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Letter from Congressman Darrell Issa to FCIC Commissioner Phil Angelides Regarding the Supplemental Appropriations Act of 2010

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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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July 27, 2010

Mr. Phil Angelides
Chairman
Financial Crisis Inquiry Commission
1717 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20006-4614

Dear Chairman Angelides:

Congress is currently considering the Supplemental Appropriations Act of 2010 which would grant the Financial Crisis Inquiry Commission ("FCIC") an additional \$1.8 million to complete its work by February 15, 2011.¹ These funds would represent a 22 percent increase over the FCIC's initial \$8 million budget. I am writing to request information that will help the public understand whether any additional expenditure of taxpayer money on the FCIC is warranted.

I was one of the first Members of Congress to call for the creation of a bipartisan commission along the lines of the 9/11 Commission to investigate the root causes of the financial crisis of 2008. The form the FCIC ultimately took was not truly bipartisan as I had wanted, but I remained hopeful that the FCIC would still be able to conduct a fair and effective investigation which would help Congress as it considered financial regulatory reform legislation. While it is not your fault the Administration and congressional Democrats have instead chosen to ram through a partisan financial regulation bill before the FCIC has completed its work, I am concerned that the FCIC's own problems with financial mismanagement and partisanship may have resulted in a waste of taxpayer funds that does not warrant an additional appropriation.

It is unclear how the FCIC has run out of money so quickly. According to *The New York Times*, the work of the FCIC has been "hobbled by delays... internal disagreements and a lack of focus," resulting in staff turmoil and what some commissioners have called a "haphazard approach" to its work.² One of the FCIC's most experienced investigators, Martin Biegelman, resigned in frustration at least in part over

¹ H.R. 4899, Title I, Chapter 5.

² Sewell Chan and Eric Dash, "Financial Crisis Inquiry Wrestles With Setbacks," *The New York Times*, April 5, 2010, accessed at <http://www.nytimes.com/2010/04/06/business/06panel.html>.

delays in assembling a staff,³ while in May it was reported that the Commission's executive director, Tom Greene, had been replaced by Wendy Edelberg,⁴ a detailee from the Federal Reserve. In addition to this internal turmoil, according to the FCIC's records, it had spent just \$1.4 million on staff salaries as of March 31, 2010,⁵ a fraction of its \$8 million budget. Furthermore, at least twelve FCIC staff members are on loan from other federal agencies,⁶ meaning their salaries are paid not by the FCIC but by their parent agencies. In light of these facts, the American people have a right to know how the FCIC has exhausted its \$8 million budget and why it deserves another \$1.8 million of taxpayer funds.

In addition to potential financial mismanagement, it appears that commissioners and staff of the FCIC may have conflicts of interest created by their previous roles in the public and private sectors which may interfere with the Commission's ability to conduct a thorough and even-handed investigation. Both Commissioner Byron Georgiou⁷ and investigator Christopher Seefer⁸ are employed by Robbins Geller Rudman & Dowd, a major plaintiffs' law firm which has been active in suing many of the companies currently under FCIC investigation.⁹ Another staff member, Bart Dzivi, reported to be Special Counsel to the FCIC¹⁰ (although he inexplicably does not appear on the commission's official staff list)¹¹ has his own law firm specializing in financial services litigation.¹² According to reports, many FCIC staff members have long-standing ties to many of the private companies currently under investigation,¹³ while others are on detail from government agencies such as the Federal Reserve and the Securities and Exchange

³ *Id.*

⁴ Melissa Klein Aguilar, "Current, Former SEC Officials to Testify Before FCIC," *Compliance Week*, May 4, 2010, accessed at <http://www.complianceweek.com/blog/aguilar/2010/05/04/current-former-sec-officials-to-testify-before-fcic-on-i-banks/>.

⁵ FCIC, "Full-time Staff List – As March 31, 2010," accessed at <http://www.fcic.gov/about/pdfs/about-staff-list.pdf>.

⁶ See note 2, *supra*.

⁷ Robbins Geller Rudman & Dowd, LLP web site at <http://www.rgrdlaw.com/csgrr-cgi-bin/mil?att=BGeorgiou@rgrdlaw.com&templ=firm/bio.html>.

