

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

COMMON CAUSE, *et al.*,

Plaintiffs,

v.

PRESIDENTIAL ADVISORY
COMMISSION ON ELECTION
INTEGRITY, *et al.*,

Defendants.

Case No. 1:17-cv-1398 (RCL)

DECLARATION OF KAREN HOBERT FLYNN

I, KAREN HOBERT FLYNN, hereby state, under penalty of perjury, that the following information is true to my knowledge, information, and belief:

1. I am the President of Common Cause and have served in this position since June 2016. Prior to serving as President, I served as Senior Vice President in Common Cause's national office for several years, and oversaw all the organization's programmatic work. Before serving as Senior Vice President, I served as Vice President for the State Operations where I oversaw all of Common Cause's state organizations and their operations. Prior to that position, I was the Chair of Common Cause Connecticut, and before that the Executive Director of Common Cause Connecticut where, among other things, I was responsible for all the voter-protection, advocacy, education, and outreach activities conducted by that office. I originally joined Common Cause as an employee in 1985.

2. I submit this Declaration for the Court to consider in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss in the above-captioned matter. As I outline below, the Commission's attempts to collect state voter data, including its collection of individual voter data and, particularly First Amendment-protected data such as voter history and party affiliation, has caused Common Cause to have to divert resources from its core programmatic activities, impeding and frustrating Common Cause's mission.

I. Common Cause's Mission and Activities

3. Common Cause is a nonpartisan grassroots organization dedicated to upholding core values of American democracy. We work to advance an open, honest, and accountable government. Since its founding in 1970, Common Cause has been dedicated to the promotion and protection of the democratic process, such as the right of all citizens, including eligible members of Common Cause, to be registered for and vote in fair, open, and honest elections.

4. As part of our mission to create an open and accountable democracy that works for all, we work in the areas of campaign finance reform, ethics, redistricting, transparency, fair access to media, and voting matters. We do so through advocacy, creation and distribution of educational materials, engagement in election protection work, communications, engagement with our membership, and litigation.

5. Common Cause conducts significant nonpartisan voter-protection, advocacy, education, and outreach activities to ensure that voters are registered to vote and have their ballots counted as cast. Common Cause provides on-site election protection assistance during general and presidential elections, and it helps to facilitate voter registration. In addition, Common Cause also advocates for policies, practices, and legislation—such as automatic and

same day registration—that facilitate voting for eligible voters and ensure against disenfranchisement. Common Cause opposes efforts that unduly burden registration and/or voting, including, but not limited to, restrictive voter identification laws, improper voter registration requirements, and partisan gerrymandering.

6. As part of Common Cause’s mission, it works to promote election and political participation. Common Cause, particularly through its state executive directors and other staff, counsels individuals seeking to vote, seeking to become active in the political process, and seeking to help others engage in the political process. For example, when the Presidential Advisory Committee on Election Integrity initially sought information from the states, our state staff in Colorado and New York received concerned calls from Common Cause members with questions about how the Commissions’ work would affect their voter registration and participation in elections and/or other political processes. Based on research that Common Cause undertook in response to the Commission’s establishment and actions to date, Common Cause staff advised members on what could or could not be released according to state law. Some state staff, including in New York and Wisconsin, engaged in radio and television interviews about the problem to educate citizens at large. Our national senior writer additionally wrote op-eds counseling against de-registering, while acknowledging the seriousness of the matter.

II. Common Cause’s Structure and Membership

7. Common Cause is a nonprofit corporation organized and existing under the laws of the District of Columbia.

8. Common Cause currently has state organizations in 30 states and a national office in the District of Columbia. We additionally have strong volunteer boards in a number of states where we do not have paid staff in place.

9. Common Cause is a membership organization with more than one million members and supporters; our membership continues to grow. Supporters engage in activism as led by Common Cause—signing onto petitions, taking action as a result of digital outreach and engagement, attending rallies we announce, calling or meeting with their representative on issues we educate them on, etc. Members are encouraged both to make financial contributions and to engage in activism. Nearly 100,000 members have made financial contributions to the organization in the past two years. Common Cause members fund a significant portion of its activity.

10. Members and supporters of Common Cause are engaged in organized political activities, including election protection work, coordinated protests and rallies, coordinated letter-writing campaigns, petition drives, and lobbying. For example, during the 2016 election, Common Cause mobilized and trained volunteers in 20 states across the country; these volunteers, who included members and supporters of Common Cause, fielded calls on the election protection hotline and/or were directed to polling places where they provided voters with information, identified problems in real time, and notified pertinent elections officials of outstanding issues in need of remedy.

