



May 21, 2008

Senator Dianne Feinstein
Chair
Senate Committee on Rules and Administration
305 Russell Building
United States Senate
Washington, D.C. 20510

Dear Chairman Feinstein:

Thank you for moving quickly to take up the nominations of the three candidates for seats on the Federal Election Commission (FEC). As you know, the FEC has lacked a quorum since the beginning of the year and has been unable to take official action with regard to our nation's campaign finance laws during a Presidential election that has featured record-breaking fundraising.

As you consider the three nominees, I hope that you will consider Common Cause's concern about politicization of the FEC, as well as our organization's hope that you will help create an FEC that puts upholding the nation's campaign finance laws above party loyalty.

First, I would like to reiterate Common Cause's opposition to the confirmation of Donald F. McGhan as an FEC commissioner. Mr. McGhan served as counsel to former House Majority Leader Tom Delay (R-TX) on matters of campaign finance and ethics. And as you know, Rep. Delay was indicted on campaign finance violations by the U.S. Attorney's office in Texas and was admonished repeatedly by the House Committee on Standards of Official Conduct.

Mr. McGhan also served as the general counsel to the National Republican Congressional Committee in October 2002, when the Committee attempted to transfer soft money to a 527 organization called The Leadership Forum in order to circumvent the newly-enacted Bipartisan Campaign Reform Act, which banned the use of soft money in federal elections. Those actions do not suggest a regard for campaign finance laws.

Secondly, we are concerned with the politicization of the FEC. As you know, President Bush has withdrawn the nomination of Chairman David Mason after twice appointing him to that body. Chairman Mason has hardly been a champion of strict campaign finance rule while on the Commission, with the noteworthy exception of his recent questioning of Senator John McCain's enrollment in the presidential matching funds system because of a complicated loan agreement. We believe Chairman Mason is being removed from the Commission after 10 years because he took an action that the Administration perceived as disloyal to the Republican Party.

As you review these candidates for seats on the FEC, I ask that you also consider the larger mission of the agency. The hearings you are holding today come mid-way through a Presidential election year because of the political standoff in the Senate over nominees. This is just a recent example of the politicization of the process for appointing FEC commissioners, and it has been a problem for years. The situation has been allowed to continue for so long only because it is not obvious to the public. If the Federal Bureau of Investigation were as bad at enforcing other areas of the law that are more publicly visible, Congress would certainly respond.

It is time to rethink how we enforce our campaign finance laws. Congress should model the FEC after other, more effective law enforcement agencies that are headed by a single administrator who is appointed for a fixed term by the President and confirmed by the Senate. We believe this would avoid the politicization of the FEC that has prevented it from being an effective agency.

While we are pleased at leadership's efforts to break the FEC deadlock and reconstitute a functioning agency in time for the general election, I ask that you also take this opportunity to begin planning for the creation of a new federal election enforcement agency that will be better designed to uphold the campaign finance laws Congress passes. We believe there are models for an FEC that Congress can adopt that will help avoid the political problems – both past and present – that have made the current FEC such a failure.

Sincerely,

Bob Edgar
President