

EXHIBIT A¹

¹ This Exhibit was originally filed in *Lawyers' Comm. for Civil Rights Under Law v. Presidential Advisory Comm'n on Election Integrity*, 17-cv-1354 (CKK) (D.D.C. July 13, 2017), ECF No. 15-1. It is refiled here for the convenience of the Court and the parties.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES UNION,

Plaintiff,

v.

DONALD TRUMP, *et al.*,

Defendants.

Civil Action No. 1:17-cv-1351 (CKK)

LAWYERS' COMMITTEE FOR CIVIL
RIGHTS UNDER LAW,

Plaintiff,

v.

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

Defendants.

Civil Action No. 1:17-cv-1354 (CKK)

DECLARATION OF ANDREW J. KOSSACK

I, Andrew J. Kossack, declare as follows:

I am the Executive Director and Designated Federal Officer for the Presidential Advisory Commission on Election Integrity ("Commission"), and a full time government employee in the Office of the Vice President. 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 Defendant's Opposition to plaintiffs' motions for a temporary restraining order and 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. The President established the Commission on May 11, 2017, pursuant to Executive Order 13799. The Commission is charged with studying the registration and voting processes used in federal elections and submitting a report to the President that identifies laws, rules, policies, activities, strategies, and practices that enhance or undermine Americans' confidence in the integrity of the federal election process. The Commission was established within the Executive Office of the President and is chaired by the Vice President. Committee members are appointed by the President, with membership limited to 15 members. There are currently 12 members appointed to the Commission, from federal, state, and local jurisdictions and both political parties. Those members are Vice President Mike Pence, Vice President of the United States, *Chair* (R); Secretary Kris Kobach, Secretary of State for Kansas, *Vice Chair* (R); Secretary Connie Lawson, Secretary of State of Indiana (R); Secretary Bill Gardner, Secretary of State of New Hampshire (D); Secretary Matt Dunlap, Secretary of State of Maine (D); Ken Blackwell, former Secretary of State of Ohio (R); Commissioner Christy McCormick, Election Assistance Commission (R); David Dunn, former Arkansas State Representative (D); Mark Rhodes, Wood County, West Virginia Clerk (D); Hans von Spakovsky, Senior Legal Fellow, Heritage Foundation (R); J. Christian Adams, Virginia (R); and Judge Alan Lamar King, Alabama (D). I do not anticipate any additional members will be appointed to the Commission.

2. The Commission is voluntarily complying with the provisions of the Federal Advisory Committee Act ("FACA"). The Commission's Charter – filed June 23, 2017 – cites to FACA and Executive Order 13799 as the Charter's legal authorities. The Commission has always intended to publish to a public webpage all documents which were made available to or

prepared for or by the Commission, in accordance with FACA. The webpage was published today, July 13, 2017, and is available at the following address:

www.whitehouse.gov/blog/2017/07/13/presidential-advisory-commission-election-integrity. The Commission is now in the process of uploading documents to this webpage for public viewing, including more than 30,000 public comments received within the last two weeks.

3. I received letters from the American Civil Liberties Union and the Lawyers' Committee for Civil Rights Under Law, dated July 5, 2017 and July 3, 2017, respectively. Both letters requested documents in advance of the July 19th meeting, and a response by July 14th. I had not responded to the letters prior to July 10, 2017, when plaintiffs moved for a temporary restraining order. As noted above, the Commission's plan was to post documents to a public webpage prior to its initial meeting.

4. On June 26, 2017, I sent an electronic communication to each of the members 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. I advised the members that the conversation would be limited to preparatory and administrative work, and would not address matters on which the Commission was charged with advice and recommendations. A copy of my June 26, 2017 communication is attached hereto as Exhibit A.

