

Research Report

**THE FEC HAS BEEN WITHOUT
QUORUM ON AND OFF FOR YEARS –
THREE NEW COMMISSIONERS INCLUDING
TWO MORE CONSERVATIVES ARE
SCHEDULED FOR A CONFIRMATION
HEARING IN NOVEMBER**

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SUMMARY

The FEC has been without quorum for a total of 14 months of the Trump administration. However, on October 30, President Trump nominated two new commissioners and days later their confirmation hearing was scheduled. Now, on November 18, the Senate Rules and Administration Committee will hold its hearing to consider three nominations for FEC commissioner for Allen Dickerson (R), Sean Cooksey (R), and Shana Broussard (I).

The appointment of the three new commissioners would mean the commission would include three Republicans, two Independents, and one Democrat. Without quorum, the commission has been unable to pursue enforcement actions but in this new divide, the commission would effectively be hamstrung and unable to make determinations on the 275+ outstanding complaints filed with the FEC. And with an ideological divide already “severely challenged from the inside by a group of commissioners who harbor ideological opposition to the very nature of the agency” as one commissioner put it, electing additional biased commissioners is certain to prevent the commission from being able to rule on complaints such as the allegation of the Trump reelection campaign laundering \$170 million through its books.

Despite record-long vacancies for FEC commissioner seats from 2017 to 2020, Trump has nominated a total of three Republican commissioners all in a presidential election year without any accompanying Democratic counterpart, flying in the face of norms. One current nominee, Allen Dickerson, is a staunch defender of the Citizens United decision and currently serves as the legal director at the Institute for Free Speech (formerly known as The Center for Competitive Politics) — a Koch-funded group that opposes campaign finance regulations.

Current FEC Chair James “Trey” Trainor, the only sitting Republican and a former attorney for the Trump campaign, was nominated and approved earlier this year by the Senate on a 49-43 party line vote — also without the nomination of a Democratic counterpart bucking decades of tradition and stalling his nomination. Trump had originally nominated Trainor in 2017. Trainor’s appointment gave the commission quorum for just over one month, before Republican Commissioner Caroline Hunter resigned in July 2020. As a result, the FEC has been unable to conduct any enforcement actions for the majority of the 2020 campaign cycle.

The longest serving members, Democrat Ellen Weintraub and Independent Steven Walther are currently serving in a holdover capacity and can be replaced if another appointment is made for their seats.

**The Trump Campaign's Spending
Has Been Under Fire For Years
While The FEC Has Been Crippled
By A Lack Of Quorum Since 2017**

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The FEC's Lack Of Quorum Has Prevented The Commission From Conducting High-Level Business, Including Civil Enforcement Of Federal Campaign-Finance Laws, Adoption Of New Rules, And Disbursement Of Official Legal Interpretations

September 2020: The FEC Had 275 Outstanding Cases. “As of Sept. 1, the FEC had 275 cases on the docket, over 30 of which involved alleged violations of the law prohibiting foreign nationals from contributing to American elections [...]” [GovExec, [10/03/19](#)]

Business Insider: “Expect No Quick Resolution To The Campaign Legal Center’s Complaint, Which Names Both The Trump Campaign And The Trump Make America Great Again Committee ... The Six-Seat, Bipartisan FEC Has Been Crippled For Most Of The Past Year.” “Expect no quick resolution to the Campaign Legal Center’s complaint, which names both the Trump campaign and the Trump Make America Great Again Committee, a joint fundraising operation involving the campaign and the Republican National Committee. The six-seat, bipartisan FEC has been crippled for most of the past year, lacking a requisite minimum of four commissioners — it has three — to conduct high-level business. That includes the civil enforcement of federal campaign-finance laws, the adoption of new rules, and the disbursement of official legal interpretations to candidates and other political actors.” [[Business Insider, 07/28/20](#)]

ENDING THE CURRENT LACK OF A QUORUM – WHICH HAS BROKEN RECORDS FOR ITS LENGTH – WOULD BENEFIT REPUBLICANS BY “NEUTER[ING]” ITS DECISIONMAKING MECHANISMS

Campaign Legal Experts Surmised McConnell Would Benefit From Filling The Open FEC Seats Because That Would “Neuter” The Commission. “‘I think he knows at this point that he’s going to have a really hard time deregulating campaign finance laws through Congress,’ [Brendan Fischer of the Campaign Legal Center] said. ‘But he realized that if he can neuter the FEC, if he can get three ideological opponents of campaign finance on the FEC, he can basically undermine the law from within.’ Fischer said that although it’s ‘certainly a problem’ that the FEC doesn’t have a quorum, it’s more important ‘that the individuals who are on the FEC should be committed to the mission of the agency and committed to enforcing these important anticorruption laws.’” [LA Times, [8/05/20](#)]

- **Commissioner Weintraub Pointed To Ideology Of Her Fellow Commissioners As Being The Most Significant Hurdle For The Commission.** “The debate played out in letters commissioners sent to House Administration Committee Chair Zoe Lofgren (D-San Jose) last year after her panel asked what the agency’s biggest hurdle has been in completing its mission, Weintraub [pointed to](#) her Republican colleagues: ‘For the past 11 years, the Federal Election Commission has been severely challenged from the inside by a group of commissioners who harbor ideological opposition to the very nature of the agency and the law we are charged with enforcing.’ Commissioners Matthew Petersen and Caroline Hunter — Republicans who have since resigned — [wrote that](#) the greatest challenge was ‘the common misperception that adherence to the rule of law and sensitivity to Americans’ 1st Amendment rights reflect hostility towards enforcing the law or, even, towards the Commission itself.’” [LA Times, [8/05/20](#)]

Current Lack of Quorum Is Only The Third Time In FEC's History – The Longest Lack of Quorum Lasted Nine Months And Was Still During The Trump Administration. “The current quorum loss marks the third in the FEC's history. The second occurred recently, between August 31, 2019, and June 5, 2020, when a confirmation briefly restored a fourth commissioner to office. In addition, the FEC lacked a policymaking quorum for six months in 2008.”

