



Wednesday, July 31, 2019

Honorable Maxine Waters  
2221 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Waters,

On behalf of Allied Progress, a leading consumer watchdog group, I am writing to encourage you to exercise your power as House Financial Services Committee Chairwoman to open an investigation into whether decisions to cripple the Consumer Financial Protection Bureau's (CFPB) Office of Fair Lending made by the agency's former Acting Director and current White House Chief of Staff Mick Mulvaney were motivated by racial animus.

We raise these concerns in light of the *Washington Post's* recent report on Mulvaney's unsettling reaction last September to initial reports on the racist and sexist blog posts written well into adulthood by former CFPB and current HUD official Eric Blankenstein. The *Post* reported that the Office of Inspector General finished its investigation in May into Blankenstein's behavior surrounding the discovery of his writing and concluded he "may have abused his authority" and "misused his position for private gain" when he asked a subordinate, who is African American, to write a statement in support of him. Those findings were not surprising. What was not expected from the Inspector General's report was Blankenstein's characterization of his boss Mulvaney's knee-jerk reaction upon learning of his racist and sexist writings, including claims that the use of the N-Word wasn't racist and that most hate crimes are hoaxes:

*Mulvaney told him "he wasn't going anywhere" and had been "smeared" by The Post, Blankenstein told investigators. "Blankenstein described this encounter to him as Mulvaney giving him a high-five that morning in sort of, celebration of the article," according to the inspector general's report. [Washington Post, 7/29/2019]*

The Trump administration has been accused of harboring racist views on many occasions, as you well know, but now we know they celebrate them as well. The American people still have not received an answer from the administration on how someone with Blankenstein's views was allowed to stay on the job for nearly a year after his discriminatory world-view became public, despite the fact he was in charge of the bureau's anti-discrimination efforts.

But we believe these new revelations — that then-Director Mulvaney essentially gave Blankenstein an "Atta' boy" — raises new and serious concerns about the policy decisions both men made. We believe the public deserves a full accounting of the reasoning behind the CFPB decisions to weaken anti-discrimination protections given what we know about the people in charge at the time.

Among the Mulvaney decisions to undermine the CFPB's fair lending efforts that should come under renewed scrutiny:

- **Mulvaney Stripped The CFPB's Office Of Fair Lending And Equal Opportunity Of Its Enforcement Power.** In February 2018, Mick Mulvaney stripped enforcement powers from the CFPB's Office of Fair Lending and Equal Opportunity, which consumer advocates argued will weaken or even dismantle the

office responsible for lending discrimination issues. According to the Washington Post: “The office previously used its powers to force payouts in several prominent cases, including settlements from lenders it alleged had systematically charged minorities higher interest rates than they had for whites.” [Renae Merle, “[Trump administration strips consumer watchdog office of enforcement powers in lending discrimination cases](#),” *The Washington Post*, 02/01/18; Makada Henry-Nickie, “[On fair lending, Mulvaney’s actions at CFPB speak louder than his words](#),” Brookings Institution, 04/12/18; Hannah Levintova, “[The Trump Administration Just Made it Easier for Banks to Screw Over Minority Borrowers](#),” *Mother Jones*, 02/02/18]

- **Mulvaney Proposed That The CFPB Roll Back Enforcement Of Fair Lending Law Under The Equal Credit Opportunity Act, Including Reviewing Its Use Of Disparate Impact Theory In Fair Lending Cases.** In May 2018, Mulvaney released a statement that said the “Consumer Financial Protection Bureau may revamp the way it reviews compliance with the Equal Credit Opportunity Act in a move that could cut back enforcement under the fair lending law.” The potential change was included in a statement issued by “the bureau and its acting director, Mick Mulvaney,” in response to “President Donald Trump’s signing of a measure repealing the bureau’s indirect auto lending guidance.” According to Christopher Peterson, “a professor at the University of Utah Law School and a former top CFPB official,” this change would take away on the CFPB’s “most powerful enforcement tools” because “the vast majority of CFPB fair lending cases involve bringing claims based on the disparate impact theory.” [Evan Weinberger, [Evan Weinberger, “[CFPB to Review Use of Disparate Impact in Fair Lending Cases](#),” *Bloomberg BNA*, 05/21/18]
- **Mulvaney’s CFPB Reconsidered A Rule On Home Mortgages, Making Discrimination Easier In Home Lending.** In December 2017, Mick Mulvaney’s CFPB announced it would “reconsider various aspects” of new Home Mortgage Disclosure data reporting requirements designed to “identify... potential discriminatory lending practices in the marketplace.” Critics cautioned this could “make it more difficult to identify discrimination in home lending.” [Kate Berry, “[CFPB’s Mulvaney plots HMDA rollback, but it may not matter](#),” *American Banker*, 05/25/18; [“[Home Mortgage Disclosure Act](#),” **Federal Financial Institutions Examination Council**, accessed 02/01/17; Final Rule, [Home Mortgage Disclosure Act \(Regulation C\)](#), Consumer Financial Protection Bureau, accessed 02/01/18; “[Statement with respect to HMDA implementation](#),” **Consumer Financial Protection Bureau**, 12/21/17]

What motivated these decisions to make it easier for systemic discrimination by lenders to continue? We fear the worst based on Mulvaney’s frat-boy-style ‘high five’ and jovial attitude towards the racist views held by a top aide, even as that aide was in a position to inject his biases into the administration’s work policing lending discrimination. If race or a cavalier reaction to systemic bias was indeed a factor in the administration’s fair lending decisions, it should be brought fully into the light in order for Congress to help undo the damage done to those the CFPB should be protecting.

Respectfully,



Kyle Herrig  
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