Gary Cohen Letter to Maryland Insurance Administration re Treatment of Non Public Information

Gary Cohen

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August 27, 2010

Via Email & Mail

DRAFT

Mr. Neil Miller
Maryland Insurance Administration

Re: Treatment of Maryland Insurance Administration Non-Public Information

Dear Mr. Miller:

On behalf of the Financial Crisis Inquiry Commission ("the Commission"), I write to memorialize our understanding with respect to the treatment of non-public information voluntarily provided by the Maryland Insurance Administration and its affiliates ("MIA") to the Commission and its staff.

When submitting information to the Commission please indicate what is truly "non-public" to allow the Commission to track MIA’s submissions appropriately. If you so request, we will treat interview transcripts and notes thereof as confidential in accordance with this letter.

Any non-public information that is obtained from MIA will be used only by employees and agents of the Commission who have a need to know and use the information in the performance of their official work duties in a manner consistent with its non-public status and applicable law. All persons with whom non-public information is shared will be advised of and, as condition of receiving non-public information, will agree to comply with the understanding in this letter.

In accordance with its statutory mandate and its duty to the American public, the Commission, if it determines it is in the public interest, may release to the public non-public information obtained from MIA as part of any interim or final report to the President and Congress, or in connection with any public hearings, if the Commission determines to do so by a majority vote, or by the decision of the Chairman and Vice Chairman acting together on behalf of the Commission.

Prior to any release of non-public information under the above paragraph, the Commission will give written notice to MIA, and allow MIA to consult with the Commission before the Commission uses any of the MIA’s non-public information in any interim or final report to the President and Congress, or in any public hearing. In particular, if there is any information which the MIA is required by law to keep confidential for a period of time, and you so notify us of that fact, the Commission will respect that restriction.

Nothing as described in this letter will prevent the Commission or its staff from complying with a request or demand from a duly authorized Committee of the United States Congress with authority to require and receive the non-public information, or a legally valid and enforceable subpoena or order by a court of competent jurisdiction for the non-public information or testimony related thereto.
Finally, all information obtained from MIA or relating to MIA will be transmitted to the National Archives and Records Administration (NARA) following the completion of the Commission's work. To the extent permitted by law, the Commission will request that NARA not release to the public the MIA non-public information for THE appropriate length of time. If you have a legal basis to believe that the Commission is not required by law to provide certain MIA information to NARA, please let us know.

If you have any questions or concerns, please do not hesitate to contact me at 202-292-1339 or GCohen@fcic.gov.

Thank you very much for MIA’s continued cooperation.

Very truly yours,

Gary J. Cohen
General Counsel
Financial Crisis Inquiry Commission

Cc: Wendy Edelberg
Executive Director