11. Members of Common Cause are benefitted through receiving extensive educational materials concerning current developments in the political process. Common Cause provides its members with comprehensive information regarding its work on their behalf,

including regular emails—called “causenets”—regarding current issues and requests for participation in rallies or lobbying days, in addition to telephone issue briefings. Common Cause also conducts online and telephonic trainings for members. It also hosts electronic “town hall” meetings for its members and the public, including a town hall on Twitter to provide contemporaneous analysis of the July 19, 2017 meeting of the Commission.

12. Common Cause regularly seeks out the views of its members, which inform the position Common Cause takes on various issues.

III. The Damaging Effects of the Commission’s Investigation on Common Cause’s Organizational Purpose and Mission

13. Common Cause and its members have been and will be injured by the Commission’s activities, including its collection of personal information and First Amendment protected data regarding voter affiliation, voter history, and other related details, and its uses of that data to improperly investigate eligible voters.

14. The Commission’s impermissible collection of voter data has caused numerous individuals to de-register from voting, according to reports in the media and from election officials. The Commission’s effort also has caused other individuals to be uncertain about participating in the political process, according to media reports. For voters and prospective voters facing political polarization, the threat that the federal government will monitor their electoral participation and even their party affiliations is deeply troubling and has deterred and will continue to deter the exercise of their First Amendment-protected rights to express their views through the ballot box. To help counteract these serious consequences, which are antithetical to Common Cause’s organizational interests and mission, Common Cause has and expects that it will have to continue to divert resources to opposing and managing the fallout

from these illegal actions, frustrating its ability to engage in its other core and ongoing activities. Common Cause expects that its diversion of resources will continue and even increase as elections approach in order to counter the wave of voter de-registrations and fear of political engagement.

15. The Commission's conduct has frustrated Common Cause's mission of ensuring that the elections voters participate in are fair, open and honest, as well as its efforts to safeguard personal voter information. In particular, the actions that Common Cause is having to take to combat the effects of the Commission's activities—including the wave of voter deregistrations that have occurred as a result of the Commission's activities—have resulted in Common Cause diverting resources from its core programmatic activities. As stated above, through radio/television interviews and talks with reporters, op-eds, and reports, Common Cause advises citizens to remain registered – after all, we don't want individuals to take themselves out of the political process or deny themselves their constitutional rights – while staying vigilant and urging this Commission to refrain from illegal behavior.

16. Moreover, as a result of numerous individuals deregistering from voting due to concerns about their personal privacy – we advise against it but sometimes people's fears get the better of them – Common Cause has been and continues to be impaired in its ability to register and activate voters to participate in the political process through voting.

17. Common Cause has already expended significant staff time and resources to engage in non-litigation-related counseling, outreach, communications, and educational efforts for its members and the public to oppose the harmful effects of the collection and investigation being conducted by the Commission, diverting resources from its core ongoing activities and

projects. These expenditures are aimed at counteracting the harm that the Commission's impermissible collection of voter information and its investigation have caused to Common Cause's core programmatic activities and its mission of encouraging and facilitating voter participation.

18. Specifically, to date, as a result of the Commission's actions, including its collection of data and its investigation of alleged incidents of voter fraud, Common Cause has devoted significant time to counseling individuals, conducting member education and outreach, organizing public education and outreach, pursuing non-litigation-related efforts to help build confidence in the electoral system, and working to help dissuade prospective and current voters from curtailing their participation in voting and the political process as a result of the Commission's investigation, including its collection and maintenance of data concerning millions of American voters. In particular, such activities by Common Cause have included but are not limited to the following:

- Engaging in efforts, including counseling of individuals, to dissuade voters not to deregister from voting in light of the Commission's activities;
- Engaging in strategy sessions on how to minimize the Commission's effects of voter participation and engagement;
- Preparation of op-ed and other materials to the counteract wave of voter de-registrations taking place in response to the Commission's activities;
- Counseling individual voters about their rights and the effects of the Commission's activities, particularly by our state staff who have made direct contact with members;

- Counseling individuals and educating the public concerning the Commission's activities and what appropriate responses are to those activities, dedicating significant time to encouraging voter participation and helping to address concerns of individuals that their ability to participate in the political process will be hampered;
- Preparing and sending email outreach and action alerts regarding the Commission to Common Cause members that discuss the Commission's request for voter information;
- Preparing web content for Common Cause's website regarding the Commission and its data request;
- Preparing for and participating in a Twitter Town Hall for the purpose of educating the public regarding the July 19, 2017 meeting of the Commission;
- Preparation of research and a report released in September 2017 to educate individuals and the general public regarding the Commission;
- Preparation of a follow-up to the September 2017 report to update citizens on the Commission's activity since then, including one of the Commission's own member's litigation against it.