5. On June 28, 2017, at 11:30 am, I convened an organizational conference call with the Commission members. The Vice President, who is Chair of the Commission, reiterated President Trump's charge to the Commission to produce a set of recommendations to increase the American people's confidence in the integrity of our election systems. The agenda for the conference call is attached hereto at Exhibit B. After a few minutes of remarks welcoming the

Commission members and discussing the importance of the Commission's mission, the Vice President disconnected from the call and the other participants continued with the agenda. Thereafter, during the conference call, the Vice Chair informed the members of his intention to request information from the states, including general feedback from chief election officials regarding the Commission's mission and information from voter rolls that is otherwise publicly available under state law. The Vice Chair and staff described the request, but members were not given a copy of any requests in advance of the call and did not see the request until shortly before it was sent to states. The members discussed the proposed request for several minutes. The members did not vote on whether to send the request, nor did they vote on any other matter during the call. The request was modified in response to some of the members' comments. After the call, the Office of the Vice President issued a statement announcing that he had addressed the Commission members during an organization conference call, and that the Commission would hold its first meeting on July 19, 2017. The Vice President's statement is attached hereto at Exhibit C.

6. On July 5, 2017, notice of the July 19, 2017 meeting was published in the Federal Register. <https://www.federalregister.gov/documents/2017/07/05/2017-14210/the-presidential-commission-on-election-integrity-pcei-upcoming-public-advisory-meeting>. An earlier Federal Register Notice was delayed by the July 4th holiday, and the notice was therefore republished. The Federal Register notice announced that the meeting will consist of a ceremonial swearing in of Commission members, introductions and statements from members, a discussion of the Commission's charge and objectives, possible comments or presentations from invited experts, and a discussion of next steps and related matters.

7. The Federal Register further announced that the meeting would be open to the

public through livestreaming at <https://www.whitehouse.gov/live>. This is the same livestreaming system regularly used by the White House to stream White House press briefings, speeches by the President and Vice President, and other events with significant viewership. I am aware of no limitations on the number of viewers who can access the livestreaming site. Additionally, the video will be captured and posted on the Internet after the meeting for any member of the public who wishes to view it later.

8. Commission members plan to attend the July 19 meeting in person. Due to security protocols with the Vice President's attendance and the Eisenhower Executive Office Building, members of the general public will not be able to attend the July 19 meeting in person. However, as space permits, a number of accredited members of the White House press corps will be invited to attend in person. The Vice President's responsibilities and schedule are such that it is unlikely he will attend all of the meetings, and therefore, the Commission will be able to hold future meetings in different locations with easier access by the public. Public comments have been and will continue to be accepted in writing through the Commission's staff email account; there will not be oral comments from the public at this initial meeting. Given the large number of public comments received through the staff email account, the Commission may offer an alternative means of providing public comments in the future, such as through a public comment docket on Regulations.gov or another publicly-accessible forum. In future meetings, the Commission may provide the public with the opportunity to provide oral in addition to written comments.

9. The arrangements for public participation through livestreaming are consistent with the practices of other Presidential commissions. For example, the President's Commission on Combating Drug Addiction and the Opioid Crisis recently met in the same building and room,

and also utilized the same internet broadcasting system that the Commission will use for its July 19th meeting: <https://www.federalregister.gov/documents/2017/05/31/2017-11230/notification-of-a-public-meeting-of-the-presidents-commission-on-combating-drug-addiction-and-the>. In addition, the Obama Administration's election commission – the Presidential Commission on Election Administration (PCEA) – held a completely telephonic meeting on November 14, 2013, during which the public was able to listen in, but not permitted to offer oral comments. See, <https://www.federalregister.gov/documents/2013/10/30/2013-25817/the-presidential-commission-on-election-administration-pcea-upcoming-public-advisory-meeting>. In organizing the Commission's meeting, I endeavored to follow the practices of past presidential advisory committees and commissions while also balancing the need to ensure the Vice President's physical security.

10. Because the July 19th meeting is an initial meeting where the commissioners will introduce themselves and discuss the general direction for the Commission's work, there are few documents that pertain to the meeting. Nevertheless, the agenda, public comments received through the Commission's staff email account within a reasonable time in advance of the meeting, the attachments to this declaration, and other documents that are prepared for or by the Commission will be posted to the Commission's webpage prior to the meeting, and by July 14 if possible. The Commission has received more than 30,000 public comments in just the previous two weeks, and uploading such a significant number of comments to the public webpage will take significant staff time and information technology support services. However, the Commission will post all such documents publicly as soon as practicable. To the extent that any member of the public wishes to access physical copies of any document, the Commission will arrange to provide those physical documents publicly at the offices of the General Services

Administration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of July 2017.

