

**EXHIBIT C**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

MATTHEW DUNLAP,

Plaintiff,

v.

PRESIDENTIAL ADVISORY  
COMMISSION ON ELECTION  
INTEGRITY *et al.*,

Defendants.

Civil Docket No. 17-cv-2361 (CKK)

**DECLARATION OF ANDREW J. KOSSACK**

I, Andrew J. Kossack, declare as follows:

I am the Designated Federal Officer tasked to support the Presidential Advisory Commission on Election Integrity (“Commission”). My duties include providing administrative and staff support to the Commission and its members, approving or calling meetings of the Commission, attending meetings, and related responsibilities. I submit this declaration in support of Defendants’ opposition to plaintiff’s motion for a preliminary injunction. This declaration is based on my personal knowledge and upon information provided to me in my official capacity as Commission’s Designated Federal Officer responsible for the administration of the Commission.

1. There are currently eleven members of the Commission, including the plaintiff, Secretary Matthew Dunlap. Former Commissioner David Dunn passed away in October of this year.

2. On June 26, 2017, I sent an electronic communication to each of the members appointed to the Commission at that time<sup>1</sup> entitled “Welcome; Initial Organizational Call.” The purpose of the communication was to welcome the members to the Commission, introduce myself, and schedule a conference call to discuss preliminary, organizational matters in preparation for the Commission’s first meeting. Secretary Dunlap received this email. This email is currently posted on the Commission’s website. I also sent out several reminder emails and planners in advance of the call to all of the Commission members, including Secretary Dunlap. These materials are referenced at Entries No. 131-135 in the *Vaughn*-type index filed in *Lawyers’ Committee for Civil Rights Under Law v. Presidential Advisory Commission on Election Integrity*, No. 17-cv-1354 (CKK), Document Index, ECF No. 33-3 [hereinafter “Document Index”]

3. On June 28, 2017, I convened an organizational conference call with the Commission members who were appointed at that time, including Secretary Dunlap. The agenda for this conference call is currently posted on the Commission’s website. During the call, Vice Chair Kris Kobach described information requests that he planned to send to state election officials. Commission staff assisted in the drafting of such requests, which Vice Chair Kobach clarified would come from him in his capacity as Vice Chair rather than from the full Commission. Vice Chair Kobach invited members to provide their feedback on the requests, and the members discussed it, including Secretary Dunlap. Based on feedback from members, staff modified the letter and then sent the letter to all Commission members prior to sending it to state election officials.

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<sup>1</sup> At the time, Alan King, Hans von Spakovsky, and J. Christian Adams were not yet appointed to the Commission and did not participate in the call. The President appointed Commissioners King, von Spakovsky, and Adams on July 11, 2017.

4. The Commission held its first meeting on July 19, 2017. For this meeting, all of the Commission members, including Secretary Dunlap, received a copy of the agenda on July 14. *See* Document Index Entry No. 140. They also received an email containing the draft by-laws and a revised agenda on July 18. *See id.* at 143. Furthermore, as discussed in my second declaration filed in *Lawyers' Committee for Civil Rights Under Law v. Presidential Advisory Commission on Election Integrity*, No. 17-cv-1354 (CKK), ECF No. 23-1 [hereinafter "Second Kossack Declaration"], several Commission members introduced and distributed documents at the July 19 meeting that were not provided to the other Commission members in advance of the meeting. Second Kossack Decl. ¶¶ 3, 6-7. These materials were shared with all Commission members, including Secretary Dunlap, at the same time.

5. At the July 19 meeting, the Commission adopted the proposed by-laws and operating procedures that had been shared with them in advance of the meeting. This motion passed by unanimous voice vote. *See* Minutes for Meeting of July 19, 2017, <https://www.whitehouse.gov/sites/whitehouse.gov/files/documents/Minutes%20for%20July%2019%2C%202017%20Public%20Meeting.pdf> [hereinafter "July 19 Minutes"].

6. Section IV(C) of these by-laws provides that: "The Chair, or at the Chair's direction, the Vice Chair, shall establish the agenda for all Commission meetings. The [Designated Federal Officer] will prepare and distribute the agenda to the Members before each meeting and will make available copies of the agenda to members of the public. Items for the agenda may be submitted to the Chair by any Member." Section V(A) of the by-laws provides that "[a]ny Member, including the Chair, may make a motion for a vote." Section X further provides that amendments to the by-laws must be agreed to by two-thirds of the Members. A copy of these by-laws is available on the Commission's website.

7. The topics for the September 12 meeting were a reflection of the Commission's discussion at its July 19 public meeting regarding future topics for the Commission to address. The July 19 meeting dedicated a portion of that meeting for all members, including Secretary Dunlap, to provide input into topics for future Commission meetings. At the conclusion of that discussion, Vice Chair Kobach asked the members whether there were any objections to staff grouping the suggested issues into related topics that could be covered in depth at future meetings. No member objected. *See* July 19 Minutes at 8.