[[Congressional Research Service, Federal Election Commission: Membership and Policymaking Quorum, In Brief, Updated 11/04/20](#)]

The Trump Campaign's Spending Has Been Under Fire For Alleged Laundering, Masking Payments, Failing To Report Disputed Debts And More

2019: REPRESENTATIVE BILL PASCRELL CALLED ON THE FEC TO INVESTIGATE WHETHER THE TRUMP CAMPAIGN WAS VIOLATING CAMPAIGN FINANCE RULES BY FAILING TO REPORT DISPUTED DEBTS

2019: Rep. Bill Pascrell Called On The FEC To Investigate Whether The Trump Campaign Was Violating Campaign Finance Rules By Failing To Report Disputed Debts For Security During Campaign Rallies On Its Quarterly Filings. “A House Democrat on Monday asked the Federal Election Commission (FEC) to investigate whether President Trump's reelection campaign is violating campaign finance rules by failing to report disputed reimbursements to local law enforcement for protection at campaign events. The Trump campaign has declined to reimburse local officials who provide security assurance during Trump's campaign rallies across the country.” [[The Hill, 10/28/19](#)]

JULY 2020: A WATCHDOG GROUP FILED A COMPLAINT WITH THE FEC ALLEGING THAT, TRUMP'S REELECTION CAMPAIGN “DISGUISED NEARLY \$170 MILLION” BY LAUNDERING THE FUNDS THROUGH COMPANIES LED BY FORMER CAMPAIGN MANAGER BRAD PARSCALE.

HEADLINE: Business Insider: Trump Campaign 'Disguised' And Laundered Nearly \$170 Million Worth Of Spending, Watchdog Group Alleges In A New Federal Complaint. [[Business Insider, 07/28/20](#)]

According To A Complaint Filed With The FEC, Trump's Reelection Campaign “Disguised Nearly \$170 Million” Worth Of Campaign Spending “By Laundering The Funds” Through Companies Led By Former Campaign Manager Brad Parscale. “President Donald Trump's reelection campaign has ‘disguised nearly \$170 million’ worth of campaign spending ‘by laundering the funds’ through companies led by the former campaign manager Brad Parscale or created by Trump campaign lawyers, a new complaint with the Federal Election Commission says.” [[Business Insider, 07/28/20](#)]

The 82-Page Complaint Contended That The Campaigns Spending Practices Have Essentially Masked Payments To Various Campaign Staff And Family Members, Including , Including Eric Trump's Wife Lara Trump And Kimberly Guilfoyle, The Girlfriend Of Donald Trump Jr. “The 82-page complaint, filed Tuesday by the Campaign Legal Center,

contends that the Trump campaign's spending practices have the practical effect of masking payments — in violation of federal campaign-transparency rules — to various advertising contractors and senior Trump campaign staff and family members, including Lara Trump, the wife of the president's son Eric Trump, and Kimberly Guilfoyle, the girlfriend of Donald Trump Jr.” [[Business Insider, 07/28/20](#)]

November 2020: The Trump Campaign Has Been Soliciting “Election Defense” Donations That Also Finance His New Leadership PAC Which May Spend Money More Unreservedly Than A True Recount Account

THE TRUMP CAMPAIGN HAS BEEN SOLICITING DONATIONS FOR ITS “RECOUNT” EFFORTS—HOWEVER, THE MAJORITY OF EACH DONATION GOES TO TRUMP’S NEW LEADERSHIP PAC, SAVE AMERICA...

The Trump Administration Has Been Soliciting Donations For What It Claims Is A “Recount” Effort—However, Only A Small Portion Of The Donations Would Go Toward The Recounts And Lawsuits—The Majority Of Each Donation Goes To Trump’s New Leadership PAC, Save America. “In the wake of the election, President Trump’s supporters have been peppered with texts and emails asking for donations to support legal battles contesting his loss to President-elect Joe Biden. ‘We can’t allow the Left-wing MOB to undermine our Election,’ one missive says. Another appeal asks donors to give to an ‘EMERGENCY Wisconsin Recount Fund,’ which it claims was ‘just activated’ to request a recount in the state. But details outlined in the fine print show that a small portion of the donations would go toward these ‘election defense’ funds to support recounts and lawsuits in several swing states. The majority of each donation goes to a political action committee called Save America, which Trump set up in recent days and will allow him to support candidates and maintain political influence in Washington even after leaving office.” [[Washington Post, 11/10/20](#)]

- **Leadership PACs Are “Widely Used By Current And Former Members Of Congress, Often Used To Pay For Travel, Hosting Donors At Various Events And Donating To Other Candidates For Office.”** “The ‘leadership PAC’ is a loosely regulated fundraising vehicle that allows current and former elected officials to raise and spend money to maintain relationships with donors, and help their political allies. Such committees are widely used by current and former members of Congress, often used to pay for travel, hosting donors at various events and donating to other candidates for office. ‘The President always planned to do this, win or lose, so he can support candidates and issues he cares about, such as combating voter fraud,’ Trump campaign manager Tim Murtaugh said in a statement.” [[Washington Post, 11/10/20](#)]

... THE NON-PARTISAN CAMPAIGN LEGAL CENTER RECENTLY CALLED ON THE FEC TO IMPOSE MORE LIMITS ON LEADERSHIP PACS

Campaign Legal Center Has Called On The FEC To Impose More Limits On Leadership PACS, Arguing That The Trump Campaign Can Use Money From Its Leadership PAC To Pay For Events At Trump Properties, Whereas Money From His Recount Account Could Only Be Used For Campaign-Related Legal Expenses. “Campaign Legal Center has called on

the FEC to impose more limits on leadership PACs. ‘Whereas Trump’s recount account may only be used for campaign-related legal expenses, a leadership PAC might be used to make contributions to candidates, to finance Trump’s travel and rallies, to pay for events at Trump properties, and for other purposes,’ he said. ‘Trump is already financing ‘Save America’ using misleading fundraising appeals, we can only guess at how the money will eventually be used.’”
[[Washington Post, 11/10/20](#)]

**The FEC, Which Requires At Least
Four Commissioners For Quorum,
Has Been Without Quorum
And Unable To Pursue
Enforcement Since July**

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The FEC Has Not Maintained Quorum For Most Of The Trump Administration

As Of November 2020, The Commission Had One Republican, One Democrat, And One Independent.