19. The time and resources expended by Common Cause in response to the Commission's activities have diverted Common Cause's resources away from programs that are central to its mission. As a result of the Commission's activities, resources for the following Common Cause efforts have been reduced: advocating and educating its membership and the public about automatic voter registration, creation of educational materials on transparency issues in our government, lobbying at the state and federal levels for proactive voter measures such as full funding of the Election Assistance Commission, submission of amicus briefs in

voting-related cases, creation of communications products about achieving reform through bipartisan efforts, and communications strategies to encourage greater participation in elections, among other work. All of these activities have been delayed, halted, or otherwise under-resourced as a result of the non litigation-related efforts Common Cause has had to engage in due to the Commission's activities.

20. Specific examples of how resources have been diverted include but are not limited to the following:

- State chapters of Common Cause have had to divert attention as well as member and volunteer time and resources away from on-the-ground efforts to promote voter engagement required as a result of the Commissions' activities, including efforts concerning redistricting and state constitutional rights.
- Common Cause has limited digital capacity. It has a team of three individuals who are primarily responsible for communicating with members and the public. The time these individuals have spent, for example, on the web content to counteract the effects of Commission's data collection—and especially the voter de-registrations that have resulted—has meant they have less time to work on other ongoing Common Cause projects, such as Common Cause's net neutrality advocacy, its work to educate its members about voting machine security, and the need for a nonpartisan investigation into foreign interference in the 2016 election. Such activities further Common Cause's overall mission, and they have suffered because of the response that Common Cause has had to mount to the Commission's activities.

- Common Cause also has limits on the number of email alerts it sends so as to be respectful of people's preferences and not to overwhelm its members and/or those on its email list. This means that national action alerts that Common Cause has sent in response to the Commission have hampered its ability to send national action alerts regarding Common Cause's other national campaigns, such as those addressing foreign interference in our elections, net neutrality, transparency issues, ethics concerns, and proactive voting reforms such as automatic voter registration. If the Commission's actions are not enjoined, Common Cause will continue to have to divert its digital resources away from these ongoing projects.
- The staff time and financial resources used for other activities to combat the harmful effects of the Commission's collection of voter data and investigation, such as the preparation of the education report and other outreach materials, have likewise been diverted from other Common Cause outreach and educational projects, such as a report on automatic voter registration, a report on the importance of transparency in government, work on an issue brief for a partner organization, and work to set up discussion panels on the need for an independent and free press, among other things.

IV. The Damaging Consequences of the Commission's Activities on The Activities and Interests of Common Cause's Members

21. Many of Common Cause's members and supporters have faced substantial injury as a result of the Commission's activities.

22. Many of Common Cause's members are voters and are individuals who have a history of voting.

23. I understand that the Commission has collected individual, personally identifying data that contains, among other things, First Amendment-protected data concerning Common Cause's members.

24. I understand that the Commission has collected individual, personally identifying data that contains, among other things, First Amendment-protected data concerning other United States citizens that Common Cause seeks to engage in the political process.

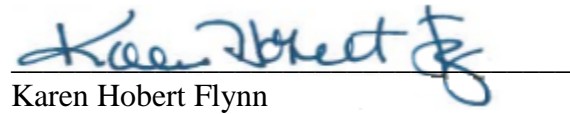
25. Moreover, I understand that the Commission has commenced an investigation, seeking to cross-check the data it has collected on United States citizens (including Common Cause members) against other data that the federal government, including the Department of Homeland Security, possesses regarding such individuals. We have seen individuals' registration records get illegally removed from state registration rolls when elections officials rely on Kansas' Interstate Voter Registration Crosscheck program, for example, and have engaged in litigation against such a program and practices in order to avoid further improper registration removals. Common Cause members are at risk for being falsely identified as ineligible to vote as a result of the Commission's planned cross-check and investigation. We know this is the Commission's plan based on what Commissioners have said during meetings, the Commission's requests for voter registration information from states, and its requests for citizenship data from the Social Security Administration and DHS, against which agencies' information they would "check" registrants' data.

26. Many of Common Cause's members have been and will be injured by the federal government's impermissible collection, maintenance, and use of personal information reflecting their First Amendment activities. Some of these members face severe anxiety over how their

personal information will be maintained and used by the government and are now highly concerned and hesitant about the consequences of engaging fully and openly in the political process for fear of their personal information being collected and/or maintained and crosschecked by the Commission.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 27th day of November, 2017.


Karen Hobert Flynn