8. During that discussion at July 19 meeting, Secretary Dunlap suggested that the Commission study chains of custody with respect to ballots, as well as election administrators' cybersecurity needs. *See* July 19 Minutes at 5, 7. Secretary Dunlap's suggestions were adopted, and these issues were discussed during the third panel of the September 12 meeting, which was entitled "Electronic Voting Systems and Election Integrity – A Primer." The full agenda for that meeting is posted on the Commission's website. In particular, Professor Andrew W. Appel gave a presentation entitled "Recording and counting votes in a trustworthy way." That presentation is posted on the Commission's website. At the July 19 meeting, Secretary Dunlap further expressed an interest in studying voter turnout. *See* July 19 Minutes at 8. That issue was the focus of the September 12 meeting's first panel, which was titled, "Historical Election Turnout Statistics and the Effect on Election Integrity Issues on Voter Confidence."

9. The September 12 meeting was held in Manchester, New Hampshire, at the suggestion of Democratic New Hampshire Secretary of State Bill Gardner. Vice Chair Kobach and Commission staff determined New Hampshire was an appropriate meeting location due to its status as the first state to vote in presidential primary elections, as well as Secretary Gardner's status as the longest-serving secretary of state in the nation. Secretary Gardner and Vice Chair

Kobach collaborated on a bipartisan agenda for the meeting. Secretary Gardner suggested five of the 10 panelists, arranged a voting machine demonstration by two New Hampshire local election officials, and invited former New Hampshire Governor John H. Sununu to make opening remarks.

10. I sent the Commission members, including Secretary Dunlap, an email containing a save-the-date for the September 12 meeting on August 18, 2017. *See* Document Index, Entry No. 150. On August 30, 2017, I sent the Commissioners an email attaching a letter from Vice Chair Kobach that specified the timeline for submitting any materials the members intended to discuss at the September 12 meeting. On September 1, 2017, I sent all Commission members, including Secretary Dunlap, another email with further guidance on the timeline for submitting documents for the meeting. In that email, I noted that I intended to share all meeting documents with the members by Friday, September 8, 2017, for their review prior to the September 12 meeting. I do not recall Secretary Dunlap ever expressing concerns about the timeline for submitting meeting documents or the timeline for making them available to him to review. I sent the Commission members the agenda for the September 12 meeting on September 5, 2017, *id.* at Entry No. 155, and another email with a revised agenda on September 6, 2017, *id.* at Entry No. 156. I also sent an email containing all of the materials for the September 12 meeting to the Commission members, including the presentations prepared by the presenters, on September 8, 2017. *Id.* at Entry No. 157 Several of the witnesses at the September 12 meeting were not able to submit materials to staff until September 8, the same day that staff shared the materials with members.

11. The week prior to the September 12 meeting, I called Secretary Dunlap and discussed the agenda and the list of presenters with him. I do not recall him raising any questions

or concerns about the meeting agenda or presenters at the time. During that conversation, I reminded him of the timeline for submitting documents for the September 12 meeting and invited him to send me any written materials he wanted to discuss at the meeting so that I could post such materials and ensure he had the ability to discuss them during the meeting. On September 7, in response to that discussion, Secretary Dunlap emailed me a document entitled “Bates in the News: Nov. 11, 2016 – Voter Suppression,” which I promptly posted to the Commission’s webpage so that it could be discussed at the September 12 meeting. *Id.* at Entry No. 53. I do not recall Secretary Dunlap making any other requests or suggestions regarding the September 12 meeting agenda or meeting materials.

12. With the exception of those topics referenced above, Secretary Dunlap has not submitted any agenda items pursuant to the by-laws. Nor has he called for a motion to amend the by-laws, or for any other sort of change.

13. I do not recall Secretary Dunlap making any request for documents or information prior to his letter of October 17, 2017. I also do not recall Secretary Dunlap expressing any concerns to me about how the Commission was communicating with him or developing its meeting agenda.

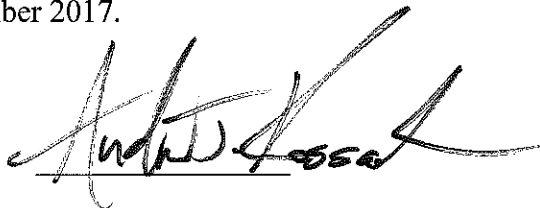
14. No meeting is currently scheduled, and there will be no meeting in December 2017.

15. Commission staff is currently engaged in administrative tasks, such as drafting minutes for the September 12 meeting, responding to litigation against the Commission, and posting materials as appropriate to the Commission’s website. No action or analysis is currently being taken with respect to the state data submitted to the Commission.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge

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Executed this 1st Day of December 2017.

A handwritten signature in black ink, appearing to read "Andrew J. Kossack", written over a horizontal line.

Andrew J. Kossack