Current



James E. "Trey" Trainor III
Chair
Republican



Steven T. Walther
Vice Chair
Independent



Ellen L. Weintraub
Democrat



Vacant seat



Vacant seat



Vacant seat

[[FEC.Gov](#), accessed 11/09/20]

September 2020: Trump Nominated Republican Allen Dickerson To The FEC.

[[Congress.Gov](#), PN2237 Received 09/16/20]

- **Republican Dickerson Was Nominated To Replace Republican Commissioner Caroline Hunter, Whose Resignation Was Effective July 2020.** [[Congressional Research Service, Federal Election Commission: Membership and Policymaking Quorum, In Brief, Updated 11/04/20](#)]

October 2020: Trump Nominated Republican Sean J. Cooksey To The FEC.

[[Congress.Gov](#), PN2303, Received 10/30/20]

- **Republican Cooksey Was Nominated To Replace Republican Commissioner Lee Goodman, Who Resigned in February 2018.** [[Congressional Research Service, Federal Election Commission: Membership and Policymaking Quorum, In Brief, Updated 11/04/20](#)]

October 2020: Trump Nominated Independent Shana M. Broussard To The FEC.

[[Congress.Gov](#), PN2302, Received 10/30/20]

- **Broussard's Nomination Has Been Urged By Democratic Senator Amy Klobuchar.** "The FEC needs to be fully functioning so it can enforce our nation's campaign finance laws. However, the timing of these nominations cannot be ignored. We need to stop treating the agency that's charged with keeping corruption out of our elections like a political pawn. We must restore trust in the FEC, and confirming Ms. Broussard, a well-respected and longtime FEC lawyer, will go a long way towards doing that." [[Press Release, Sen. Amy Klobuchar, 10/28/20](#)]

- **Independent Broussard Was Nominated To Replace Democratic Commissioner Ann M. Ravel, Who Resigned in February 2017.** [[Congressional Research Service, Federal Election Commission: Membership and Policymaking Quorum, In Brief, Updated 11/04/20](#)]

THE FIRST HEARING ON THE THREE NEW NOMINATIONS IS SET FOR WEDNESDAY NOVEMBER 18

Senate Rules and Administration Nomination Hearing For FEC Commissioners Is Set For November 18, 2020. [Senate Rules and Administration Committee Hearing, [11/18/20](#)]

FULL COMMITTEE HEARING

NOMINATION HEARING
FOR MEMBERS OF THE
FEDERAL ELECTION
COMMISSION

Date: Wednesday, November 18, 2020

[Add to my Calendar](#)

Time: 10:00 AM

Location: Russell 301

Check back for live video
of this hearing.

AGENDA

- Shana M. Broussard, of Louisiana, to be a Member of the Federal Election Commission
- Sean J. Cooksey, of Missouri, to be a Member of the Federal Election Commission
- Allen Dickerson, of the District of Columbia, to be a Member of the Federal Election Commission

NOTE: A subsequent committee vote is required before the nominations go to the full Senate for a vote.

DEMOCRATIC AND INDEPENDENT COMMISSIONERS, ELLEN WEINTRAUB AND STEVEN WALTHER HAVE EXCEEDED THEIR SIX YEAR TERMS BUT ARE REMAINING ON THE COMMISSION UNTIL A REPLACEMENT ARRIVES...

Democratic And Independent Commissioners, Ellen Weintraub And Steven Walther, Have Exceeded Their Six Year Terms And Have Served On The Commission For More Than A Decade, Where They May Remain If No Replacement Arrives. “Commissioners are supposed to serve for six years, but can stay on if no replacement arrives. That’s the case for Democrat Ellen Weintraub and Independent Steven Walther, who have both been on the commission for more than a decade.” [[The Fulcrum, 10/29/20](#)]

- **Commissioners May Maintain a “Holdover” Status Following The Technical Completion Of Their Term.** “FECA establishes six-year terms for commission members. Commissioners may continue in “holdover” status after those terms end.”

[\[Congressional Research Service, Federal Election Commission: Membership and Policymaking Quorum, In Brief, Updated 11/04/20\]](#)

Replacements Can Be Nominated For Weintraub And Walther, Who Have Exceeded Their Terms And Serve In Hold Over Capacities. “In separate interviews Thursday with the Center for Public Integrity, each of the four ‘holdover’ commissioners — who may continue to serve until President Donald Trump and the U.S. Senate replace them — confirmed that they have no immediate plans to step down.” [\[NBC News, 04/30/18\]](#)

JAMES TRAINOR WAS NOMINATED TO THE FEC IN 2017 BUT WITHOUT A DEMOCRATIC COUNTERPART...HE WAS RE-NOMINATED AND CONFIRMED IN MAY 2020 WITHOUT AN ACCOMPANYING DEMOCRAT

September 2017: Trainor Was Initially Nominated To The FEC But Was Never Confirmed Because A GOP Nominee Has Traditionally Been Accompanied By A Democratic One.

