



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 2017

**STATEMENT OF VICE CHAIR CAROLINE C. HUNTER AND
COMMISSIONERS LEE E. GOODMAN AND MATTHEW S. PETERSEN
REGARDING “DISCUSSION OF COMMISSION’S RESPONSE TO ALLEGED
FOREIGN INTERFERENCE IN AMERICAN ELECTIONS”**

The specter of any foreign government meddling in U.S. elections is an issue that we, like all Americans, take very seriously. Contributions and expenditures by foreign nationals in connection with U.S. elections are prohibited by the Federal Election Campaign Act and Commission regulations. 52 U.S.C. § 30121; 11 C.F.R. § 110.20. For decades, the Commission has enforced the foreign national prohibition and we have voted to punish violations in several matters.¹ The Commission has committed to expedite pending enforcement matters that raise issues about foreign nationals’ potential involvement in U.S. elections, and we have done so.

We believe that this agency’s enforcement process is the proper mechanism for addressing any allegations about foreign interference in the 2016 presidential election. The enforcement process must be conducted in an impartial and deliberative manner, free of

¹ See, e.g., MUR 6919 (Canseco for Congress) (finding reason to believe that candidate and candidate’s committee violated foreign national ban by knowingly accepting contributions from foreign national); MUR 6203 (Itinere North America) (foreign national parent corporation and its domestic subsidiary violated foreign national ban where domestic subsidiary used foreign parent’s funds to make non-federal donations); MUR 6184 (Skyway Concession) (U.S. subsidiary of foreign national and subsidiary’s foreign national CEO violated foreign national ban where CEO decided to which non-federal committees subsidiary should donate, authorized release of corporate funds for donations, and signed donation checks); MUR 6093 (Transurban) (foreign national parent corporation and U.S. subsidiary violated foreign national ban where subsidiary used funds from foreign parent to make non-federal donations and foreign parent’s board of directors directly participated in decision-making process); MUR 4884 (Future Tech) (U.S. corporation violated foreign national ban by making contributions to Democratic National Committee’s non-federal account at direction of corporation’s foreign national CEO and chairman); MUR 4594 (Longevity) (U.S. corporation violated foreign national ban by leasing office space to local candidate at less than fair market value where foreign national office managers negotiated and signed lease and majority foreign-national board of directors approved lease); MUR 4530/4531/4547/4642/4909 (DNC Services/DNC) (DNC violated foreign national ban by accepting contributions made with funds from foreign sources).

prejudgment, bias, or politicization.² The Commission is legally obligated to maintain the confidentiality of its pending enforcement actions. 52 U.S.C. § 30109(a)(12). And our action in all enforcement matters is subject to judicial review.

In addition to this agency's enforcement process, several other federal agencies and congressional committees are currently investigating or engaging in fact-finding regarding allegations of foreign participation in the 2016 election. The Special Counsel at the Department of Justice, the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, and the Financial Crimes Enforcement Network are all reported to be investigating alleged foreign election activity. At the same time, the U.S. Senate Intelligence Committee and the U.S. House of Representatives Intelligence Committee are conducting fact-finding investigations while at least six other congressional committees look into various aspects of the 2016 election.³ Each agency brings its unique authority, statutes, and expertise to bear upon these issues. The highly sensitive and complex realms of cyber-espionage, computer crimes, national security and international relations will be addressed competently and with sensitivity to safeguarding classified information in these forums.

² Over the years, this agency has developed a substantial jurisprudence on the foreign national prohibition through its consideration of enforcement matters. *Id.*; see also MURs 6078/6090/6108/6139/6142/6214 (Obama for America) (dismissing allegations that presidential candidate's campaign committee violated foreign national ban by accepting online contributions from more than 10,000 contributors with foreign addresses who certified that they were U.S. nationals); MURs 5987/5995/6015 (Hillary Clinton for President) (finding no reason to believe that presidential candidate and candidate's campaign committee violated foreign national ban by accepting volunteer professional services from foreign national (Sir Elton John) at candidate's fundraiser and using foreign national's name and likeness on campaign solicitations).

