

FOR IMMEDIATE RELEASE

October 3, 2022

Contact: Matt Garcia-Sierra, m.garciasierra@nmlegis.gov, 505.205.5486

NM House GOP Leader calls on State Rep. Small to return improper contributions that violate the Hatch Act

Santa Fe – NM State House Republican Leader Jim Townsend today called on State Representative Nathan Small (D-Las Cruces) to return any campaign contributions that may have been illegally raised in violation the federal Hatch Act. The U.S. House of Representatives' Committee on Oversight and Reform requested that the US Office of Special Counsel begin an investigation into potential violations of the Hatch Act by his wife, Xochitl Torres Small, former Congresswoman and current Under Secretary of Rural Development. Under Secretary Torres Small is accused of abusing her federal office to illegally raise campaign funds for Democrats, including her husband's campaign in southern New Mexico.

On September 30, 2022, U.S. Rep. James Comer issued a letter to the Office of Special Counsel requesting an immediate investigation into the illegal campaign contributions and efforts made by Torres Small as a federal appointee to the USDA. The letter issued by Rep. Comer outlines the concerns that have arisen due to Torres Small's involvement in the creation of and continued fundraising efforts for Shield PAC, whose mission is to "raise \$26 million" to defend Democrats. Torres Small has served as a paid consultant for Shield PAC.

"I trust that Rep. Nathan Small will do the right thing and transparently return illegally obtained funds in the interest of regaining the public's trust," said House Republican Leader Jim Townsend (R-Artesia). "Voter trust is so fragile at this moment, and I am hopeful that Rep. Small will expeditiously come clean to the public about his involvement in this potential illegal scheme."

The letter from NM House GOP Leader Townsend, and a copy of Rep. Comer's letter, is attached to this release.

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State of New Mexico
House of Representatives
State Capitol
Santa Fé

JAMES G. TOWNSEND
REPUBLICAN FLOOR LEADER
R – Chaves, Eddy & Otero
District 54

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October 3, 2022

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Water & Natural Resource
Designee:
Revenue Stabilization & Tax Policy
Legislative Finance

The Honorable Nathan P. Small
New Mexico House of Representatives
1320 Fourth Street
Las Cruces, New Mexico 88005

Dear Representative Small:

It has come to my attention via a letter from the U.S. House of Representatives' Committee on Oversight and Reform (copy attached) that you may have received illegally raised campaign funds in violation of the federal Hatch Act. It my further understanding the U.S. Office of Special Counsel has been requested to begin an investigation into potential violations by your wife of the Hatch Act. According to the letter from the Ranking Member of the Committee, there are serious concerns that as the Under Secretary of Rural Development within the U.S. Department of Agriculture, your wife continues to fundraise for Democrat candidates while she serves in the executive branch of the federal government.

While I assume these potential violations of the Hatch Act will be thoroughly investigated by the U.S. Office of Special Counsel immediately, such allegations are extremely serious as they undermine the fundamental principle and purpose of the Act which is to maintain a federal workforce that is free from partisan political influence or coercion. Therefore, I am writing to request that your reelection campaign announce publicly and as soon as possible that you are returning every dollar your campaign has collected as a result of your wife's potentially improper fundraising activities.

Returning all campaign contributions that were received from potential violations of the Hatch Act, I believe, is necessary to assure New Mexico voters that our state's election campaigns and related fundraising will be conducted properly and legally. Further, by sending back those potentially improperly gathered contributions also ensures that no candidate for public office will financially benefit from activities that could be violations of federal law.

I hope your reelection campaign will give my request your most serious consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Townsend". The signature is fluid and cursive, with the first name "James" being the most prominent.

James M. Townsend
Republican Leader

cc: Javier Martinez, House Majority Leader
Maggie Toulouse Oliver, New Mexico Secretary of State

Enclosure

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

September 30, 2022

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW
Suite 218
Washington, D.C. 20036-4505

Dear Mr. Kerner,

We are writing to request the Office of Special Counsel (OSC) begin an investigation into the U.S. Department of Agriculture (USDA) Under Secretary for Rural Development Xochitl Torres Small for potentially violating the Hatch Act. Committee Republicans are concerned Under Secretary Small continues to fundraise for Democrats while she serves as a political appointee in the USDA. Additionally, information obtained by Committee Republicans appears to show that she may be using her official position to raise money for her spouse, Nathan Small's, reelection campaign to the New Mexico House of Representatives.¹

The Hatch Act prohibits federal employees from engaging in certain types of political activities.² In particular, it prohibits federal employees from using their official authority or influence for the purpose of interfering with or affecting the results of an election.³ In the months before joining the USDA, Under Secretary Small helped found Shield PAC, a political action committee whose mission is to "raise \$26 million" to defend Democrats.⁴ According to her U.S. Office of Government Ethics (USOGE) financial disclosure,⁵ Under Secretary Small served as a paid consultant to this organization, this fact raises concerns about whether she continues to fundraise for national Democrat election campaigns while serving in the Biden Administration.

¹ Nathan P. Small is seeking reelection to the New Mexico House of Representatives to represent District 36.

² 5 U.S.C. § 7323.

³ *Id.*

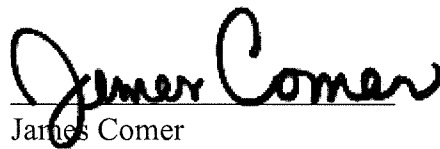
⁴ Russell Contreras, *Ousted Democrats start PAC to defend moderates in 2022*, AXIOS (Apr. 2, 2021).

⁵ U.S. Office of Gov't Ethics, *Xochitl Torres Small Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e)*, (July 1, 2021) (OMB No. 3209-0001).

Moreover, her spouse, State Representative Nathan Small promotes Under Secretary Small's USDA work on Twitter while she also apparently raises money for his reelection.⁶ Information obtained by Committee Republicans indicates she may be using her official position as Under Secretary to raise money for her husband's reelection campaign this fall. If true, this raises questions about whether Under Secretary Small is using her government position to benefit her spouse's political campaign and Democratic candidates for office.

We request OSC begin an investigation to determine whether Under Secretary Small violated the Hatch Act by continuing to raise money for Shield PAC and possibly advocating for her spouse's reelection campaign in her official capacity as an official at USDA. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Sincerely,



James Comer
Ranking Member
Committee on Oversight and Reform

cc: The Honorable Carolyn Maloney, Chairwoman
Committee on Oversight and Reform

Javier Martinez, Majority Leader
New Mexico House of Representatives

James Townsend, Minority Leader
New Mexico House of Representatives

⁶ See e.g., Tweet by U.S. Dep't Agric. Rural Development, Retweet by Nathan P. Small, @nathanLCNM (Nov. 9, 2021, 8:14 AM); Tweet by U.S. Dep't Agric. Rural Development, Retweet by Nathan P. Small, @nathanLCNM (Sep.15, 2022, 10:22 AM).