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

Andrew J. Kossack

EXHIBIT A

From: Kossack, Andrew J. [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Welcome; Initial Organizational Call

Dear Members,

Congratulations for your appointment to the Presidential Advisory Commission on Election Integrity ("Commission"). We appreciate your leadership and look forward to working with you.

The General Services Administration filed the Commission's charter this past Friday, which officially establishes the Commission as a Presidential advisory committee and permits the Commission to commence its official duties under Executive Order 13799. As the Commission's Designated Federal Officer ("DFO"), I will support the Commission's work and its members with administrative needs and ensure the Commission complies with the Federal Advisory Committee Act ("FACA").

To update you, begin preparing for the Commission's first meeting, and answer any questions you have at this time, we would like to hold a conference call this Wednesday at 11:30 a.m. Eastern. Please let me know if you cannot participate in this call. I will send a calendar invitation with call-in information soon.

Please also hold July 19th on your calendars. This is the date we are tracking for the Commission's first meeting.

Please note that FACA requires public meetings and 15-day advance notices for "[a]ny gathering of advisory committee members (whether in person or through electronic means) held with the approval of an agency for the purpose of deliberating on the substantive matters upon which the advisory committee provides advice or recommendations." Thus, on this call the Commission may not "deliberat[e] on . . . substantive matters" such as what final recommendations the Commission might provide in its report. However, FACA allows discussion of the following without requiring an open meeting:

Preparatory work. Meetings of two or more advisory committee or subcommittee members convened solely to gather information, conduct research, or analyze relevant issues and facts in preparation for a meeting of the advisory committee, or to draft position papers for deliberation by the advisory committee; and

Administrative work. Meetings of two or more advisory committee or subcommittee members convened solely to discuss administrative matters of the advisory committee or to receive administrative information from a Federal officer or agency.

In other words, we may freely discuss administrative matters and issues related to meeting preparation on this call, but we must be careful not to engage in deliberation on substantive matters.

With that said, please let me know if you have any questions or items you want to discuss during this call. And if you have any other questions in the meantime, please do not hesitate to let me know.

Again, thank you for your service. We look forward to speaking with you this week.

Best regards,
Andrew

Andrew J. Kossack
Associate Counsel
Office of the Vice President

Cell: [REDACTED]

Email: [REDACTED]

EXHIBIT B



Presidential Advisory Commission on Election Integrity

Organizational Conference Call

June 28, 2017

11:30 a.m. ET

Call Agenda

1. Welcome Remarks – Chairman, Vice President Pence
2. Overview of Presidential Advisory Commission on Election Integrity – Vice Chairman, Secretary Kris Kobach; Mark Paoletta, Counsel to the Vice President
 - First Meeting – July
 - Location: Washington, D.C.
 - Agenda
 - Overview of Election Integrity Commission staff
 - Andrew Kossack
 - Ron Williams
 - Support from the General Services Administration
 - Future meetings
 - August, September/October, November/December, February
 - Information Requests
3. Financial disclosures – Matt Morgan
4. Questions from Members

EXHIBIT C

the WHITE HOUSE PRESIDENT DONALD J. TRUMP



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The White House

Office of the Vice President

For Immediate Release

June 28, 2017

Readout of the Vice President's Call with the Presidential Advisory Commission on Election Integrity

This morning, Vice President Mike Pence held an organizational call with members of the Presidential Advisory Commission on Election Integrity. The Vice President reiterated President Trump's charge to the commission with producing a set of recommendations to increase the American people's confidence in the integrity of our election systems.

"The integrity of the vote is a foundation of our democracy; this bipartisan commission will review ways to strengthen that integrity in order to protect and preserve the principle of one person, one vote," the Vice President told commission members today.

The commission set July 19 as its first meeting, which will take place in Washington, D.C.

Vice Chair of the Commission and Kansas Secretary of State Kris Kobach told members a letter will be sent today to the 50 states and District of Columbia on behalf of the Commission requesting publicly-available data from state voter rolls and feedback on how to improve election integrity.



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