



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
)
National Rifle Association of America,) MUR 7314
Alexander Torshin, Maria Butina, *et al.*)
)

**STATEMENT OF REASONS
OF CHAIR ELLEN L. WEINTRAUB**

Some allegations are too serious to ignore. Too serious to simply take Respondents’ denials at face value. Too serious to play games with. Yet in this matter, my colleagues ran their usual evidence-blocking play and the Commission’s attorneys placed too much faith in the few facts Respondents put before us.

As a result, this agency barely lifted a finger to find out the truth behind one of the most blockbuster campaign finance allegations in recent memory.

In January 2018, McClatchy reported that the Federal Bureau of Investigation (“FBI”) was investigating whether Alexander Torshin – a senior Russian central bank official with ties to Russian President Vladimir Putin – had illegally funneled money to the National Rifle Association to help then-candidate Donald Trump win the presidency.¹ During the 2016 election cycle, the NRA and its affiliate organizations reported to the FEC \$54.4 million in spending in connection with federal elections, with \$30 million reported supporting Trump.² That is \$34.6 million more than the NRA reported spending on federal elections in the previous presidential election cycle.³ Further news reports revealed Torshin’s extensive contacts with the NRA and

¹ Compl. at 2, n.5 (citing Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, McClatchy (Jan. 18, 2018), <http://bit.ly/2KB16zt>).

² First Gen. Counsel’s Rpt. at 5, MUR 7314 (NRA, *et al.*) (“First GCR”).

³ *See id.*

attempts by his former assistant, Maria Butina, to create a back channel between Putin and Trump.⁴

The news reports triggered a complaint with the FEC alleging that the NRA, Torshin, Butina, and others had violated the federal ban against foreign electoral assistance.⁵ Torshin and Butina reportedly forged close ties to NRA donors and leaders, allowing them to participate – illegally – in the NRA’s election-related decisionmaking.⁶ Neither the alleged funneling of foreign money nor the foreign decisionmaking are permissible under federal campaign finance law.⁷

The FEC’s Republican commissioners, however, have blocked the Commission from taking even the smallest step to investigate whether Torshin and Butina violated the ban on foreign national contributions.⁸ This is an abandonment of the Commission’s basic duty to investigate wrongdoing, and is contrary to law.

The Federal Election Campaign Act (the “Act”) requires the Commission to investigate complaints when it has “reason to believe”⁹ (“RTB”) the Act has been violated. The Commission’s formal guidance on the “reason to believe” standard explains that:

- “The Commission will find ‘reason to believe’ in cases where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation.”¹⁰
- “A ‘reason to believe’ finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.”¹¹

⁴ Stone & Gordon, *supra* note 1; *see also* Nicholas Fandos, *Operative Offered Trump Campaign ‘Kremlin Connection’ Using N.R.A. Ties*, N.Y. TIMES (Dec. 3, 2017), <https://nyti.ms/2KCov3F>; Rosalind S. Helderman & Tom Hamburger, *Guns and Religion: How American Conservatives Grew Closer to Putin’s Russia*, WASH. POST (Apr. 30, 2017), <https://wapo.st/2KDPkEI>.

⁵ Compl. at 5.

⁶ Compl. at 8.

⁷ *See* 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(b), (i).

⁸ Certification at 1, MUR 7314 (NRA, *et al.*).

⁹ 52 U.S.C. § 30109 (a)(2) (“If the Commission, upon receiving a complaint ... determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act ... the Commission ... shall make an investigation of such alleged violation...”).

¹⁰ Federal Election Commission, *Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process*, 72 Fed. Reg. 12545 (Mar. 16, 2007).

¹¹ *Id.*

In this matter, the complaint credibly alleged that a significant violation of the Act may have occurred. It was based upon a news report from a reputable news source¹² that led with this striking paragraph:

*The FBI is investigating whether a top Russian banker with ties to the Kremlin illegally funneled money to the National Rifle Association to help Donald Trump win the presidency, two sources familiar with the matter have told McClatchy.*¹³

The article contains few details on the alleged funneling, but its report that the FBI is investigating the matter is direct and specific. And there can hardly be a matter more significant for this Commission than large-scale foreign influence exerted by a preeminent global adversary aimed at interfering with a U.S. presidential campaign. The complaint's use of this article alone justified my vote to find reason to believe a violation of the Act may have occurred.

But for my colleagues who needed more to find RTB, much more information has been available that bolsters the credibility of the complaint's allegations. Butina pled guilty in December 2018 and admitted to "establish[ing] unofficial lines of communication with Americans having power and influence over U.S. politics" – a "Gun Rights Organization" that is likely the NRA.¹⁴ Thousands of articles have been written on the FBI's interest in Torshin's and Russia's dealings with the NRA.¹⁵

One crucial piece of evidence was fully available to the Commission, but my Republican colleagues blocked our Office of General Counsel ("OGC") from collecting it. All our lawyers had to do was pick up the phone, call the FBI, and ask: *Are you, in fact, investigating the Respondents for the violations alleged?* But when I suggested that the Commission instruct OGC to do so, the Republican commissioners refused. We *still* do not know the answer to this foundational, eminently knowable, question. And had the FBI's answer been "Yes," the Bureau may well have been able to jumpstart our investigation with the information it had already discovered.