“When Trainor was tapped in September 2017...Trainor has yet to have a confirmation hearing, primarily because the White House has not named a Democratic nominee. Nominations to the FEC are usually considered by the Senate in pairs — a Democrat and a Republican.” [\[Statesman, 9/09/19\]](#)

- ... However, Trainor Was Re-Nominated To The FEC Board In February 2020 And Confirmed In May 2020—Without An Accompanying Democratic Member. The Senate approved the nomination in a party line [49-43 vote](#) (8 not voting). [\[Congress.gov, 2/27/20\]](#)

TRAINOR’S CONFIRMATION ALLOWED THE COMMISSION TO HAVE QUORUM FOR THE FIRST TIME SINCE MARCH 2017 UNTIL REPUBLICAN COMMISSIONER CAROLINE HUNTER RESIGNED IN JUNE 2020—LEAVING THE POSITION VACANT THROUGH THE NOVEMBER 2020 ELECTION

Trainor’s Confirmation Allowed The Commission To Have Quorum For The First Time Since March 2017. “The Senate confirmation of Texas lawyer James ‘Trey’ Trainor III to the Federal Election Commission means the beleaguered campaign finance agency now will have a quorum to hold meetings and conduct official business. But even so, don’t expect a whirlwind of enforcement action.” [\[Roll Call, 05/19/20\]](#)

... But Less Than One Month After Trainor’s Confirmation, The Commission Lost Quorum After A Republican Member Resigned In June 2020—Leaving The Position Vacant Through The November 2020 Elections. “The Federal Election Commission, which just recently regained enough members to conduct such routine official business as meetings, is losing yet another commissioner, sidelining the agency tasked with enforcing election laws in a pivotal presidential election year. GOP commissioner Caroline Hunter is departing on July 3, according to a resignation letter first reported by Politico. That will leave the agency with three members; a quorum requires four commissioners.” [\[Roll Call, 06/26/20\]](#)

NO MORE THAN THREE COMMISSIONERS MAY BE AFFILIATED WITH THE SAME POLITICAL PARTY

As A Law, No More Than Three Commissioners May Be Affiliated With The Same Political Party. “No more than three commissioners may be affiliated with the same political party. In practice, the commission has been divided equally among Democrats and Republicans, although one current commissioner identifies as an independent.³³ FECA staggers commissioner terms so that two expire every other April 30 during odd-numbered years (e.g., 2019, 2021, etc.).³⁴ This arrangement means that, at least as designed, two new commissioners would assume office biennially. However, the President is under no obligation to make biennial nominations.” [[Congressional Research Service, Federal Election Commission: Membership and Policymaking Quorum, In Brief, Updated 11/04/20](#)]

**September 2020:
Three Months After The FEC
Lost Quorum, Trump Nominated
Republican Allen Dickerson
To The FEC Without A
Democratic Companion**

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September 2020: Trump Nominated Republican Allen Dickerson To The Federal Election Commission

SEPT. 2020: Trump Nominated Republican Allen Dickerson To The FEC. [[Congress.Gov, PN2237 Received 09/16/20](#)]

JUNE 2020: Trump Announced He Intended To Nominate Allen Dickerson. “President Donald Trump today announced his intent to nominate Institute for Free Speech Legal Director Allen Dickerson to the Federal Election Commission. Dickerson has led the Institute’s litigation team since 2011 and is one of the nation’s top experts in campaign finance law. [...] Long-time Commissioner Caroline Hunter also announced her intention to resign from the FEC today, according to an [article](#) in *Politico*. The six-member commission had recently regained its quorum following the Senate’s confirmation of Trey Trainor. If a new commissioner is not nominated and confirmed before Hunter leaves the FEC on July 3, the Commission will once again lose its quorum.” [Institute for Free Speech, [6/26/20](#); White House Nominations & Appointments, [6/26/20](#)]

Dickerson Serves As The Legal Director At The Institute For Free Speech (Formerly Known As The Center For Competitive Politics)— A Koch-Funded Anti-Campaign Regulation Group

Allen Dickerson Currently Serves As The Legal Director Of The Institute For Free Speech—Formerly Known As The Center For Competitive Politics. “Allen is the Legal Director of the Institute for Free Speech, where he leads the Institute’s nationwide litigation efforts. He has represented individuals and organizations in First Amendment challenges before the U.S. Supreme Court, the U.S. Courts of Appeals for the Third, Ninth, Tenth, and D.C. Circuits, the Supreme Courts of Colorado and Nevada, and various trial courts.” [[Staff, Institute for Free Speech, accessed 11/10/20](#)]

As Of 2018, Dickerson Was The Highest Paid Employee At The Institute For Free Speech. [The Institute For Free Speech, 2018 Form 990]

THE CENTER FOR COMPETITIVE POLITICS, NOW KNOWN AS THE INSTITUTE FOR FREE SPEECH, IS A KOCH-FUNDED GROUP

2017: The Charles Koch Foundation Gave \$24,907 To The Center For Competitive Politics.

Lincoln, NE 68583				
Center for Competitive Politics 124 South West Street Suite 201 Alexandria, VA 22314	None	PC	Educational Programs	24,907

[Charles Koch Foundation, 2017 Form 990-PF]

2016: The Charles Koch Foundation Gave \$20,421 To The Center For Competitive Politics.

Center for Competitive Politics 124 South West Street Suite 201 Alexandria, VA 22314	NONE	PC	Educational Programs	20,421
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[Charles Koch Foundation, 2016 Form 990-PF]

Dickerson Argued In Favor Of Political “Rights” For Corporations And Against Campaign Finance Regulations

2012: DICKERSON ARGUED AGAINST DISCLOSURE REQUIREMENTS FOR CORPORATE POLITICAL EXPENDITURES

Dickerson Argued Against Disclosure Requirements For Corporate Political Expenditures.