⁸ *Id.*, at <http://www.rgrdlaw.com/attorneys/Christopher-P-Seefer.html>.

⁹ See e.g., "Robbins Geller Rudman & Dowd LLP Files Class Action Suit against Goldman Sachs Group, Inc.," accessed at <http://www.marketwatch.com/story/robbins-geller-rudman-dowd-llp-files-class-action-suit-against-goldman-sachs-group-inc-2010-04-26>, "Coughlin Stoia Geller Rudman & Robbins LLP Files Class Action Suit against Citigroup Inc.," accessed at <http://www.allbusiness.com/banking-finance/financial-markets-investing/12277205-1.html>, "Coughlin Stoia Geller Rudman & Robbins LLP Files Class Action Suit against Bank of America Corporation," accessed at <http://www.istockanalyst.com/article/viewiStockNews/articleid/2996799>.

¹⁰ Morgan Lewis Law Flash, "The FCIC Names Five Senior Staff Members and Prepares to Proceed," November 18, 2009, accessed at http://www.morganlewis.com/pubs/LIT_FCICFiveSeniorStaffMembers_LF_18nov09.pdf.

¹¹ See note 5, *supra*.

¹² The Dzivi Law Firm, P.C. web site, accessed at <http://www.dzivilawfirm.com/financial%20institutions.htm>.

¹³ J.P. Freire, "Financial panel mum on conflicts of interest," *The Washington Examiner*, July 7, 2010, accessed at <http://www.washingtonexaminer.com/opinion/columns/Financial-panel-mum-on-conflicts-of-interest-97897474.html>.

Commission (“SEC”),¹⁴ which have themselves been the subjects of congressional investigations into their controversial actions during the financial crisis.¹⁵ It is particularly troubling that the FCIC’s executive director is not an independent hire but rather an employee of the Federal Reserve.¹⁶ Finally, staff member Greg Feldberg appears to be related to Chester B. “Chet” Feldberg,¹⁷ one of the three trustees charged with managing the taxpayers 80% stake in AIG.¹⁸ While I recognize that the need to assemble a staff with expertise in financial markets will naturally lead to hiring individuals with a wide range of experiences, it is also critical to prevent conflicts of interest which inappropriately influence the FCIC’s investigation.

Finally, I am troubled by the extensive ties of some of the senior staff at a putatively bipartisan commission to partisan Democrat politics. For example, Beneva Schulte, a communications professional reportedly serving as a Deputy Director at the FCIC,¹⁹ has worked as Communications Director for Senator Dodd’s presidential campaign as well as a string of Democrat Members of Congress.²⁰ Susan Baltake, a spokeswoman²¹ and consultant at the FCIC,²² was your own campaign manager for five years, as well as a press secretary to the California Democrat Party and Assistant Treasurer of California.²³ Ms. Baltake’s extensive personal ties to you also include 11 years in marketing for your property development company,²⁴ which is also listed as a client of her public relations firm.²⁵ I am sure you will agree with me that the FCIC’s efforts will have been wasted if the American people come to believe that it has served as

¹⁴ FCIC Executive Director Wendy Edelberg and Ron Borzekowski are apparently on detail from the Federal Reserve, see <http://www.federalreserve.gov/research/staff/edelbergwendym.htm>, <http://www.federalreserve.gov/research/staff/borzekowskironx.htm>. Brad Bondi, Donna Norman, and Jane Poulin are apparently are on detail from the SEC, see http://www.law.georgetown.edu/faculty/facinfo/tab_faculty.cfm?Status=Faculty&ID=2576, <http://www.linkedin.com/pub/donna-norman/4/68a/30b>, and <http://www.linkedin.com/in/poulinid>, respectively.

¹⁵ See *e.g.*, Committee hearings on the role of the Federal Reserve in forcing Bank of America to purchase Merrill Lynch on June 11, 2009, June 25, 2009, and July 16, 2009; Committee hearing on the role of the Federal Reserve in paying AIG’s credit default swap counterparties at par with taxpayer money on January 27, 2010 and a Committee report on the same, <http://republicans.oversight.house.gov/images/stories/Reports/20100125aigstaffreportwithcover.pdf>; and, Committee staff report on the SEC’s internal problems and failures, <http://republicans.oversight.house.gov/images/stories/Reports/20100518SECreport.pdf>.

