



Congress of the United States
House of Representatives
Washington, D.C. 20515-4206
Join Me in Opposing President Obama's Illegal Appointments

Dear Colleague:

On January 4, President Obama made four appointments that include the Director of the Consumer Financial Protection Bureau (CFPB) and three members of the National Labor Relations Board (NLRB). While recess appointments are within the President's power, the appointments in question were made while the Senate was in pro forma session and the House had not consented to a Senate adjournment.

In explaining these actions, the White House is asserting that the Executive Branch can determine when the Legislative Branch is or is not in session. This is a gross extension of executive authority.

In fact, the U.S. Constitution states that,

"Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days"¹

In 1993, the Department of Justice provided further guidance related to this clause stating that,

"If the recess here at issue were of three days or less, a closer question would be presented. The Constitution restricts the Senate's ability to adjourn its session for more than three days without obtaining the consent of the House of Representatives. ... It might be argued that this means that the Framers did not consider one, two and three day recesses to be constitutionally significant."²

The White House's explanation clearly ignores this legal interpretation and instead argues that Republicans oppose the CFPB. In fact, Senate Republicans have held up the nomination of the Director for CFPB because it is unaccountable to elected officials and not subject to the appropriations process. Additionally, the Senate has not had the opportunity to even hold hearings to consider the President's appointments to the NLRB.

Given this long held legal precedent accepted by both parties and that neither the House nor the Senate have been out of session for more than three days, the House of Representatives should express its disapproval for these appointments.

I invite you to become an original cosponsor of this resolution that disapproves of President Obama's appointments. To join as a cosponsor or for more information, please contact Brian Lenihan at brian.lenihan@mail.house.gov or Jonathan McNabb at jonathan.mcnabb@mail.house.gov.

Sincerely,

A handwritten signature in blue ink that reads "Diane Black".

Diane Black
Member of Congress

¹ U.S. Constitution, Article 1, Section 5, Clause 4

² Memorandum of Points and Authorities in Support of Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, at 24-6, Mackie v. Clinton, 827 F. Supp. 56 (D.D.C. 1993), vacated as moot, 10 F.3d 13 (D.C. Cir. 1993)