.

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment **shall be fined under this title, or imprisoned not more than one year, or both.** This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States.⁵

18 U.S.C. § 595 – Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or

³ Thomas Fitzgerald, *Sestak Says Federal Job Was Offered to Quit Race*, PHILA. INQUIRER, Feb. 19, 2010.

⁴ Hans A. von Spakovsky, *Interference!*, NATIONAL REVIEW ONLINE, The Corner, Mar. 4, 2010.

⁵ 18 U.S.C. § 211 (emphasis supplied).

agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, **uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office** of President, Vice President, Presidential elector, **Member of the Senate**, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, **shall be fined under this title or imprisoned not more than one year, or both.**

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.⁶

18 U.S.C. § 600 – Promise of employment or other benefit for political activity

Whoever, directly or indirectly, **promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office**, or in connection with any primary election or political convention or caucus held to select candidates for any political office, **shall be fined under this title or imprisoned not more than one year, or both.**⁷

I have some straightforward questions about this matter:

1. At any time, did White House Chief of Staff Rahm Emanuel have communications with Rep. Sestak about the 2010 race for the United States Senate? Identify the communications.

⁶ 18 U.S.C. § 595 (emphasis supplied).

⁷ 18 U.S.C. § 600 (emphasis supplied).

2. At any time, did White House Deputy Chief of Staff Jim Messina have communications with Rep. Sestak about the 2010 race for the United States Senate? Identify the communications.
3. At any time, did any official within the White House Office of Political Affairs have communications with Rep. Sestak about the 2010 race for the United States Senate? Identify the political officials and the communications.
4. Identify any other individuals at the White House that had communications with Rep. Sestak about his bid for the United States Senate. For each individual, identify the communications.
5. What position(s) was (were) Rep. Sestak offered in exchange for his commitment to leave the Senate race?
6. Following Rep. Sestak's disclosure that he was offered a position in the President's Administration in exchange for bowing out of the 2010 race for the United States Senate, what, if any, investigation did your office undertake to determine whether the criminal activity described by Rep. Sestak occurred?
7. Do you expect to make a referral to the United States Department of Justice in this matter? When should we expect this referral?

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X.

We look forward to your response by March 18, 2010. You may contact the Committee staff at (202) 225-5074 if you have any questions about this request. Thank you for your attention to this important matter.

Sincerely,



Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman