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Congress of the United States

House of Representatives COMMITTEE ON HOUSE ADMINISTRATION

1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
<https://cha.house.gov>

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RANKING MINORITY MEMBER

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ONE HUNDRED SIXTEENTH CONGRESS

JEN DAULBY, MINORITY STAFF DIRECTOR

October 10, 2019

The Honorable Christopher L. Skinner
Inspector General
Federal Election Commission
1050 First Street, NE Suite 1010
Washington, DC 20463

Dear Inspector General Skinner:

I write to request that you investigate potential violations of federal ethics regulations by the Chair of the Federal Election Commission (“FEC” or “Commission”), Ellen L. Weintraub, by engaging in any or all of the following activities: (1) her use of official government time and resources for ideological, and at times political, purposes; (2) her continued appearances in national media to discuss matters outside the purview of the FEC; and (3) her refusal, up to the date of this letter, to recuse herself from any Matters Under Review involving President Trump, despite the apparent conflict of interest between the Chair’s nonpartisan position at the FEC and the use of her official Twitter account to publicly disparage the President. These activities are discussed in detail below. I believe that this pattern of behavior is unbecoming of the FEC Chair and may have possibly violated ethics regulations that we all as federal employees must abide by.

1. Use of Official Resources. Since at least February 2017, Chair Weintraub has used official FEC resources to publish her personal opinions on political matters:
 - On Feb. 10, 2017, Chair Weintraub issued a statement on FEC letterhead, and hosted to this day on the FEC website, requesting that President Trump “immediately share his evidence [of alleged voter fraud in New Hampshire] with the public and with the appropriate law-enforcement authorities so that his allegations may be investigated promptly and thoroughly.”¹

¹ Commissioner Ellen L. Weintraub, *Statement of Commissioner Ellen L. Weintraub Regarding Allegations by the President of the United States of Widespread Voter Fraud in New Hampshire*, Feb. 10, 2017, <https://www.fec.gov/resources/about-fec/commissioners/weintraub/statements/ELW-POTUS-voter-fraud-statement.pdf>

- On March 22, 2017, Chair Weintraub issued a follow-up letter to the Feb. 10 statement reiterating her request that President Trump “provide evidence” of his claims that voter fraud occurred in New Hampshire. Notably, Chair Weintraub addressed the country as well as the President, proclaiming, “This country should make policy based on facts, not unsupported statements, **no matter how high-ranking the source** [emphasis added].”²
 - On May 11, 2017, Chair Weintraub issued a statement on FEC letterhead, and hosted on the FEC website, rebuking President Trump for his creation of an Advisory Commission on Election Integrity, including a direct appeal: “Mr. President, take responsibility for your words. Document them if you can. Apologize for them if you have to. But don’t ship them off to a commission. You’d be asking them to build a bridge you’ve already crossed.”³
 - On August 16, 2019, Chair Weintraub issued a second letter, and third request overall, that President Trump release proof of his allegations of voter fraud in New Hampshire. Again, partisan snark dominates the tone of the letter, “To put it in terms a former casino operator should understand: There comes a time when you need to lay your cards on the table or fold.” Strangely, this letter does not appear to be hosted on the FEC website but is still drafted on FEC letterhead and contained on the Chair’s official Twitter page.⁴
 - In the week of September 23, 2019, Chair Weintraub made public a draft interpretative rule regarding the ban on foreign national participation in elections and placed it on the agenda for an upcoming Commission meeting. Approval of such a rule would require a quorum of Commissioners. The placement of this item on the agenda for an open meeting serves only as a political exercise.
2. Appearances in National Media. Chair Weintraub has appeared in national media at least six times in just the last two months to discuss issue areas outside the purview at the FEC. She has not indicated in any interview that she was speaking as a private citizen and not as the Chair of the nonpartisan FEC.
- On August 19, 2019, Chair Weintraub appeared on *Anderson Cooper 360* on CNN. When questioned about the President’s claims of voter fraud in New Hampshire, Chair Weintraub mentioned her letter to the President. She later said, “[there has been] no evidence brought forth at all, and I think it is really damaging to our democracy to have these stories put forth by the leader of our country.”