“LUIS AGUILAR: Requiring transparency for corporate political expenditures cannot wait a decade. It is the commission’s responsibility to rectify this gap, and to ensure that investors are not left in the dark while their money is used without their knowledge or consent. PETER OVERBY: Of course, most corporations oppose this idea, and so do advocates of deregulating the political money system. ALLEN DICKERSON: We’ve recognized for decades that disclosing information that is not economically material can be misleading. PETER OVERBY: That’s Allen Dickerson, legal director of the Center for Competitive Politics. He says that disclosure, whether by regulation or by shareholder initiative, is just a bad idea. ALLEN DICKERSON: In practice, what this will do is require any corporation that wants to use its constitutional rights to submit to a highly politicized, highly partisan debate every year, on how they go about doing it.” [NPR Morning Edition Morning Edition, 02/28/12]

DICKERSON HAS BEEN A STAUNCH DEFENDER OF CITIZENS UNITED—FREQUENTLY DEFENDING CORPORATIONS’ ABILITY TO BE POLITICALLY INVOLVED

Dickerson Op-Ed On Citizens United in 2016: “It Is Of A Piece With The Necessary Role Corporations Play, In The Context Of Political Speech And Association, As Both Protectors Of Vulnerable, Atomized Individuals And The Means By Which Those Individuals Pool Resources To Accomplish Greater Ends.” “In short, and as the overwhelming majority of lawyers practicing in this area know, Citizens United’s decision to extend ‘political rights’ to a corporation was completely unremarkable. And it is of a piece with the necessary role corporations play, in the context of political speech and association, as both protectors of vulnerable, atomized individuals and the means by which those individuals pool resources to accomplish greater ends. There are good faith disagreements about the proper scope of corporate political rights, but not their existence.” [[Allen Dickerson Op-Ed, Huffington Post, 03/31/16](#)]

Dickerson Op-Ed in 2016: “Corporations Have Long Had First Amendment Rights, And For Good Reason.” “Weintraub may sincerely wish that policy outcome, but her argument simply doesn’t hold together. Corporations have long had First Amendment rights, and for good reason. While shareholders often have an interest in corporations being able to speak as corporations, in the overwhelming majority of cases they neither direct a corporation’s political speech nor fund it. And there is a better policy, one the FEC already pursues, and one that would pass constitutional scrutiny as a ‘less restrictive means’ toward preventing foreign influence in our elections than the indiscriminate ban Weintraub proposes.” [[Allen Dickerson Op-Ed, Huffington Post, 03/31/16](#)]

Dickerson On Attempts To Curb Foreign Influence In Elections: “Corporations Have A Right To Speak About Politics. It’s A Strange Calculus That Says We’re Going To Sacrifice The Rights Of The 95 Percent American Ownership For The 5 Percent Foreign Ownership.” “In an effort to stymie foreign influence in elections, several states are considering bills that would limit how businesses with some foreign ownership participate in elections. Amid concerns that Russia helped sway the 2016 presidential election, several states are considering legislation that would bar companies with significant foreign ties from contributing money in state campaigns But critics say having some foreign ties—especially minimal ones—should not disqualify corporations from participating in the political process. ‘Corporations have a right to speak about politics. It’s a strange calculus that says we’re going to sacrifice the rights of the 95 percent American ownership for the 5 percent foreign ownership,’ said Allen Dickerson with the Center for Competitive Politics, a First Amendment group that supports the Citizens United decision.” [Stateline, 03/10/17]

DICKERSON ARGUED FOR THE PROTECTION OF LOBBYIST’S POLITICAL DONATIONS AS FREE SPEECH AND NOT EVIDENCE OF CORRUPT INTENT

Dickerson Argued Against Courts Being Able To Use A Lobbyist’s Political Contributions As Evidence Of Corrupt-Intent. “The Center for Competitive Politics (CCP) filed a friend-of-the-court brief with the U.S. Supreme Court on Wednesday urging that the Court hear a case and clarify that legal campaign contributions cannot be used to imply the existence of an illegal quid pro quo. ‘For forty years, the U.S. Supreme Court has consistently held that political contributions are protected First Amendment activity,’ said Legal Director Allen Dickerson. ‘Yet, the D.C. Circuit’s opinion permits the government to use records of legal, constitutionally protected contributions as evidence of a lobbyist’s corrupt intent—even when precisely zero evidence exists to connect the contribution to any specific act by a legislator. The First Amendment cannot be squared with a system where the threat of incarceration accompanies the mere act of writing a check to support a candidate of one’s choice.’” [Press Release, Center for Competitive Politics, 07/19/13]

As An Attorney For The Center For Competitive Politics, Dickerson Sued Then-Attorney General Kamala Harris Over The Groups Non-Disclosure Of Donors In 2014

2014: AS AN ATTORNEY FOR THE CENTER FOR COMPETITIVE POLITICS, DICKERSON SUED THEN-ATTORNEY GENERAL AND VP-ELECT KAMALA HARRIS

2014: The Center For Competitive Politics Sued Then-Attorney General Kamala Harris For Requesting A List Of Donor Information. “Reporting from Sacramento — A nonprofit charitable group backed by conservative mega-donors David and Charles Koch has sued Atty. Gen. Kamala Harris for seeking the names and addresses of the group’s donors. The Americans for Prosperity Foundation filed a federal lawsuit in Los Angeles earlier this week against Harris, saying her office’s demand for a list of the group’s donors violates its 1st Amendment rights. . . . Another conservative group, the Center for Competitive Politics, has also filed suit against Harris for her request of donor information.” [[Los Angeles Times, 12/11/14](#)]

Dickerson Was The Attorney For The Plaintiff, Center For Competitive Politics.