³ Brian Logan, *U.S. Treasury Department Unit Set To Provide Financial Records in Trump-Russia Investigation*, May 13, 2017, <http://www.businessinsider.com/us-treasury-department-unit-set-to-provide-financial-records-in-trump-russia-investigation-2017-5>; Amanda Becker, *Q&A: What We Know About U.S. Probes of Russian Meddling in 2016 Election*, June 7, 2017, <https://www.usnews.com/news/top-news/articles/2017-06-07/q-a-what-we-know-about-us-probes-of-russian-meddling-in-2016-election>; Scott Detrow, *There Are Many Russia Investigations. What Are They All Doing?*, June 8, 2017, <http://www.npr.org/2017/06/08/531940912/there-are-many-russia-investigations-what-are-they-all-doing>.

The Federal Election Commission should cooperate with these other agencies while maintaining necessary confidentiality and decorum in our own processes. We must resist any efforts to politicize or compromise the integrity of this agency's enforcement process or the investigations of other agencies, for the subject matter at issue implicates profoundly important national security and foreign policy interests of the United States.

As for the suggestion that the Commission undertake a new rulemaking or make legislative recommendations while agency and congressional investigations are pending, we believe making such proposals at this time would be premature and counterproductive. We start with confidence that current laws are strong and well tested. A range of federal statutes already make criminal various kinds of misconduct in American politics. These include the Federal Election Campaign Act (which has a long track record of implementation and enforcement), the Foreign Agents Registration Act, the Computer Fraud and Abuse Act, and the Espionage Act, among others. Whether Congress or administrative agencies should alter current laws – and how best to tailor such changes to address demonstrated problems – should be informed by the conclusions and findings of ongoing investigations. Upon conclusion of this agency's enforcement process and upon review of the reports and conclusions of other investigations, this agency can determine if changes to current regulations or statutes are warranted. But at this time we do not know all of the facts and cannot support proposals that would burden the free speech rights of American citizens based on incomplete information about foreign activities in the 2016 election.

For these reasons we have not supported the proposal by our colleague to “blunt” the Supreme Court's decision in *Citizens United*.⁴ The Commission's rulemaking authority is

⁴ Ellen L. Weintraub, Opinion, *Taking on Citizens United*, N.Y. TIMES, Mar. 30, 2016, <https://www.nytimes.com/2016/03/30/opinion/taking-n-citizens-united.html?smid=tw-share&r=0>; Ellen L.

limited to promulgating regulations “as necessary.” 52 U.S.C. § 30107(a)(7). We are not aware of any information suggesting that the current regulatory prohibition on foreign nationals’ involvement in U.S. elections is inadequate to detect, enforce, and punish violations, such that additional regulations are necessary.⁵ As we have previously stated, we would be happy to reconsider whether to engage in a rulemaking if new evidence emerges that changes this factual predicate.⁶ In the meantime, we will continue to discharge our responsibilities with respect to the 2016 election responsibly and prudentially.

Weintraub, “Defend Our Democracy Ordinance Means Limiting Big Money and Foreign Influence In Elections Can Start Right in St. Petersburg, TAMPA BAY TIMES, June 20, 2017, <http://www.tampabay.com/opinion/columns/column-defend-our-democracy-ordinance-means-limiting-big-money-and-foreign/2327893>.

⁵ That said, we have twice proposed and voted for a Policy Statement to clarify the application of the existing foreign national regulations and to implement certification mechanism for American corporations to certify that only American citizens have made political spending decisions with American funds. *See* Statement of Policy: Application of the Foreign National Prohibition to Domestic Corporations Owned or Controlled by Foreign Nationals and Safe Harbor for Knowledge Standard; *see also* FEC Issues Advisory Opinion (FEC Press Release) at 2 (June 12, 2017) (noting Commission considered but was unable to reach agreement by four affirmative votes on proposed Statement of Policy); Minutes of an Open Meeting of the Federal Election Commission Held Thursday, Sept. 15, 2016 at 9 (approved Dec. 1, 2016) (noting motion to approve proposed Statement of Policy failed by vote of 3-3, with Commissioners Goodman, Hunter, and Petersen voting in favor of motion and Commissioners Ravel, Walther, and Weintraub voting against).

⁶ Statement of Vice Chair Caroline C. Hunter and Commissioners Matthew S. Petersen and Lee E. Goodman on the Proposal “To Launch Rulemaking to Ensure U.S. Political Spending is Free from Foreign Influence” (Jan. 12, 2017).