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Congress of the United States

House of Representatives

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LAWRENCE J. BRADY
STAFF DIRECTOR

February 1, 2012

Dear Members of the Committee on Oversight and Government Reform:

Although Republicans have raised concerns about the President's recess appointments, the real issue here is the unprecedented obstruction by a gang of 44 Republican Senators to sabotage the mission of the Consumer Financial Protection Bureau (CFPB).

In a letter they wrote last May, they declared their opposition to **any nominee** to head the Bureau. Constitutional scholar Thomas Mann called this "a modern-day form of nullification" and said "[t]here is nothing normal or routine about this."

These Senators conceded that the President's nominee, Richard Cordray, was extremely well-qualified for the position. For example, Senator Mike Lee openly admitted: "[M]y decision to oppose his confirmation by the Senate has nothing to do with his qualifications. ... Rather, I feel it is my duty to oppose his confirmation as part of my opposition to the creation of CFPB itself."

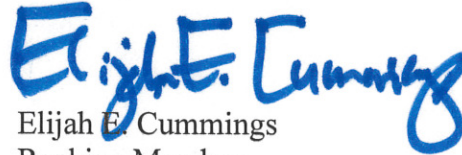
According to the law Congress passed to reform the financial services industry, the Consumer Bureau would gain the authority to issue regulations protecting consumers from unfair, deceptive, and abusive financial practices once a permanent Director was put in place. But these are exactly the protections Republicans wanted to block. The corporate interests that opposed the creation of the Bureau to begin with are the same interests that are now aggressively challenging the President's recess appointments on Constitutional grounds.

But the gang of 44 Senate Republicans had left the President with no choice. Using his Constitutional authority to make recess appointments was the only way he could comply with the laws passed by both Houses of Congress to establish and maintain the CFPB as a fully functioning government agency.

The fact is that President Obama has been extremely restrained in his use of recess appointments. During their full terms, President George W. Bush made 171 recess appointments, President Clinton made 139, and President Reagan made 240. In contrast, to date President Obama has made only 32.

For your review, attached is a Minority Staff presentation entitled, *Unprecedented Obstruction: An Examination of the Facts Leading to President Obama's Recess Appointments*. I hope you will find it useful.

Sincerely,

A handwritten signature in blue ink that reads "Elijah F. Cummings". The signature is written in a cursive, flowing style.

Elijah F. Cummings
Ranking Member