

Congress of the United States

House of Representatives

Washington, DC 20515

May 4, 2012

VIA E-MAIL: [REDACTED]

Mr. Peter Schaumber

[REDACTED]
Washington, D.C. 20008

Dear Mr. Schaumber:

We respectfully request that you provide us and the Committees on Education and the Workforce and Oversight and Government Reform with information regarding your receipt, possession and personal use of deliberative, confidential, or otherwise privileged information belonging to the National Labor Relations Board ("the Board") after you left the Board.

The Board's Inspector General has now reported twice¹ on the extensive communications between you and your former Chief Counsel Terence Flynn, who now serves as a Board Member. According to the Inspector General Mr. Flynn passed to you a variety of confidential, deliberative materials relating to cases and rulemakings before the Board.

Below are specific questions regarding the Inspector General's investigative findings. Please provide responses to the following questions and document requests no later than Friday, May 11, 2012.

A. On November 29, 2011, *National Review Online* published a column by you in which you argued for "a non-partisan board that understands its legal mandate and is committed to act fairly and in the full spirit of the law."² The very next day, on November 30, 2011, you received an email from then-Chief Counsel Terence Flynn containing the internal deliberative analysis by other Board attorneys on a rulemaking still pending before the Board.³ A half-hour later, you thanked Mr. Flynn for the email.⁴ Five days later, on December 5, 2011, Mr. Flynn apparently deleted your email thanking him for the information.⁵ Eight days later, on December 13, 2011, Mr. Flynn sent you an email claiming that he had inadvertently sent the information to you.⁶

¹ Memorandum, Report of Investigation-OIG-I-468 from Board Inspector General David Berry (March 19, 2012) at 11. See also, Memorandum, Supplemental Report of Investigation-OIG-I-468 from Board Inspector General David Berry to the Board (April 30, 2012).

² Report of Investigation- OIG-468 at 7. See IE 42.

³ Peter Schaumber, *An Unfortunate Spectacle at the NLRB*, National Review Online (November 29, 2011). Available at: <http://www.nationalreview.com/corner/284404/unfortunate-spectacle-nlrp-peter-schaumber#>

⁴ *Supra* note 3 at 8. See, IE 45.

⁵ *Id.* at 8. See, IE 48.

⁶ *Id.* at 8. See, IE 47.

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1. What action did you take when you received the November 30, 2011, email from Mr. Flynn with the internal deliberative analysis of the Board attorneys?
2. Did you share that analysis, or portions of it, with anyone? If so, with whom and when? Please provide copies of any documents that discuss, reference or relate to the information provided to you from Mr. Flynn.
4. Did you use that analysis to inform your opinion or any of your statements about the subject? If so, please describe how. Did you inform anyone that you had received that analysis? If so, whom and when? Please provide copies of any documents in which you inform others of receipt of such analysis.
5. At any point, did Mr. Flynn inform you that his electronic files and communications had been requested or seized by the Inspector General? If so, when? Please provide copies of any such communication from Mr. Flynn.
6. When you received the December 13, 2011, email from Mr. Flynn, what, if anything, did you do in response?

B. The Inspector General uncovered a file on Mr. Flynn's computer purporting to be your business plan and your supplemental business plan after your exit from the Board.⁷ The plan calls for "leveraging my Agency connections" to advise clients on matters before the Board.⁸

1. Please provide a list of all clients you have served since your departure from the Board.
2. Please provide a list of any individuals or entities with which you attempted to establish a business relationship since your departure from the Board.
3. Please provide a copy of any business license or articles of incorporation for any entity that you have formed or joined since your departure from the Board.
4. Please provide a list of all employers for which you have worked since your departure from the Board.

C. On January 25, 2011, Mr. Flynn emailed you a copy of a draft decision by Member Craig Becker in the case *Albertson's LLC*, 28-CA-22546.⁹ The case was settled after Albertson's LLC made a request to the Board to withdraw its exceptions approximately two weeks after you received the draft decision.¹⁰

1. What actions, if any, did you take when you received this draft decision
2. Did you share that draft decision, or portions of it, with anyone? If so, with whom and when? Please provide copies of any documents that discuss, reference or relate to the information provided to you from Mr. Flynn.

⁷ *Id.* at 5. See, IE 20-23.

⁸ *Id.* at 5. See, IE 21

⁹ Supplemental Report of Investigation, at 3. See IE 15.

¹⁰ *Id.* See, IE 17.

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3. Did you use that draft decision to inform your opinion or any of your statements about the subject? If so, please describe how.
4. Did you inform anyone that you had received that draft decision? If so, whom and when? Please provide copies of any documents in which you inform others of receipt of the draft decision.

D. In September 2011, the Romney Campaign announced you as a co-chair of his Labor Policy Advisory Group. On January 12, 2012, you appeared on the *Fox Business* channel and were identified as "Romney Campaign Top Adviser."¹¹ However, the Campaign has told the media that you left the campaign in December 2011, the same time period that Mr. Flynn was informed of the Inspector General's investigation.¹²

1. Have you resigned as "labor advisor" to the Romney Campaign? If so, on what date? Have you resigned from any other roles with the Romney Campaign? If so, on what date?
2. What is or was your role with the Romney Campaign? Please provide copies of any documents describing that role, as well as any proposals for such role.
3. If you have resigned from the Romney Campaign, what was your reason for resigning? Please provide copies of any documents discussing, referring to, or explaining your resignation.
4. Were any communications to you from your contacts at the Board provided to or otherwise shared with the Romney Campaign? If so, which communications? Please provide copies of any documents in which you relay such information to the Romney Campaign.
5. What, if any, compensation have you received for your work with the Romney Campaign?

E. The Inspector General's report findings are limited to electronic communications between you and Mr. Flynn, which can be retrieved from electronic archives in a limited period. It is not clear that such communications constitute the universe of dealings between you and Mr. Flynn.

1. Are there any other electronic communications between you and Mr. Flynn since you left the Board that are not included in the Inspector General's reports?
2. Did you communicate with Mr. Flynn since you left the Board telephonically? If so, how often? What were the topics of those conversations?

¹¹ See, <http://video.foxbusiness.com/v/1387064473001/obamas-recess-appointments-legal-but-right/>

¹² Dave Jamieson, *Peter Schaumber, Former Romney Adviser, Left Amid Ethics Investigation: Aid*, Huffington Post (April 26, 2012). Available at: <http://www.huffingtonpost.com/2012/04/26/-peter-schaumber-romney-adviser-ethics-investigation- n 1456283.html>.

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3. Please provide copies of any documents in your possession that belong to the Board and have not been cited in the Inspector General's reports.

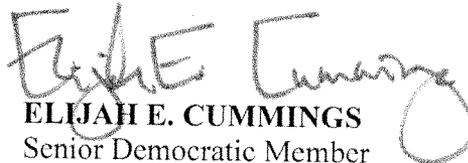
F. Finally, please describe any role you played in Mr. Flynn's nomination to the Board and his consideration in the U.S. Senate, and provide all documents and communications in your possession related to Mr. Flynn's nomination to the Board.

If you have questions regarding this request, please contact Kate Ahlgren of the Education and Workforce staff at (202) 225-3725 or Claire Coleman of the Oversight and Government Reform staff at (202) 225-5051. We appreciate your attention to this matter.

Sincerely,



GEORGE MILLER
Senior Democratic Member
Committee on Education and the Workforce



ELIJAH E. CUMMINGS
Senior Democratic Member
Committee on Oversight and Government Reform

cc: The Honorable John Kline
Chairman, Committee on Education and the Workforce
The Honorable Darrell E. Issa
Chairman, Committee on Oversight and Government Reform