

Congress of the United States

House of Representatives

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Opening Statement

Ranking Member Stephen F. Lynch

Hearing on "The Federal Trade Commission's Enforcement of Operation Chokepoint-Related Businesses"

July 26, 2018

Thank you, Mr. Chairman. I'd like to thank you for holding this hearing to examine anti-consumer fraud efforts undertaken by the Federal Trade Commission following the end of "Operation Chokepoint." I'd also like to thank today's witnesses for helping our Committee with its work.

The Consumer Protection Branch at the Department of Justice initiated the investigative and enforcement program known as Operation Chokepoint in November of 2012. This operation examined reports of fraudulent practices perpetrated through the U.S. banking system against bank customers by unscrupulous merchants, financial institutions, and intermediaries referred to as third-party payment processors.

As reported by the Department of Justice, fraudulent online merchants would unlawfully direct their payment processors to initiate debit transactions against consumer accounts and transmit the money back to them. In the most egregious cases, the payment processors had full knowledge that merchant clients were committing fraudulent transactions and illegally siphoned money from customer accounts anyway - as some banks simply looked the other way.

In furtherance of Operation Chokepoint, the Department of Justice issued 60 administrative subpoenas from February 2013 through August 2013 to entities that it believed had evidence pertaining to consumer fraud schemes. One of the most recent settlements that arose out of this operation occurred in March of 2015 - when the Department of Justice announced that it had reached a \$4.9 million-dollar settlement with CommerceWest Bank of California. The civil complaint in the case alleged that the bank had facilitated consumer fraud by ignoring a series of red flags - permitting a Las Vegas-based payment processor to make millions of dollars in unauthorized withdrawals from consumer bank accounts on behalf of fraudulent online merchants. The warning signs included an extremely high rate of rejected debit transactions that were returned by customers and their banks as well as inquiries that CommerceWest received from other financial institutions about suspicious illegal activity involving its payment processor.

In response to concerns expressed by some Members of Congress that the Department of Justice program, in cooperation with financial regulators such as the Federal Deposit Insurance Corporation, were unlawfully targeting certain categories of legitimately-operating businesses, the House Financial Services Committee, the House Judiciary Committee, and this Committee all initiated extensive investigations of Operation Chokepoint beginning in the 113th Congress. In December of last year, the House also passed H.R. 2706, the Financial Institution Consumer Protection Act, by a bipartisan vote of 395 to 2. I voted in favor of this legislation, which prohibits the F.D.I.C. and other financial regulators from terminating their relationships with specific customers without a valid and written justification.

As underscored in a letter to Congress sent by the Department of Justice in August of 2017: "All of the department's bank investigations conducted as part of Operation Chokepoint are now over, the initiative is no longer in effect, and it will not be undertaken again." It is my understanding that the purpose of today's hearing is to examine whether Operation Chokepoint nevertheless lives on at the Federal Trade Commission despite its official termination.

I greatly appreciate the willingness of our witnesses to testify on this topic today. However, as Ranking Member of the Subcommittee on National Security, it is my sincere hope that during the remainder of the 115th Congress, we will work together on a bipartisan basis to conduct meaningful oversight of those issues that are most pressing to the safety and security of the American people, our dedicated military and civilian personnel deployed overseas, and our returning veterans.

It simply does not serve the interests of national security when the principal oversight committee in the House has held more hearings on "shark finning" and "red snapper fishing in the Gulf of Mexico" than it has on the ongoing civil war in Syria - which is now entering its eighth year. We currently have more than 2,000 American troops deployed in an advise-and-assist capacity in a destabilized country that has just witnessed a massive offensive undertaken by the forces of Syrian President Bashar al-Assad to recapture the southwestern city of Dara'a. The operation has caused catastrophic damage to the city and displaced more than 300,000 Syrians -including rebel fighters - to the Syrian-Jordanian border and the Golan Heights frontier.

This Committee has also not held a single hearing on our national security policy towards North Korea. This issue demands robust oversight following the statement of principles signed by President Trump and North Korean President Kim Jong-Un at their Singapore summit and the initiation of diplomatic talks led by Secretary of State Mike Pompeo.

We have held zero hearings on the state of our counterterrorism operations in Africa. Our American Green Berets, U.S. Navy Seals, and other commandos are currently on the ground in Africa under so-called section 127(e) Special Operations Authority. These units are undertaking counterterrorism raids with African partner forces in Niger, Somalia, Libya, Tunisia, Kenya and other nations and their safety necessitates rigorous oversight by the Subcommittee on National Security.

And of course, our ongoing military and counterterrorism operations in Iraq and Afghanistan - where we still have an estimated 6,000 and 15,000 American troops deployed

respectively – should command our regular attention. While Iraqi Prime Minister Haider al-Abadi declared final victory over the Islamic State last December, the terrorist group is re-emerging across Kirkuk, Diyala, and Salahuddin provinces through a wave of insurgent attacks and kidnappings. The security environment in Afghanistan also continues to deteriorate – as most recently evidenced by this week’s suicide bombing near Kabul airport that killed fourteen and narrowly missed Afghanistan’s Vice-President.

Mr. Chairman, I respectfully request that we work together to conduct oversight of these and other critical national security issues going forward. I yield back the balance of my time.

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