



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

OFFICE OF THE CHAIR

October 9, 2018

The Honorable Ronald L. Wyden  
Ranking Member, Committee on Finance  
United States Senate  
SD-219 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Wyden:

Thank you for your letters of May 3 and July 31, 2018, which urge the Commission to investigate whether Russia used the National Rifle Association to funnel foreign contributions or other support during the 2016 elections in the United States.

The Federal Election Campaign Act (FECA) and Commission regulations include prohibitions on contributions, donations, and expenditures by foreign nationals, as noted in your letter.<sup>1</sup> FECA also authorizes any person who believes a violation of the Federal Election Campaign Act has occurred to file a complaint with the FEC.<sup>2</sup> Finally, FECA requires the Commission to keep confidential any complaints it has received until the enforcement matter is resolved and the case is formally closed.<sup>3</sup>

The documents that the Commission releases publicly at the conclusion of an enforcement action reflect the careful consideration each complaint receives first from the staff in the Office of General Counsel, and then from the Commissioners. The documents also provide a basis for Congressional oversight of the Commission's enforcement results. Numerous documents related to closed Commission enforcement matters concerning prohibited conduct by foreign nationals are publicly available on the Commission's website.<sup>4</sup>

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<sup>1</sup> See 52 U.S.C. § 30121 and 11 C.F.R. § 110.20.

<sup>2</sup> 52 U.S.C. § 30121.

<sup>3</sup> 52 U.S.C. § 30109(a)(12).

<sup>4</sup> A recent report from the FEC to the Committees on Appropriations describes the Commission's work related to the foreign national prohibition. It reviews a number of recently closed enforcement actions related to the foreign national prohibition. A copy is enclosed for your information.

While the Commission is limited in the information it may reveal about its enforcement activities, we can assure you timely resolution of any enforcement matters involving allegations of prohibited activity by foreign nationals remains a particular priority for the FEC. In fact, at the Commission's public meeting on September 15, 2016, FEC Commissioners unanimously directed the Office of General Counsel to prioritize cases involving allegations of foreign influence.<sup>5</sup> As a follow-up, at the Commission's public meeting on May 25, 2017, then-Chairman Steven T. Walther called upon the FEC staff to apply their resources to continue to fulfill the prioritization of any such enforcement matters and to further the Commission's regulatory, educational, and enforcement work in this area.<sup>6</sup>

Your letters also note that, while the Federal Election Commission has exclusive civil enforcement authority over the Federal Election Campaign Act, the U.S. Department of Justice has criminal enforcement authority over knowing and willful violations of the Federal Election Campaign Act.<sup>7</sup> As a result, the Commission has an ongoing relationship with the Department of Justice through a formal Memorandum of Understanding, and, on occasion, exercises concurrent jurisdiction over certain matters. In furtherance of that relationship, this memorandum acknowledges the Commission's exclusive jurisdiction in the civil enforcement of the Act, and establishes a framework for the two agencies with respect to the discharge of their respective responsibilities.<sup>8</sup>

Finally, if you would like the Commission to consider a complaint alleging violations of FECA, Commission staff are available to assist you or your staff in filing a complaint that meets the statute's requirements.<sup>9</sup>

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<sup>5</sup> See FEC Press Release (May 25, 2017) (copy available at <https://www.fec.gov/updates/fec-approves-amended-audit-division-recommendation-memorandum-approves-advisory-opinion-and-agrees-commence-work-party-rulemaking/>).

<sup>6</sup> *Id.*

<sup>7</sup> See 52 U.S.C. § 30109(d)(1); *Fieger v. U.S. Attorney General*, 542 F.3d 1111, 1116-17 (6<sup>th</sup> Cir. 2008).

<sup>8</sup> See Memorandum of Understanding with Department of Justice, 43 Fed. Reg. 5441 (Feb. 8, 1978).

<sup>9</sup> See 52 U.S.C. § 30121 (requiring that complaints be in writing, signed, notarized and sworn to under penalty of perjury and subject to the provisions of section 1001 of Title 18, United States Code, by the person filing such complaint).

The Honorable Ronald L. Wyden  
October 9, 2018  
Page 3

We appreciate your interest in any matters over which the Commission may have jurisdiction. Should you or your staff members wish to communicate further on these or any other matters at any time, please do not hesitate to contact Duane Pugh, the Commission's Director of Congressional Affairs, at (202) 694-1002 or [dpugh@fec.gov](mailto:dpugh@fec.gov).

On behalf of the Commission,

A handwritten signature in cursive script, reading "Caroline C. Hunter". The signature is written in black ink and is positioned above the printed name and title.

Caroline C. Hunter  
Chair

Enclosure