

December 21, 2021

National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Dear Board Members Prouty and Wilcox:

On behalf of the undersigned organizations and millions of taxpayers and consumers across the country, we write to express our concerns with troubling conflicts of interest at the National Labor Relations Board (NLRB). Specifically, it has come to our attention that you have refused to recuse yourselves from litigation brought against the NLRB by your former employer, the Service Employees International Union (SEIU). To restore the public's faith in an independent and unbiased NLRB, we urge you to recuse yourselves from matters involving the SEIU.

It is critical that independent federal agencies, especially those with sweeping power over the U.S. economy like the NLRB, act in a fair manner that upholds the law without preference towards organized labor or employers. Taxpayers and consumers deserve an NLRB that does not put its thumb on the scale for political purposes. This is especially relevant as organized labor is lobbying for more power through unprecedented increases of civil penalties in the H.R. 5376, *the Build Back Better Act* and H.R. 842, the devastating *Protecting the Right to Organize (PRO) Act*.

Unfortunately, the NLRB's commitment to impartiality is being called into question by its response to litigation recently brought by the SEIU against the Board's 2020 Final Rule on "joint employer" status, which provides a clear set of rules for employers and workers for the first time in history. On October 14, 2021, Senator Mike Braun (R-Ind.) and 13 members of Congress wrote to Chair McFerran to highlight the extensive personal and professional relationships between you and the SEIU. For example, Mr. Prouty signed and filed comments on behalf of a major SEIU chapter in opposition to the 2017 rule; as the *Wall Street Journal* editorial board noted, "This is disqualifying by any ethics standard." Likewise, Board Member Wilcox served as the top lawyer for a local SEIU chapter and represented the union in its "Fight for \$15" activist campaign.

Given these ties among others, it is impossible to argue that you are not conflicted regarding litigation brought by the SEIU. Yet, Chair McFerran recently responded to members of Congress assuring them there is no conflict of interest while providing the public practically no substantive explanation for this determination. This determination is troubling, and unless reversed, raises deep concerns about the NLRB's commitment to impartiality in the face of major policy debates that will impact our nation's small businesses. To address these concerns, we urge you to immediately recuse yourselves from all activity involving the SEIU.

Sincerely,

Taxpayers Protection Alliance

Americans for Tax Reform

Center for a Free Economy

Center for Individual Freedom

Center for Union Facts

FreedomWorks Foundation

Heritage Action

National Taxpayers Union

Open Competition Center