¹⁶ See note 4, *supra*.

¹⁷ See LinkedIn web site, accessed at <http://www.linkedin.com/pub/greg-feldberg/2/44/bb6> and New York State Office of the State Comptroller web site, accessed at http://www.osc.state.ny.us/ouf_recent/F_oufnew6.htm.

¹⁸ Federal Reserve Bank of New York web site, accessed at <http://www.newyorkfed.org/newsevents/news/markets/2009/an090116.pdf>.

¹⁹ LinkedIn web site, accessed at <http://www.linkedin.com/pub/beneva-schulte/9/870/688>.

²⁰ Reel Legacy Productions web site, accessed at <http://www.reellegacyproductions.com/index.php?id=4>.

²¹ Bloomberg, “Geithner, Bernanke, Schapiro Met Panel Probing Financial Crisis,” November 17, 2009, accessed at <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=agiOvJzEbH2Y>.

²² LinkedIn web site, accessed at <http://www.linkedin.com/pub/susan-baltake/13/810/517>.

²³ *Id.*

²⁴ *Id.*

²⁵ Grove Street Solutions web site, accessed at <http://www.grovestreetsolutions.com>.

nothing more than a cheering section for the Administration and congressional Democrats in their efforts to defend a partisan and ineffective financial regulatory reform bill.

The American people have a right to know how the FCIC has exhausted its \$8 million budget so quickly and whether it has conducted a fair and bipartisan investigation into the root causes of the financial crisis before Congress agrees to provide it with an additional \$1.8 million of taxpayer funds. Therefore, please provide the following information to the Committee no later than Tuesday, August 10, 2010:

1. A list of all FCIC current and former staff members, including detailees and consultants, which provides job titles, job descriptions, and total compensation;
2. A list of all contracts the FCIC has with media consultants, public relations consultants or image consultants which identifies the consultants, the purpose of the contracts and amounts expended and committed to be expended;
3. A list of all contracts the FCIC has with vendors for goods and services which identifies the vendors, the goods or services provided and amounts expended and committed to be expended;
4. A full accounting of all travel expenses for FCIC commissioners and staff, including airfare, lodging and meals;
5. All budgets and draft budgets for the FCIC;
6. All records and communications referring or relating to the resignation of Martin T. Biegelman from the FCIC;
7. All records and communications referring or relating to the replacement of Tom Greene by Wendy Edelberg as Executive Director of the FCIC;
8. An explanation of steps taken by the FCIC to prevent conflicts of interest arising from ties between commissioners and staff to their current and former employers or family members from interfering with the Commission's mandate to examine the root causes of the financial crisis;
9. Please state whether the FCIC has explored the role of any company that has been a party to any lawsuit brought by any law firm with which an FCIC commissioner or staff member is affiliated and identify any such commissioners or staff members;
10. All records and communications between FCIC commissioners and staff and people employed by law firms which have employed FCIC commissioners or staff, other than formal requests for information as part of an FCIC investigation;

11. All records and communications between FCIC commissioners and staff and current and former employees of private companies, other than formal requests for information as part of an FCIC investigation;
12. All records and communications between FCIC commissioners and staff and labor unions and pension funds, other than formal requests for information as part of an FCIC investigation;
13. All records and communications between FCIC staff detailed from federal agencies and their detailing agency, other than formal requests for information as part of an FCIC investigation;
14. All records and communications between FCIC commissioners and staff and Members of Congress or their staff; and,
15. All records and communications between FCIC commissioners and staff and officials at the White House, the Treasury Department, the Federal Reserve, the SEC, and any other federal agency, other than formal requests for information as part of an FCIC investigation;
16. Please state whether any FCIC commissioners or staff asked any Member of Congress or congressional staff member for additional funds for the FCIC.

Please note that, for purposes of responding to this request, the terms “records,” “communications,” and “referring or relating” should be interpreted consistently with the attached Definitions of Terms.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. Thank you for your cooperation in this matter.

If you have any questions regarding this request, please contact Christopher Hixon or Brien Beattie of the Committee staff at (202) 225-5074.

Sincerely,



Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman

Attachment

Definitions of Terms

1. The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.