

United States Senate

WASHINGTON, DC 20510

March 25, 2010

President Barack Obama
The White House
Washington, DC 20500

Dear President Obama:

We are writing to urge you not to act in contravention of the bipartisan Senate vote against the nomination of Craig Becker to be a Member of the National Labor Relations Board (NLRB) through a recess appointment. To do so would disregard the Senate's constitutional responsibility of advice and consent.

Instead, we urge you to take a bipartisan path to fill current NLRB vacancies. You have nominated three individuals for seats on the NLRB: Democratic union lawyer Mark Gaston Pearce, Senate HELP Committee Republican Labor Policy Director Brian Hayes, and Mr. Becker. Of these three, only Mr. Becker has generated controversy.

Mr. Becker's writings clearly indicate that he would use his position on the NLRB to institute far-reaching changes in labor law far exceeding the Board's authority and bypassing the role of Congress. His rejection of traditional notions of democracy in union elections and of an employer's status as a party to labor representation proceedings has garnered bi-partisan opposition to his nomination. His extensive, highly controversial writings, as well as his legal and scholarly career indicate that he could not be viewed as impartial or objective in deciding cases before this quasi-judicial agency.

Also, as the first NLRB nominee to come directly from the legal staff of an international union (SEIU) and a union federation (AFL-CIO), Mr. Becker would, by his own admission, be required to recuse himself from many cases before the NLRB due to a legal or ethical conflict. He has offered to recuse himself only from cases involving the SEIU or the AFL-CIO as individual institutions. However, many believe that in order to avoid a conflict, or even the appearance of a conflict, Mr. Becker also should be required to recuse himself from all cases involving any of the SEIU's locals, as well as the international union itself.

Mr. President, we are also concerned that Mr. Becker's service on the Presidential Transition Team while still employed by the SEIU violates your own Administration policy against using lobbyists or those affiliated with lobbyists as part of your transition team. While on the Transition Team for the Department of Labor, as well as being employed by the SEIU, Mr. Becker has stated that he substantially contributed to Executive Orders you issued in January 2009 which clearly benefit the SEIU and the AFL-CIO. Such actions undermine the confidence we and those with matters before the Board can have in Mr. Becker's judgment, as well as his objectivity.

We urge you not to ignore the bipartisan Senate vote by giving Mr. Becker a recess appointment to the NLRB. Taking this action would place a rejected nominee in an appointed term to the NLRB, setting an unfortunate precedent for all future nominations and future administrations.

Respectfully,

Orin Hatch

John McCain

Sam Alberman

Michael Bennet

Jim Bunning

Judd Gregg

Tom Harkin

Jim Inhofe

John Thune

Jeff Flake

John Sununu

Scott Brown

Al Bond

White House

Alyssa Snow

John Eny

Richard B. Lugar

Kay Bailey Hutchison

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[Signature]

Tom Harkin

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Richard Shelby

Phil McConnell

Tom

John Cornyn

John

Paul Coburn

Ben Rayburn

Mike Johanns

Sally Clark

Chuck Grassley

Frank Lautenberg

George V. Voinovich

Jeff Sessions

Robert F. Bennett

Tom Coburn

Sam R. Albritton

J. Th

Susan Collins

Jim DeMint