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August 23, 2018

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Trump:

The undersigned organizations urge President Trump not to renominate National Labor Relations Board (NLRB) member Mark Pearce. The NLRB is an independent agency made up of five members, which is in charge of enforcing the National Labor Relations Act and overseeing labor union elections. Congress established the NLRB as a body made up solely of impartial government members to represent the public interest in labor disputes under the Act.

During member Pearce's tenure at the Board, he has failed to represent the public interest in labor disputes and demonstrated extreme pro-union leanings. The *Wall Street Journal* noted in an editorial, "The Pearce NLRB overturned more than 4,000 years of board precedent in 90 some cases." This upheaval of Board precedent created immense uncertainty for job creators and weakened worker freedom.

As such, President Trump should resist cutting a deal with Senate Democrats that involves renominating Mark Pearce. He has demonstrated an unwillingness to put aside his personal pro-union views and acted in a manner that conflicts with the role of an NLRB member, which is to represent the public interest in labor disputes.

Pearce has exhibited such bias in favor of unions that federal judges have denounced Pearce's rulings on several occasions. In one case, a Board majority including Mark Pearce, issued a decision that the United States D.C. Circuit concluded was "more disingenuous than dispositive; it evidences a complete failure to reasonably reflect upon the information contained in the record and grapple with contrary evidence—disregarding entirely the need for reasoned decisionmaking. The Board totally ignores facts in the record and misconstrues the findings of the ALJ."

Another decision Pearce took part in involved several employees in Hawaii who were sent threatening letters from UNITE HERE Local 5. These non-union employees received these letters, which said UNITE HERE would garnish their wages if they refused to pay full union membership dues, because they exercised their legal right to not fund union politics.

The employees filed an unfair labor practice against UNITE HERE with the NLRB. The Board majority, including Mr. Pearce, ruled that UNITE HERE threatening to garnish the workers'

wages to pay for union political activity were lawful. Again, a D.C. Circuit panel reversed the NLRB decision. They criticized the decision as “legally unsupportable” and “contorted.”

All stakeholders governed by the NLRB—workers, employers, and unions—deserve better than an NLRB member who ignores facts and issues decisions that are legally unsupportable.

We call on President Trump to not renominate Mark Pearce to the NLRB.

Respectfully,

Trey Kovacs, Labor Policy Analyst
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Phil Kerpen, President
American Commitment

Norman Singleton, President
Campaign for Liberty

Timothy Lee, Vice President
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