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*Application *pro hac vice* pending

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

CENTER FOR COMPETITIVE)	Case No. _____
POLITICS,)	
)	COMPLAINT FOR
Plaintiff,)	DECLARATORY AND
)	INJUNCTIVE RELIEF
v.)	
)	
KAMALA HARRIS, in her Official)	
Capacity as Attorney General of the)	
State of California,)	
)	
Defendant.)	
)	

[[Case 2:14-at-00292, Complaint Filed In The United States District Court
For The Eastern District Of California, 03/07/14](#)]

**May 2020:
James Trainor Was Confirmed To
The FEC Without A Traditional
Democratic Companion—
Giving The FEC Quorum With A
Republican Majority For
Just One Month In 2020**

ACCOUNTABLE 

Trainor Assisted The Trump Campaign In Halting The Effort To Derail Trump's Nomination At The 2016 Republican National Convention

TRAINOR ASSISTED THE TRUMP CAMPAIGN'S FIGHT AGAINST A LAST-MINUTE INSURGENCY AT THE 2016 REPUBLICAN NATIONAL CONVENTION (RNC) TO OPPOSE TRUMP'S NOMINATION...

Trainor Was Hired By The Trump Campaign During The 2016 RNC To Oppose A Roll Call Vote On Delegates In Nine States—An Effort To Ensure Trump Did Not Become The GOP Candidate. “During the 2016 Republican National Convention, Trainor was among a handful of lawyers who vetted signatures of delegates from nine states calling for a roll-call vote on unbinding delegates pledged to Trump. The lawyers concluded that petitions from three of the nine states fell short, killing the last-ditch effort to derail Trump's nomination.” [[Statesman, 9/09/19](#)]

... TRAINOR'S INVOLVEMENT IN THE 2016 RNC LED TO CALLS FROM WATCHDOG GROUPS FOR HIM TO RECUSE HIMSELF FROM ANY FEC ENFORCEMENT ACTIONS IF HE WAS CONFIRMED

Watchdog Groups Submitted A Letter To The Senate In 2017 Arguing That Trainor Would Need To Recuse Himself From Any FEC Enforcement Actions Related To Trump's Campaigns. “Ten groups wrote a letter to senators expressing their concerns, though they stopped short of urging the Senate to reject the nomination... The groups critical of his nomination argue that due to his ties to Trump, Trainor would need to recuse himself from any ‘pending FEC enforcement matters’ on Russian meddling in the election, as well as with Trump's campaign.” [[Dallas Morning News, 9/27/17](#)]

Trainor Repeatedly Fought Against Political Transparency Laws In Texas, Including Attempts To Gut Financial Disclosures And The Public Registration Of Lobbyists

Texas Observer: Trainor Was The “Chief Legal Mind” Of Texas’ Attack On Campaign Finance Laws As A Member Of Empower Texans. “Legal Counsel For Empower Texans ‘As the legal counsel for Empower Texans, the mothership shadow-money group, Trainor was the faction's chief legal mind. He was Tom Hagen to leader Michael Quinn Sullivan's Michael Corleone, but substantially less cool. National publications have described Trainor as an ‘opponent’ or ‘critic’ of campaign finance regulation, but that's significantly underselling it.” [[Texas Observer, 9/18/17](#)]

2015: While Working For Texas’ Highest Spending 501(c)(4), Empower Texans Trainor Called Efforts To Improve Political Financial Transparency In Texas A “Political Vendetta”. “A powerful House committee released a report Thursday recommending lawmakers take steps to increase transparency in the state's campaign finance system by passing new measures to prevent politically active nonprofits from shielding the identities of their donors... Trey Trainor, a lawyer who represents Empower Texans, the state's highest-spending politically active 501(c)(4), called the committee's report the product of a ‘political vendetta.’” [[San Antonio Express News, 1/09/15](#)]

Trainor Wanted To Gut Political Financial Disclosures And Public Lobbyist Registrations In Texas. “Trainor wasn’t just a fan of lighter regulation; he wanted to dismantle the whole system. Texas ethics laws aren’t very good. For example, there are no limits on campaign contributions from PACs and individuals to non-judicial candidates. But two core principles that do exist here are financial disclosure and the public registration of lobbyists. Trainor wanted to gut both.” [[Texas Observer, 9/18/17](#)]

2015: Trainor Opposed A Texas House Bill Aimed At Requiring Disclosure Of Politically Motivated Donors And Claimed It Would “Have A Chilling Effect On Anyone’s Ability To Speak.” “Republican leaders in the Texas House, eager to shine a light on secret campaign spending, are hoping to pass a controversial proposal Thursday to prevent politically active nonprofits from hiding the identities of their donors... ‘There’s no question this bill would have a chilling effect on anybody’s ability to speak,’ said Trey Trainor, a lawyer for Empower Texans, the highest spending politically active nonprofit in the state.” [San Antonio Express, 5/14/15]

Trainor Reportedly Worked On Texas’ Unconstitutional Gerrymandered Maps And Has Ties To Thomas Hofeller—A Key Figure In The Trump Administration’s Attempts To Add A Citizenship Question To The 2020 Census

James Trainor’s Resume Claimed That He “Was ‘Intimately Involved’ In Texas’s 2003 Redistricting.” “Trainor’s own resume says he was ‘intimately involved’ in Texas’s 2003 redistricting, a point that Senate Minority Leader Chuck Schumer of New York and Democratic Sen. Catherine Cortez Masto, D-Nev., made during Tuesday’s hearing. Trainor faced criticisms that he was not being forthright about his role as chief of staff to a Texas legislator who co-authored the redistricting bill and worked to push it through.” [[The Intercept, 03/13/20](#)]

