How a Washington Bureaucrat Tricked President Trump

CFPB director Richard Cordray wants Republicans to think he'll run for governor of Ohio. But he has plenty of secret reasons to stay where he is.

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For several months, the worst-kept secret in Washington has been that Richard Cordray, the Consumer Financial Protection Bureau's first director, will resign and enter the 2018 Ohio governor's race. The best-kept secret may be that Cordray decided not to resign the day Donald Trump was elected, and pulled off a spectacular political hoax with some unintentional help from the president's advisers.

Cordray did hope to run to replace term-limited Ohio governor John Kasich when it appeared that Hillary Clinton would win the 2016 election and Democrats would retain control of the agency they created through the Dodd-Frank Act in 2010. But for seven years, the CFPB's unique structure—an independent agency whose single director the president can fire only for cause, and whose funding through Federal Reserve Bank profits circumvents the congressional appropriation process—has allowed the bureau to reject Republican job applicants, operate in secrecy, and stonewall congressional oversight. When Clinton lost, Cordray knew his Republican successor would uncover the politically devastating truth about the CFPB.

A glimpse at the director's dilemma can be seen in a recent congressional report on the CFPB's failure to investigate the Wells Fargo fraud, Cordray's disingenuous testimony during the ensuing congressional hearings, and the bureau's refusal to comply with congressional subpoenas for related documents. If the director resigns, the powerful CFPB publicity machine that obscures such damaging facts will no longer protect him.

Cordray did not immediately abandon his Ohio campaign plans after the 2016 election because they were still his best political option if, as expected, Trump fired him. A month earlier, a three-judge panel of the D.C. Circuit Court of Appeals had found the CFPB's structure unconstitutional and allowed the president to remove the director at will. On Nov. 18, 2016, the CFPB petitioned the full court to vacate the panel's decision and rehear the case, and later issued a statement that Cordray "was confirmed … to serve a term until July 2018 and has no plans to step down."

Regardless of the petition, Trump could have dismissed Cordray. Media debates over the president's justification to fire the director for cause were largely academic because the legal remedy for unwarranted removal was almost certainly back pay, not reinstatement. However, administration officials waited, hoping the court's denial of the petition would avoid the controversy.

The court granted the petition on Feb. 16, 2017. As reported by *Politico*, Gary Cohn, the president's chief economic adviser, soon dined with Cordray and discussed the director's rumored campaign plans. Cohn offered not to fire him if he agreed to resign on a specific date. The director was non-committal, but left Cohn with the impression the rumors were true.

Cordray correctly deduced that his survival depended on the administration's reluctance to help his purported Ohio campaign by making him a martyr. Ironically, official CFPB statements about the director completing his term ceased when

Cordray realized he might actually be able to do so, replaced by his new, rumor-fueling response to questions about his campaign plans, “I don’t have anything to say about that."

Before Cohn tipped his hand, Cordray had pushed CFPB attorneys to complete a rule banning contracts that force consumers to resolve disputes through arbitration rather than class-action lawsuits, a gift to big Democratic donors in the plaintiff’s bar. To avoid the White House’s attention, the director held back the finished rule for weeks, quietly promoting partisan employees and buying time to complete two other important Democratic goals.

The first was a huge payout to GMMB, the liberal advocacy group that created ads for the Obama and Hillary Clinton presidential campaigns, and the sole recipient of the CFPB’s $43 million advertising expenditure since 2013. On June 30, the bureau awarded GMMB a $14.79 million contract for the new fiscal year. Ten days later, the CFPB announced the arbitration rule.

The second was a rule that would put most “payday lenders” out of business. With renewed calls for Trump to fire Cordray following the arbitration rule’s publication and unexpected obstacles delaying the payday rule, Cordray needed to bolster rumors of his campaign’s inevitability. On July 19, Ohio Supreme Court Justice Bill O'Neill, a Democrat, told Cleveland.com, *Politico*, and the *Cincinnati Enquirer* he was certain Cordray would enter the race because an unnamed mutual friend had called to make sure O’Neill would not.

That evening, I crashed a CFPB happy hour and had a long private conversation with Cordray. I hadn’t spoken with my old boss since my courtesy call before joining the Republican staff of the House Financial Services Committee over two years earlier. Despite my critical CFPB articles and exposés, one of which was the subject of committee chairman Jeb Hensarling's interrogation during the director's April testimony, Cordray could not have been friendlier. Even more odd, he twice spontaneously volunteered that he probably would not serve out his term, and cheerily asked my opinion of his rumored Republican replacements.

The O'Neill ploy was wildly successful. Hensarling asked the Office of Special Counsel to investigate Cordray for violating the Hatch Act by commencing his campaign before resigning, and a month later accused the director of rushing the payday rule so he could join the Ohio race. Nobody doubted the director's imminent departure. I didn't suspect a hoax until early September, when a senior CFPB official told me Cordray would not resign immediately following the payday rule's publication because he wanted to complete one more mysterious, unidentified item on his agenda. The CFPB issued the rule on Oct.5.

Cordray does have one very important reason to hold onto his job for as long as Trump permits. Elizabeth Warren conceived of the CFPB and led its yearlong startup before launching her successful 2012 Senate campaign. The bureau is still Warren's crowning achievement, and her re-election campaign would be undermined by the same CFPB revelations Cordray fears. If she survives 2018, they will be a distant memory by 2020. Cordray would be a welcome addition to President Warren's Cabinet.

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