The FBI's rules require that it have good reason to investigate. These standards are close cousins to those of the FEC's pre-RTB inquiry (Has the complaint credibly alleged that a significant violation of the Act may have occurred?).¹⁶ If the FBI is investigating a matter that is

¹² McClatchy, which was founded in 1857 (and which purchased the storied Knight-Ridder newspaper chain in 2006), operates in 30 U.S. media markets and has won more than 50 Pulitzer prizes. See MCCLATCHY.COM, <https://mcclatchy.com/about/history>.

¹³ Stone & Gordon, *supra* note 1.

¹⁴ First GCR at 10 (citing Statement of Offense at 2, *U.S. v. Maria Butina*, 18-cr-218 (D.D.C. Dec. 8, 2018)).

¹⁵ See, e.g., <https://www.google.com/search?q=%22alexander+torshin%22+%22nra%22+%22fbi%22+%22investigation%22>, which returns more than 12,000 results today.

¹⁶ See Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sept. 29, 2008), found at <https://www.justice.gov/archive/opa/docs/guidelines.pdf>. The Bureau conducts two types of what it calls "predicated investigations": preliminary and full. Both have standards. Both seek information when "[a]n activity constituting a federal crime or a threat to the national security has or may have occurred, is or may be occurring, or will or may occur and the investigation may obtain information relating to the activity or the

the subject of an FEC complaint, then, that should be considered *prima facie* evidence that a violation of the Act may have occurred. I considered McClatchy's credible and unrefuted reporting that such an investigation existed to be enough to find RTB and authorize our own investigation. But had we had known for sure whether the FBI was investigating this matter, the Commission's RTB decision could have been a slam dunk. We could have, and *should* have, known for sure.

Another problem with this matter is that some of the evidence the Commission *did* consider was severely lacking. My Republican colleagues and the Commission's attorneys erred in relying upon the NRA's own internal review of its donations, which, to the surprise of no one, failed to identify any substantial foreign donations.¹⁷ The NRA's first search only covered \$5,000+ donors, and only searched whether those donors listed a foreign address or used a foreign bank account.¹⁸ A second search covered donations of any size, but only looked for "known Russian nationals, people using Russian addresses, and transfers from Russian banks."¹⁹

Now, the NRA may have been founded to improve marksmanship, but it was shooting with its eyes closed here. Its search of its records for foreign contributions in this enforcement context was ludicrously inadequate. Who's on this list of "known Russian nationals"? We don't know. Were there any suspicious patterns of transactions that would indicate that contributions were being made in the name of another? We don't know. The NRA's effort was hardly more thorough than searching a contributor list for the name "Vladimir Putin" and calling it a day.

But in the end, it wasn't on the NRA to make sure the Commission had sufficient information in hand to make an informed RTB decision; it was on the Commission and its attorneys.²⁰

My Republican colleagues danced a familiar two-step here. First they blocked OGC's ability to avail ourselves of the available evidence (by calling the FBI) and next they claimed there was not enough evidence to give them reason to believe a violation of the Act may have occurred (and voted to dismiss the matter). For more than a decade, this pattern has served their goal of obstructing campaign-finance law enforcement. It has been immensely harmful when they have applied this approach to domestic enforcement matters large and small. But for the Republican commissioners to apply the same approach to a matter of such national importance, and in doing so *turn a blind eye to the possibility that a foreign adversary secretly funneled tens*

involvement or role of an individual, group, or organization in such activity" (*id.* at 20). A preliminary FBI investigation may be initiated on "the basis of information or an allegation" of the above activity (*id.* at 21). A full FBI investigation may be initiated if "there is an articulable factual basis for the investigation that reasonably indicates" the above activity (*id.* at 22).

¹⁷ First GCR at 18.

¹⁸ NRA Resp. (March 19, 2019) at 1, MUR 7314 (NRA, *et al.*).

¹⁹ NRA Supp. Resp. (Apr. 13, 2018) at 1, MUR 7314 (NRA, *et al.*).

²⁰ Note that Russia's money could have traveled along a variety of pathways into the NRA's coffers without the NRA's knowledge (by the use of, *e.g.*, cut-out donors). All these paths are alarming from the aspect of foreign money in our elections, but not all of them implicate the NRA in wrongdoing.

of millions of dollars into a presidential campaign, is to bring their obstruction to a new and breathtakingly damaging level.

The Commission had before us a textbook example of “reason to believe.” The complaint credibly alleged that an extraordinarily significant violation of the Act may have occurred. Further investigation was and is required. But the FEC’s Republican commissioners blocked the Commission from enforcing the law on a complaint alleging a serious threat to our country’s democracy.



August 16, 2019

Ellen L. Weintraub
Chair