

December 7, 2010

Senator John Kerry
Chairman
Senate Foreign Relations Committee
446 Senate Dirksen Building
Washington, DC 20510

Dear Senator Kerry,

We are writing to you as Chairman of the Senate Foreign Relations Committee in our capacity as individuals who spend much of our time working on issues of government integrity, including government ethics, transparency and accountability.

We are aware that Senator Charles Grassley has placed a hold on the nomination of Norm Eisen to serve as Ambassador to the Czech Republic. According to a statement placed in the Congressional Record on September 27, 2010, Senator Grassley said he placed this hold on Mr. Eisen because of his role in the firing of former Inspector General (IG) Gerald Walpin and his lack of candor in this matter.

We each have worked closely with Mr. Eisen in his role as Special Counsel to the President for Ethics and Government Reform. Based on our work with him on various government reform issues, including government ethics, accountability and transparency, and on the public record in this case, we believe his conduct was proper in this matter and that he is entitled to a vote on his nomination to be the Ambassador to the Czech Republic.

We have the highest regard for Mr. Eisen's integrity and honesty and do not believe there is any way that he would intentionally mislead Senator Grassley's staff in his dealings on this matter.

We also highly regard Senator Grassley's integrity and honesty and are well aware of all that he has done to foster and advance the cause of government integrity and accountability during his long career in Congress. Furthermore, Senator Grassley's oversight of this matter has already accomplished the desired effect of communicating that care must be taken in the removal of any Inspector General.

We believe that any concerns that have arisen regarding Mr. Eisen could only stem from misunderstandings or miscommunications between him and Senator Grassley's staff and do not rise to the level of preventing the Senate from voting on his nomination.

Senator Grassley's hold on Mr. Eisen's nomination followed a November 20, 2009 Joint Staff Report prepared by the staff of Senator Grassley and the staff of Representative Darrell Issa regarding the basis for the firing of IG Walpin and Mr. Eisen's candor in this matter.

We would like to express our views on the issues raised in the Joint Staff Report.

We know that the U.S. District Court rejected former Inspector General Gerald Walpin's claim that he was improperly removed from his position as IG of the Corporation for National and Community Service (the Corporation) and found that his claim was without merit.

We are also aware that Congress by statute did not require that the President be limited to removing IGs for "cause." While it might be preferable for Congress to be consulted prior to the removal of an IG, current law does not require such consultation. In fact, Senators Joe Lieberman, Susan Collins and Claire McCaskill all concluded that the White House "met both the letter and spirit of the law" when informing Congress of its decision to remove Mr. Walpin as IG. Under these circumstances, the absence of such a requirement and of prior consultation in this matter surely should not be a basis for raising concerns about Mr. Eisen's actions.

The issue has been raised about whether Mr. Eisen told Senator Grassley's staff on June 17, 2009 that the board of directors of the Corporation had unanimously asked for Mr. Walpin's firing. The Joint Staff Report states that the Corporation only asked the White House to review Mr. Walpin's behavior and not to remove him.

A June 16, 2009 letter from Mr. Eisen to Senators Lieberman and Collins, however, clearly indicates that Mr. Eisen claimed only that the Corporation had requested a review of Mr. Walpin's activities, not for him to be fired. This letter was provided to Senator Grassley's office contemporaneously, according to the Joint Staff Report.

According to the June 16th letter from Mr. Eisen to the two Senators:

"Mr. Walpin was removed after a *review* was unanimously requested by the bi-partisan Board of the Corporation." (emphasis added)

Senator Grassley's own letter of June 17, 2009 to White House Counsel Gregory Craig confirms that this is what Mr. Eisen claimed. Senator Grassley stated:

"Mr. Eisen said he conducted "an extensive review" at the request of the CNCS Board on or about May 20, 2009."

A joint June 17, 2009 letter to Senator Grassley from the members of the Corporation's board of directors stated, "We support the President's decision to remove Mr. Walpin." The letter was unanimously endorsed by the Board.

It would simply make no sense for Mr. Eisen to intentionally mislead Senator Grassley's staff on June 17th about what the Board had requested when he had sent a letter to Senators Lieberman and Collins one day earlier on June 16th stating that the Board had requested a "review" of Mr. Walpin, not his removal, and when a copy of this letter was delivered to Senator Grassley.

Under these circumstances, to the extent any differences exist about the June 17 meeting between Senator Grassley's staff and Mr. Eisen, this is clearly the product of misunderstandings or miscommunications and not of any intention by Mr. Eisen to mislead the staff.

The question also has been raised about whether Mr. Eisen actually conducted an "extensive review" before the removal of Mr. Walpin as Inspector General. The Joint Staff Report concluded, as of November 2009, that there was no evidence that such a review took place. Based upon the subsequent development of the public record it is now clear that such a review did take place. This is shown by Mr. Eisen's statement spelling out the White House review that was submitted for the record to the Senate Foreign Relations Committee, and by documents attached to the March 2, 2010 "Update and Supplement to the Initial Report."

For example, in a memo dated May 21, 2009, the Corporation's General Counsel, Frank Trinity, sent an extensive collection of documents regarding Mr. Walpin's conduct as the Corporation's IG to the White House Counsel staff in response to a request from the staff. The White House staff made this request for documents and information almost three weeks before Mr. Eisen contacted Mr. Walpin. This memo is attached to the March 2, 2010 report.

It is always difficult to reconstruct past conversations but the record makes clear that Mr. Eisen did not engage in improper conduct and did nothing to intentionally mislead Senate Grassley's staff on the activities he carried out in the Walpin matter.

Mr. Eisen has served the country with distinction. We very much hope that Senator Grassley will lift his hold and that the full Senate will be given the opportunity this year to vote on Mr. Eisen's nomination to be U.S. Ambassador to the Czech Republic.

Thank you for considering our views.

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*Added on December 22, 2002