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OFFICE OF SPECIAL COUNSEL SETTLES POLITICAL DISCRIMINATION CASE

FOR IMMEDIATE RELEASE

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WASHINGTON, DC/December 2, 2009 – Today, the U.S. Office of Special Counsel (OSC) announced the resolution of a prohibited personnel practice complaint filed against the U.S. Election Assistance Commission (EAC). The complaint alleged that the EAC Commissioners refused to approve an individual's appointment as General Counsel because of his political affiliation, in violation of civil service laws and regulations prohibiting discrimination based on political affiliation and discrimination based on non-merit grounds. Such action could also violate the appointee's Constitutional First Amendment right to freedom of association.

OSC's investigation uncovered evidence indicating that the EAC illegally refused to approve the complainant's appointment because he was a Republican. In late 2008, the four EAC Commissioners selected the complainant as the agency's General Counsel. Shortly after, two of the Commissioners refused to approve his appointment. After the complainant's selection, these Commissioners researched his off-the-job political activity or received contacts about his appointment. The same two Commissioners objected that the complainant's current employer was perceived as politicized or that he was a political appointee. The complainant provided the EAC with additional references and information. The two Commissioners, however, voted to disapprove his appointment.

While the investigation was ongoing, OSC negotiated an informal agreement between the complainant and the EAC. Without admitting fault, the EAC agreed to provide the complainant a substantial monetary settlement to resolve the issues that were the subject of his complaint.

OSC notes that the merit system instructs employers to only consider an individual's qualifications, not an employee's political affiliation. And the Constitutional right to associate with the political party of one's choice means very little if one cannot freely exercise this right. OSC also expressed its appreciation to the EAC for its cooperation in the investigation and willingness to resolve the complaint, thus avoiding the possibility of protracted litigation.

The U.S. Office of Special Counsel is an independent federal agency that investigates and prosecutes complaints alleging the commission of prohibited personnel practices. Pursuant to statute, OSC has authority to seek voluntary corrective action from federal agencies or through administrative litigation before the U.S. Merit Systems Protection

Board. OSC also has jurisdiction over the Hatch Act and the Uniformed Services Employment and Reemployment Rights Act (USERRA). For more information please visit our web site at www.osc.gov or call (800) 872-9855.