July 18, 2018

The Honorable Ron Johnson   The Honorable Claire McCaskill
Chairman   Ranking Member
Senate Committee on   Senate Committee on
Homeland Security and Governmental Affairs   Homeland Security and Governmental Affairs
42 Dirkson Senate Office Building   304 Dirkson Senate Office Building
Washington, DC 20510   Washington, DC 20510

Dear Chairman and Ranking Member,

We are federal sector unions collectively representing over one million workers and we are writing today to express our opposition to the nominations of Andrew Maunz and Dennis Dean Kirk for the positions of Vice Chairman and Chair, respectively, for the Merit Systems Protection Board (MSPB). In addition, we are all unified in our unequivocal support for the nominee Julia Clarke, whose long and excellent service in the public good as a labor advocate and at the FLRA make her supremely qualified for this position on the MSPB.

Both the Vice Chair and Chair nominees clearly lack the experience that would make them qualified for these positions. Neither have spent considerable time representing employees or agencies before the MSPB and are notably lacking in significant experience with labor/employment/or personnel law. In fact, within his very sparse federal representation experience, the Vice Chair nominee, Andrew Maunz, received a scathing comeuppance from a District Court Judge for being unprofessional and lacking the temperament to conduct himself appropriately in his role as a representative of the Social Security Administration.

It was originally unclear, based upon his rather unrelated legal experience, why Dennis Kirk would even be considered for Chair of the MSPB. Through additional research we have learned of facts that leave us deeply concerned not just with the nominee's qualifications, but also about his possible connections to other ongoing investigations. Enough serious concerns have been raised by simply reviewing the public record that a much deeper Congressional investigation is warranted prior to considering this nomination.

Dennis. Kirk is a partner in the law firm Schmitz & Socarras, LLP, which specializes in representing numerous foreign corporations and "investors," *including those in Russia*. The firm's website states that one area of representation is "regulatory compliance challenges" and includes a list of clients. One client is Sukhoi, a Russian aircraft manufacturing company with a long history of producing aircraft for the Soviet and now Russian Air Force. They also produce civilian aircraft, and like many Russian companies have historical roots in previous Soviet society. Sukhoi now has a parent company, United Aircraft Corporation, which was created in February 20, 2006 by Russian President Vladimir Putin in Presidential Decree No. 140.

Thus, funds received by the law firm of Schmitz and Socarras, LLP, from the subsidiary, Sukhoi, would have clear financial and management ties to the Putin-created company, United Aircraft. We do not know the scope of work performed by Dennis Kirk and/or his law firm on behalf of Sukhoi, or if it would require, for instance, filing as a foreign agent. However, nothing in the firm's description indicates that it performs the kind of work that would typically be performed by a qualified candidate for the MSPB.

In addition, there are troubling indications that Dennis Kirk's law partner, Joseph Schmitz, served as General Counsel to Erik Prince's organization, the Prince Group, served as a noted foreign policy advisor to the Trump campaign, and claimed during the election to be in possession of the missing 30,000 Hillary Clinton emails from a client, presumably of Kirk's law firm, known as "patriot". Considering this is a three-person law firm, his partner's long history of representing the interests of Russia should be noted, and Mr. Kirk's involvement in and/or enrichment from these activities merit further investigation.

Positions on the Merit Systems Protection Board afford the occupants access to extensive amounts of personal data on employees of the government. Just as we have expressed deep concern with the OPM data breach, we, and all federal employees, including those with all levels of security and sensitive clearances, need to be secure in the knowledge that the MSPB provides a fair and transparent venue for personnel appeals. We need to know that federal employees will not be compromised or silenced for speaking up as whistleblowers and not betrayed by political pressure from either party, or from any foreign influences, at the MSPB.

The Merit Systems Protection Board by comparison to many other federal agencies can seem to be a rather small, obscure agency; normally, it should be. The MSPB for the most part quietly handles personnel issues in federal employment. But, it plays a vital role in ensuring that merit principles apply and not political cronyism. The unusual connections of this three-partner law firm raise troubling questions about the nomination of Mr. Kirk for the position that essentially umpires terminations of federal employees, including those alleging retaliation for whistleblowing.

In conclusion, we do not feel that Dennis Kirk's background and professional career demonstrate appropriate experience for a position on the MSPB. Furthermore, his connections through his law firm to Joseph Schmitz and issues related to the Russia investigations, raise red flags about his placement in a position with oversight over federal employees and whistleblowers.

Sincerely,

American Federation of Government Employees (AFGE)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAMAW)
International Brotherhood of Teamsters (IBT)
International Federation of Professional and Technical Engineers (IFPTE)
Marine Engineers' Beneficial Association (MEBA)
Metal Trades Department, AFL-CIO (MTD)
National Association of Government Employees, SEIU (NAGE)
National Federation of Federal Employees (NFFE)
National Weather Service Employees Organization (NWSEO)
Patent Office Professional Association (POPA)