Sen. Chuck Schumer: “[Trainor] Has Worked Closely With Thomas Hofeller, Notorious For Masterminding Republican Gerrymandering Schemes, To Redraw Maps That Significantly Disenfranchise Minority Voters At The Local Level.” “‘Mr. Trainor has a long career as a conservative political operative,’ Schumer said at Tuesday’s hearing. ‘He has worked closely with Thomas Hofeller, notorious for masterminding Republican gerrymandering schemes, to redraw maps that significantly disenfranchise minority voters at the local level. Mr. Trainor’s former law firm described him as being ‘intimately involved’ in Texas’s 2003 redistricting, which the Supreme Court deemed in violation of the Voting Rights Act. Mr. Trainor has argued the Voting Rights Act has become a political tool.’” Schumer said the FEC nomination was crucial given the upcoming November presidential election, adding that Trainor’s record raises ‘significant questions about his fitness to carry out the commission’s anti-corruption mandate.’” [[The Intercept, 03/13/20](#)]

According To The Intercept, Trainor Worked Closely With Hofeller And His Partner, Dale Oldham, In The 2011 Redistricting Of Texas’s Nueces County Which Was Later Found To Be Drawn With Discriminatory Intent. “Maps he worked on years later with Hofeller, however, were rejected before they even took effect. According to files obtained by The Intercept, Trainor worked closely with Hofeller and his partner, Dale Oldham, in the 2011 redistricting of Texas’s Nueces County. At the time, Trainor was an attorney at Beirne, Maynard

& Parsons, and Hofeller sent him an invoice for work on the county's redistricting. Texas's 2011 redistricting maps, including the redrawn Nueces County, were later found to be drawn with discriminatory intent, The Intercept reported, and reworked maps were the subject of *Abbott v. Perez*, a Supreme Court case dealing with Texas's redistricting following the 2010 Census." [[The Intercept, 03/13/20](#)]

The Intercept: "Thomas B. Hofeller Achieved Near-Mythic Status In The Republican Party As The Michelangelo Of Gerrymandering, The Architect Of Partisan Political Maps That Cemented The Party's Dominance Across The Country." "Thomas B. Hofeller achieved near-mythic status in the Republican Party as the Michelangelo of gerrymandering, the architect of partisan political maps that cemented the party's dominance across the country. But after he died last summer, his estranged daughter discovered hard drives in her father's home that revealed something else: Mr. Hofeller had played a crucial role in the Trump administration's decision to add a citizenship question to the 2020 census. Files on those drives showed that he wrote a study in 2015 concluding that adding a citizenship question to the census would allow Republicans to draft even more extreme gerrymandered maps to stymie Democrats. And months after urging President Trump's transition team to tack the question onto the census, he wrote the key portion of a draft Justice Department letter claiming the question was needed to enforce the 1965 Voting Rights Act — the rationale the administration later used to justify its decision." [[New York Times, 5/30/19](#)]

TRAINOR ENDORSED THE ELIMINATION OF THE TEXAS ETHICS COMMISSION

Trainor Retweeted A Tweet Which Called For The Elimination Of The Texas Ethics Commission—The Body Which Oversees Public Ethics Laws In Texas.



[[Twitter, 9/13/17](#)]

Trainor Fought An Ethics Violation On Behalf Of Empower Texans Which Claimed That A 501(c)(4) Head Didn't Have To Register As A Lobbyist To Lobby State Legislators

TRAINOR FOUGHT AN ETHICS VIOLATION ON BEHALF OF EMPOWER TEXANS WHICH CLAIMED THAT A 501(C)(4) HEAD DIDN'T HAVE TO REGISTER AS A LOBBYIST TO LOBBY STATE LEGISLATORS...

2014: The Texas Ethics Commission Fined Empower Texans Head Michael Quinn Sullivan \$10,000 For Failing To Register As A Lobbyist While Engaging In Lobbying. "Following a

2012 complaint filed by Republican state Reps. Jim Keffer of Eastland and Vicki Truitt of Keller, the commission ruled last year that Sullivan acted as an unregistered lobbyist in 2010 and 2011 and fined him \$10,000. Sullivan, who has long claimed that his actions communicating with lawmakers as head of Empower Texans do not qualify as lobbying, filed for a judicial review of the commission's action in Denton County, where Sullivan claimed to reside. The appeal favored Sullivan, prompting the Ethics Commission to appeal.” [[Texas Tribune, 11/05/15](#)]

Sullivan Claimed That Communicating With Legislators As The Head Of A 501(c)(4) Did Not Qualify As Lobbying. “Sullivan, who has long claimed that his actions communicating with lawmakers as head of Empower Texans do not qualify as lobbying, filed for a judicial review of the commission's action in Denton County, where Sullivan claimed to reside. The appeal favored Sullivan, prompting the Ethics Commission to appeal.” [[Texas Tribune, 11/05/15](#)]

Trainor Represented Sullivan In His Opposition To The Commission’s Punitive Actions—Arguing That Quinn Did Not Engage In Lobbying. “He represented Michael Sullivan Quinn, a political kingmaker in Texas who got in trouble with state’s ethics board for failing to register as a lobbyist.” [[Talking Points Memo, 9/13/17](#)]

...THE TEXAS ETHICS COMMISSION DROPPED ANY INVESTIGATION AGAINST EMPOWER TEXANS AFTER THE GROUP GAVE THEN-TEXAS AG KEN PAXTON \$1 MILLION FOR HIS 2016 CAMPAIGN

2016: The Texas Ethics Commissions Shut Down Their Investigations Into Sullivan And Empower Texans And Declined To Enforce Any Subpoenas Against The Group... “The Texas Ethics Commission is backing off a long-running battle to force conservative powerbroker Michael Quinn Sullivan to comply with subpoenas as part of an investigation into his nonprofit's political activity. Attorney General Ken Paxton's office, which is representing the commission, told a state district judge in Travis County on Tuesday that the campaign finance regulator is no longer seeking the court's backing to enforce subpoenas against Sullivan or his 501(c)4 nonprofit, Empower Texans.” [[My San Antonio, 9/07/16](#)]

