

United States Senate

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January 25, 2021

The Honorable James Lankford, Chairman
The Honorable Christopher Coons, Vice Chairman
Senate Committee on Ethics
220 Hart Building
U.S. Senate
Washington, DC 20510

Dear Chairman Lankford and Vice Chairman Coons:

On January 21, seven Democrat Members of the Senate filed an unprecedentedly frivolous and improper ethics complaint against me and Senator Cruz.¹ Without citing any relevant evidence or offering any good-faith argument, they attempted to link my objection lodged under 3 U.S.C. § 15 to the criminal riot at the Capitol that occurred on January 6. They submitted their meritless complaint in potential coordination with a campaign by partisan and dark-money groups that have peddled falsehoods about me and my objection. By knowingly submitting a frivolous complaint to accomplish impermissible partisan purposes, these Senators have engaged in improper conduct that may reflect upon the Senate. The Committee should discipline these Members to ensure that the Senate's ethics process is not weaponized for rank partisan purposes.

The complaint against me *does not* suggest that my objection to Pennsylvania's electoral votes was legally improper. No Senator could make such a suggestion with a straight face. Federal law expressly authorizes Senators to object that a State's electoral votes were not "regularly given." 3 U.S.C. § 15. Democrats have repeatedly invoked this provision. Indeed, in every presidential election since 2000 that a Republican has won, Democrats have sought to object to electoral votes on that ground, regardless of whether any good-faith basis existed for such objections. Thus, my objection invoked a lawful process that has been used multiple times under comparable circumstances.

Moreover, there is a strong legal basis to believe that Pennsylvania's electoral votes were not regularly given. Indeed, it appears that Pennsylvania conducted the 2020 general election using a mail-voting scheme that violated the Commonwealth's Constitution. That's not just my opinion: while *no judge* has concluded that the mail-voting system was valid, *multiple members* of the Pennsylvania Supreme Court expressed substantial doubt about the validity of the statute. *See Kelly v. Commonwealth*, No. 68 MAP 2020, 2020 WL 7018314 (Pa. Nov. 28, 2020), at *5 & 5 n.3 (Saylor, C.J., concurring in part and dissenting in part). My Democrat colleagues may disagree with my reading of Pennsylvania law—and, apparently, the intuitions of some of Pennsylvania's most esteemed jurists—but it is clear that my objection rested on far more solid ground than the electoral college objections submitted by Democrat Members of Congress after the 2000, 2004, and 2016 elections. Yet Democrats did not hasten to censure or expel their objecting colleagues; instead, they offered paeans to them. The

¹ See <https://www.whitehouse.senate.gov/imo/media/doc/1.21.21%20Ethics%20Complaint%20Against%20Cruz%20and%20Hawley%20Final.pdf>

only difference is that I am a Republican. This manifestly partisan exercise demeans this Committee and the critical purposes that it serves.

Most astonishingly, the Democrats who filed the complaint against me insinuate—*without any evidence whatsoever*—that I or my staff may have conspired with the criminals who stormed the Capitol. In most jurisdictions, such statements would constitute defamation *per se*, and if offered during debate they would constitute a clear violation of Senate Rule XIX.2. Fabricating conspiracy theories to attack me for political purposes is bad enough. Offensively trying to tie me to Nazi antisemitism—as Senator Hirono did when she outrageously accused me of pushing “the Big Lie”²—is even worse. Using this Committee to promote them demeans this body and diminishes the public’s trust in the seriousness of the Senate.

In sum, this complaint is none other than a transparent attempt by seven Senators to punish a political opponent for the *entirely lawful* representation of their constituents. The Senate cannot function if its neutral administrative processes are hijacked for bad-faith ends, but that is precisely what is occurring here.

For the foregoing reasons, I respectfully request that the Committee investigate the conduct of Senators Whitehouse, Wyden, Smith, Blumenthal, Hirono, Kaine, and Brown in preparing and filing this baseless and destructive complaint. In particular, I urge the Committee to pursue the following questions:

- In preparing their complaint, what contacts did Senators Whitehouse, Wyden, Smith, Blumenthal, Hirono, Kaine, and Brown have with the Lincoln Project, the Democratic Senatorial Campaign Committee, MoveOn, Voto Latino, the Sierra Club, or any other outside organization?
- In preparing their complaint, what contacts did Senators Whitehouse, Wyden, Smith, Blumenthal, Hirono, Kaine, and Brown have with Leader Schumer, Speaker Pelosi, White House officials, or other Democratic leadership?
- Have Senators Whitehouse, Wyden, Smith, Blumenthal, Hirono, Kaine, and Brown, or their affiliates, been contacting lobbyists for corporations urging the suspension of those corporations’ political contributions?

Following the conclusion of this investigation, I request that the Committee take all disciplinary action that it deems appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hawley". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Josh Hawley
United States Senator

² <http://edition.cnn.com/TRANSCRIPTS/2101/21/acd.01.html>.