United States Department of State

Washington, D.C. 20520

UNCLASSIFIED

TO: Victoria Nuland
Under Secretary for Political Affairs

FROM: David P. Huitema
Alternate Designated Agency Ethics Official

DATE: July 20, 2021

SUBJECT: 5 C.F.R. § 2635.502(d) Determination and Partial Authorization

A. Determination Under 5 C.F.R. § 2635.502(d).

It is my understanding that your spouse is a contributing columnist for the Washington Post and that he will continue in that position during your appointment as Under Secretary for Political Affairs at the State Department.

In your capacity as Under Secretary for Political Affairs, it may be necessary for you to appear on a variety of news programs for the purpose of disseminating information on behalf of the Department of State. These appearances will involve interviews, meetings and appearances with numerous media outlets, including but not limited to the Washington Post. In this regard, it is important that decisions regarding potential media interviews and appearances be made solely in accordance with the U.S. Government's interests and that such decisions not be limited or constrained.

5 C.F.R. § 2635.502(a) & (b) state that an employee should not participate in a matter involving any "person for whom the employee's spouse…is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee" where the employee "determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality ... unless he has informed the agency designate of the appearance problem and received authorization from the agency

designee in accordance with paragraph (d) of this subsection." In your Ethics Agreement letter, you further committed that you would not participate in any particular matters involving specific parties in which you knew that the Washington Post is a party or represents a party unless you are first authorized to participate pursuant to 5 C.F.R. § 2635.502(d). Your Ethics Agreement letter previewed that you would seek an authorization to participate in media meetings, interviews and similar communications that involve the Washington Post.

Paragraph (d) states that:

"Where an employee's participation in a particular matter involving specific parties would not violate 18 U.S.C. 208(a), but would raise a question in the mind of a reasonable person about [her] impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations."

Based on the totality of the circumstances, I have determined that the interests of the Government in your ability to appear in your official capacity as Under Secretary of State on the programs of all media outlets, including those owned or operated by the Washington Post, outweighs the concern that a reasonable person with knowledge of the relevant facts may question your impartiality or the integrity of the Department's programs and operations. The following factors are persuasive in this regard:

- It would be beneficial for you to appear in a variety of media outlets without restriction in order to explain the foreign policy priorities of the administration to reach a broad and varied audience.
- This authorization is limited to meetings, interviews and other communications with employees of this entity for purpose of providing information about U.S. foreign policy or the Department of State. It does not authorize you to participate in matters relating to grants, contracts or other similar engagements with the entity.
- Your spouse is a contributing columnist with no reporting or managing role or responsibilities for the Washington Post. He would not be personally involved in any interview or appearance by you with the Washington Post or any media outlets owned by the Washington Post. Further, your spouse receives a fixed stipend from the Washington Post and his compensation is not tied to the company's financial performance. You do not have a direct or imputed financial interest in the Washington Post.

- Principles of federal ethics law restrict you from showing preference or favoritism toward the Washington Post and employees of the entity in the course of your official duties. You have indicated you plan to participate broadly with other similarly situated media organizations.

B. Partial Authorization to participate in to participate in media meetings, interviews and similar communications that involve the Washington Post.

You are hereby authorized under 5 C.F.R. § 2635.502(d) to participate in media meetings, interviews and similar communications that involve the Washington Post.

(b)(6)

David P. Huitema
Alternate Designated Agency Ethics Official