

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 21, 2017

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Mr. Chairman:

I am writing to request documents and information relating to Albert C. Kelly. The Federal Deposit Insurance Corporation (FDIC) recently banned Mr. Kelly from the banking industry and imposed a financial penalty of \$125,000 for abuses he engaged in as the top executive of a bank in Oklahoma. Yet, Mr. Kelly is currently serving as a “senior adviser” to Scott Pruitt, the Administrator of the Environmental Protection Agency (EPA), and has been leading the EPA’s Superfund Task Force.¹

If the FDIC has determined that Mr. Kelly is unfit to serve as an Oklahoma bank official, it is unclear why he is fit to serve as one of the top advisers to the EPA Administrator leading a major task force. An EPA official reportedly stated that Mr. Kelly disclosed the existence of the pending FDIC matter before he was hired, but it is unclear what information he provided. Despite these new findings by the FDIC, the EPA official also reportedly stated that Administrator Pruitt intends to keep Mr. Kelly in his senior position.²

On July 27, 2017, the FDIC issued an “Order of Prohibition from Further Participation” banning Mr. Kelly from working for any U.S. financial institution and imposing a fine against him of \$125,000.³ The FDIC’s order made serious findings, although it did not provide specific details. The order stated:

The FDIC considered the matter and determined that it had reason to believe that:

¹ *Adviser to EPA Chief Cited for Federal Banking Violations*, Associated Press (Aug. 28, 2017) (online at www.apnews.com/649fb04caa70402789c667792019a0f5); *EPA Announces Superfund Task Force*, EPA (May 22, 2017) (online at www.epa.gov/newsreleases/epa-announces-superfund-task-force); *Pruitt Appoints Task Force to Speed Up Superfund Process*, Law360 (May 22, 2017) (online at www.law360.com/articles/927104/pruitt-appoints-task-force-to-speed-up-superfund-process).

² *Id.*

³ *In the Matter of Albert C. Kelly*, FDIC-15-0179e (July 27, 2017) (online at www.eenews.net/assets/2017/08/28/document_gw_10.pdf).

- (a) The Respondent [Mr. Kelly] has engaged or participated in a violation of law or regulation, unsafe or unsound practice, and/or breach of fiduciary duty as an institution-affiliated party of SpiritBank, Tulsa, Oklahoma (“Bank”),
- (b) By reason of such violation, practice or breach, the Bank has suffered financial loss or other damage; and
- (c) Such violation, practice or breach involved Respondent’s willful or continuing disregard for the safety or soundness of the Bank.

The order also stated:

The FDIC further determined that such violation demonstrated Respondent’s unfitness to serve as a director, officer, person participating in the conduct of the affairs or as an institution-affiliated party of the Bank, any other insured depository institution, or any other agency or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A).

Although the FDIC’s order did not disclose details about these findings, the Federal Deposit Insurance Act authorizes the banning of bankers for a variety of financial crimes—including those involving dishonesty, breaches of trust, and money laundering—when continued service in the industry may impair the public confidence in the depository institution or the functioning of the bank. In effect, the FDIC may ban bankers when they cannot be trusted to act in the best interest of depositors or the public.

It is imperative that Congress and the American people obtain detailed information about the abuses Mr. Kelly engaged in that resulted in the FDIC’s fine and order against him. For these reasons, I request that the FDIC produce, by October 6, 2017:

- (1) the FDIC’s entire investigative and adjudicatory case files relating to Mr. Kelly; and
- (2) all documents obtained by the FDIC on which the Order of Prohibition from Further Participation was based.

I also request that appropriate FDIC officials brief my staff on these matters within the next two weeks. If you have any questions about this request, please contact Todd Phillips at (202) 225-5051. Thank you for your cooperation with this matter.

Sincerely,



Elijah E. Cummings
Ranking Member

cc: The Honorable Trey Gowdy, Chairman