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12-31-2009

### Ltr frm House Ethics - Deleg of Auth for FCIC Approved

12-31-2009

Zoe Lofgren

Jo Bonner

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#### Recommended Citation

Lofgren, Zoe and Bonner, Jo, "Ltr frm House Ethics - Deleg of Auth for FCIC Approved 12-31-2009" (2009). *YPFS Documents (Series 1)*. 7190.

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ONE HUNDRED ELEVENTH CONGRESS

## U.S. House of Representatives

COMMITTEE ON STANDARDS OF  
OFFICIAL CONDUCT

Washington, DC 20515-6328

December 31, 2009

Mr. Phil Angelides  
Chairman

Mr. William M. Thomas  
Vice Chairman

Financial Crisis Inquiry Commission  
1717 Pennsylvania Avenue, N.W., Ste. 800  
Washington, DC 20006

Dear Messrs. Angelides and Thomas:

This responds to your December 15, 2009, letter requesting a delegation of authority for the Financial Crisis Inquiry Commission (FCIC) to become its own supervising ethics office for its staff pursuant to 5 U.S.C. § 7353. Your letter requests that the FCIC commissioners' voluntarily-filed Financial Disclosure Statements continue to be filed with the Clerk of the House to be reviewed and certified by this Committee.

The Committee understands that the FCIC is a commission created as a legislative branch entity under the Fraud and Recovery Act of 2009 (FARA). FARA states that the FCIC will terminate 60 days after the FCIC submits its final report to Congress. FARA requires the FCIC to submit its final report no later than December 15, 2010. FCIC commissioners are paid on a per diem basis. However, because the compensation for FCIC commissioners and employees is not disbursed through the Chief Administrative Officer of the House, they are not House employees and, therefore, are not governed by House ethics rules. *See* House Rule 23, clause 18(a).

Notwithstanding the fact that FCIC commissioners and employees are not considered "House employees" under the House rules, the Committee serves as the FCIC's supervising ethics office with regard to the solicitation of gifts governed by 5 U.S.C. § 7353. That statute states, in relevant part:

- (a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branch shall solicit or accept anything of value from a person-

- (1) seeking official action from, doing business with, or (in the case of executive branch officers and employees) conducting activities regulated by, the individual's employing entity; or
  - (2) whose interest may be substantially affected by the performance of nonperformance of the individual's official duties.
- [...]

(d)(1) the term "supervising ethics office" means –

- (E) in the case of legislative branch officers and employees other than those specified in subparagraphs (A) and (B), the committee referred to in either such subparagraph to which reports filed by such officers and employees under title I of the Ethics in Government Act of 1978 are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officers and employees

Since the FCIC was created in 2009, an odd numbered year, FCIC commissioners who submit Financial Disclosure Statements file with the Clerk of the House of Representatives. *See* 5 U.S.C. app. 4 §103(h)(1)(A)(ii). Thus, the Committee is the supervising ethics office under 5 U.S.C. § 7353(d)(1)(E) for the FCIC.

Except in the area of financial disclosure, this Committee has not previously applied House rules or Committee opinions to individuals other than Members, officers, and employees of the House. It would not only be impractical for a House Committee to attempt to regulate the activities of other legislative branch entities, but we believe that the FCIC is in the best position to make decisions regarding the appropriate parameters of conduct for commissioners and employees of the FCIC based on the short tenure of the FCIC and its unique oversight responsibilities for its commissioners and employees.

Accordingly, pursuant to 5 U.S.C. § 7353(d)(1)(E), the Committee hereby delegates to the FCIC the authority included in § 7353 with respect to the commissioners and employees of the FCIC. Pursuant to §103(h) of the Ethics in Government Act, the FCIC commissioners and any FCIC employees who file Financial Disclosure Statements may continue to do so with the Clerk of the House. The Committee will continue to act as the FCIC's supervising ethics office solely with regard to review and certification of such statements.

Mr. Phil Angelides  
Mr. William M. Thomas  
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If you have any further questions, please contact the Committee's Chief Counsel and Staff Director, Blake Chisam at extension 5-7103.



Zoe Lofgren  
Chair

Sincerely,



Jo Bonner  
Ranking Republican Member

ZL/JB:pgp