...Texas AG Ken Paxton, Which Represented Commission When They Dropped Their Case Against Empower Texans, Received A \$1 Million Loan From The Group In 2016. The remnants of the investigation into Trainor’s organization were gradually whittled down to near-nothingness by Attorney General Ken Paxton, whose job was to represent the commission in court, and, coincidentally, whose 2016 campaign benefited from a \$1 million loan guaranteed by Empower Texans.” [[Texas Observer, 9/18/17](#)]

<p>Trainor Repeatedly Argued That Campaign And Political Spending Disclosures Are Unamerican And Undermine Democracy</p>

TRAINOR OPPOSED MANY TYPES OF POLITICAL DISCLOSURE REQUIREMENTS

Trainor Opposed A Texas House Bill That Would Require Nonprofits To Disclose Politically Motivated Donors, Claiming It Would “Have A Chilling Effect On Anyone’s Ability To Speak.” “Republican leaders in the Texas House, eager to shine a light on secret campaign spending, are hoping to pass a controversial proposal Thursday to prevent politically active nonprofits from hiding the identities of their donors... ‘There’s no question this bill would have a chilling effect on anybody’s ability to speak,’ said Trey Trainor, a lawyer for Empower Texans, the highest spending politically active nonprofit in the state.” [San Antonio Express, 5/14/15]

Trainor Argued That Consumer Boycotts And Protests Over Political Activity—Which He Called “[Personal] Retribution”—Demonstrate The Need For Anonymous Political Donations. “Trainor noted that the retailer L.L. Bean was in the midst of a consumer backlash because Linda Bean, a granddaughter of the company’s founder, gave money to support Trump. ‘Did Donald Trump need her \$1,000? Probably not,’ he said. ‘She didn’t even give the maximum amount that she’s allowed to give to a federal candidate.’ (In fact, Bean contributed \$25,000 to a pro-Trump PAC, FEC filings show.) ‘But what we have seen is a concerted, focused effort to make it about personalities in politics and to focus on retribution towards her company because she made a \$1,000 contribution to somebody that she believed in and thought was an appropriate message for the country,’ Trainor added.” [[Washington Post, 9/15/17](#)]

Trainor Claimed That The Federalist Papers Could Not Have Been Published If The Founding Fathers Had To Disclosure Their Political Spending. “During a January policy forum hosted by the Texas Public Policy Foundation, Trainor elaborated on his views, saying regulation should focus on lobbying activities, not political spending. ‘I mean, we cannot imagine what would have happened had Alexander Hamilton and John Jay ... had to put on every issue of the Federalist that it was paid for by them,’ he said. ‘The reason that they used the Publius name was because they were concerned that their influence in the process would become an issue. They wanted the weight of their argument to be what won, and they looked at it from that perspective: ‘If we do it anonymously, the people will read this and they will understand.’ And so I can’t imagine a world where they would have had to disclose with the state of New York that they had spent all of the money they’d spent.’” [[Washington Post, 9/15/17](#)]

TRAINOR CLAIMED THAT VOTERS WOULD BE TOO DISTRACTED BY DONOR DISCLOSURES ON POLITICAL ADS TO UNDERSTAND THEIR MESSAGING

Trainor Claimed That Voters Would Be Too Distracted By Donor Disclosures On Political Ads To Understand Their Messaging. “James E. ‘Trey’ Trainor III, the conservative Texas lawyer nominated by President Trump this week to serve on the Federal Election Commission, has challenged the principle that the public benefits from the disclosure of political donors, arguing that voters could be distracted from the content of political messages if they focus on who is financing ads.” [[Washington Post, 9/15/17](#)]

**October 2020:
Trump Nominated A Pair Of
Nominees To The FEC,
Another Partisan Republican
Attorney Named Sean Cooksey And
Independent FEC Staffer
Shana Broussard**

ACCOUNTABLE 

October 2020: Trump Nominated Sean J. Cooksey And Shana M. Broussard To The FEC

October 2020: Trump Nominated Sean J. Cooksey And Shana M. Broussard To The FEC.

“Today, President Donald J. Trump announced his intent to nominate the following individuals to key positions in his Administration: Sean J. Cooksey, of Missouri, to be a Member of the Federal Election Commission. ... Shana M. Broussard, of Louisiana, to be a Member of the Federal Election Commission.” [[President Donald J. Trump Announces Intent to Nominate Individuals to Key Administration Posts, WhiteHouse.Gov, 10/28/20](#)]

BROUSSARD CURRENTLY SERVES AS COUNSEL AT THE FEC AND PREVIOUSLY SERVED AS AN ATTORNEY ADVISOR AT THE INTERNAL REVENUE SERVICE

Shana M. Broussard Serves As The Counsel To FEC Commissioner Steven T. Walther.

“Shana M. Broussard currently serves as the Counsel to FEC Commissioner Steven T. Walther. Before this, Ms. Broussard was an Attorney Advisor at the Internal Revenue Service and a Deputy Disciplinary Counsel at the Louisiana Attorney Disciplinary Board. She also served as a New Orleans Assistant District Attorney.” [[President Donald J. Trump Announces Intent to Nominate Individuals to Key Administration Posts, WhiteHouse.Gov, 10/28/20](#)]

Sean J. Cooksey Currently Serves As General Counsel To Conservative U.S. Senator Josh Hawley Of Missouri.

“Sean J. Cooksey currently serves as General Counsel to U.S. Senator Josh Hawley of Missouri. Since Senator Hawley was sworn in, Mr. Cooksey has advised the Senator on issues including constitutional law, judicial nominations, election law, federal criminal law, and ethics compliance, and he has served as the Senator’s lead staffer on the U.S. Senate Committee on the Judiciary.” [[President Donald J. Trump Announces Intent to Nominate Individuals to Key Administration Posts, WhiteHouse.Gov, 10/28/20](#)]

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