² Commissioner Ellen L. Weintraub, *Letter to President Donald J. Trump*, March 22, 2017, https://www.fec.gov/resources/about-fec/commissioners/weintraub/statements/2017-03-22_ELW_Letter_to_POTUS_re_Voter_Fraud_Allegations.pdf

³ Commissioner Ellen L. Weintraub, *Statement of Commissioner Ellen L. Weintraub Regarding the Establishment of ‘The Presidential Commission on Election Integrity’*, May 11, 2017, <https://www.fec.gov/resources/about-fec/commissioners/weintraub/statements/ELW-statement-election-integrity-commission.pdf>

⁴ Commissioner Ellen L. Weintraub, *Letter to President Donald J. Trump*, August 16, 2019, <https://twitter.com/EllenLWeintraub/status/1162474973115666434>

And again, “[The] President’s claims are damaging. It’s important that we have facts, not alternative facts or conspiracy theories.”

- On August 20, 2019, Chair Weintraub appeared on *Morning Joe* on MSNBC, where she appeared to give her opinion as to what bills in Congress need to be passed, “There are real threats to our democracy from abroad and bipartisan bills in congress that are teed up, ready for votes that are not happening.”
- On August 27, 2019, on a separate MSNBC appearance, Chair Weintraub referenced “bipartisan” legislation before Congress and again urged the Senate to “take up those bills.”
- On August 30, 2019, Chair Weintraub appeared on *All In with Chris Hayes* on MSNBC and, referencing her official duties at the FEC and conversations she has had with “folks from other countries” that “come here to learn,” disparaged the electoral college as a system that “people will come to feel” as illegitimate.
- On September 17, 2019, Chair Weintraub hosted an event at FEC headquarters related to disinformation online, an issue area that is outside the purview of the FEC. However, the event featured panel participants who spent a great deal of time focusing on their interpretation of President Trump’s tweets and other public statements, including some participants calling for the President to be “banned from Twitter.”

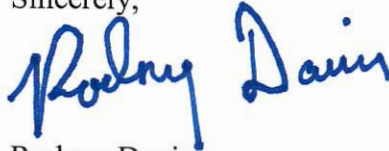
With regard to Chair Weintraub’s media appearances, it is my opinion that her ceaseless, pointed critiques of the President’s public statements are political opinions. Further, the Chair’s implication that the Senate, which very well may have good reason to not take up the bills, should vote on and pass a certain piece of legislation is a political discussion in which the Chair of the FEC should not be engaging.

3. Conflict of Interest. In light of the above-referenced examples, which clearly outline Chair Weintraub’s bias against President Trump, she should publicly admit her political differences with the President, disclose her conflict of interest, and at the very least recuse herself from voting on Matters Under Review involving the President. To date, however, Chair Weintraub has not recused herself of any such matters and has voted in a manner that would appear to exhibit her bias against the President.

While some of these matters were previously examined by the office of Inspector General, I believe they warrant reexamination for the forgoing reasons: 1) at the time of the previous investigation, which concluded on December 21, 2017 with the release of the final IG Report, a permanent IG was not in place at the Commission; 2) Chair Weintraub has continued her pattern of blatant partisan behavior under the guise of her official duties as FEC Chair even after the 2017 IG investigation; 3) the previous IG report failed to include interviews with all commissioners as a component of the investigation; and 4) the conclusion of the 2017 IG Report lacked a clear legal basis.

Impartial, nonpartisan leadership by the Chair of the FEC is essential for the Commission to fairly enforce our nation's campaign finance laws. As you have been recently appointed to Inspector General, I request that you investigate these matters as soon as possible.

Sincerely,

A handwritten signature in blue ink that reads "Rodney Davis". The signature is written in a cursive style with a large, prominent "R" and "D".

Rodney Davis
Ranking Member
Committee on House Administration