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## Agenda for Financial Crisis Inquiry Commission Telephonic Business Meeting on Wednesday, January 20, 2010 - Final Version

Phillip Angelides

Bill Thomas

Brooksley Born

Byron Stephen Georgiou

Bob Graham

*See next page for additional authors*

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**Author/Creator**

Phillip Angelides, Bill Thomas, Brooksley Born, Byron Stephen Georgiou, Bob Graham, Keith Hennessey, Douglas Holtz-Eakin, Heather Murren, John W. Thompson, Peter J. Wallison, Thomas Greene, Gretchen Kinney Newsom, Scott Ganz, and Gary Cohen



**Agenda for Financial Crisis Inquiry Commission Telephonic Business Meeting of  
Wednesday, January 20, 2010  
12:00-2:00pm EST  
Conference Dial-In Number: 866-692-3582  
Participant Access Code: 3387529**

<b><u>Agenda Item</u></b>	<b><u>Presentation</u></b>
<b>1) Call to Order</b>	<b>Chairman Angelides</b>
<b>2) Roll Call</b>	<b>Chairman Angelides</b>
<b>3) Approval of Minutes of Closed Session Meeting of December 20, 2009 (Attached)</b>	<b>Chairman Angelides</b>
<b>4) Chairman's and Vice Chairman's Report</b>	<b>Chairman Angelides and Vice-Chairman Thomas</b>
<b>5) Hearing 1 – Debriefing</b>	<b>Chairman Angelides and Vice-Chairman Thomas</b>
<b>6) Executive Director's Report</b>	<b>Tom Greene, Executive Director</b>
<b>7) Amendment to Rules of Procedure: Public Notice for Hearings (Attached)</b>	<b>Gary Cohen, Special Business Counsel/ Gretchen Newsom, Special Assistant</b>
<b>8) Commission Policy for the Solicitation and Acceptance of Gifts of Services or Property (Attached)</b>	<b>Tom Greene/Gary Cohen</b>
<b>9) Ethical Guidelines for Commission Members (Attached)</b>	<b>Tom Greene/Gary Cohen</b>

- |   |  |
|---|--|
| <b>10) Ethical Guidelines for Commission Staff</b><br><i>(Attached)</i>                                 | <b>Tom Greene/Gary Cohen</b>                     |
| <b>11) Update on Confidentiality Agreements</b>   | <b>Tom Greene/ Gary Cohen</b>                    |
| <b>12) Update re: Archive Requirements and Mandates</b>   | <b>Tom Greene/ Gary Cohen</b>                    |
| <b>13) Report to Commission re: Legislative And Regulatory Update</b><br><i>(Materials Forthcoming)</i> | <b>Tom Greene/ Scott Ganz, Special Assistant</b> |
| <b>14) Other Items of Business</b>  | <b>All Commissioners</b>                         |
| <b>15) Adjournment</b>  | <b>Chairman Angelides</b>                        |



**Financial Crisis Inquiry Commission**  
**Agenda Item 3 for Closed Meeting of Tuesday, January 20, 2010**  
**Minutes of Telephonic Business Meeting of**  
**Monday, December 14, 2009**

**Agenda Item 1: Call to Order**

Chairman Angelides called the telephonic business meeting to order.

**Agenda Item 2: Roll Call**

Chairman Angelides asked Gretchen Newsom to call the roll of the Commissioners: Present were Phil Angelides, Bill Thomas, Brooksley Born, Byron Georgiou, Bob Graham, Doug Holtz-Eakin, Heather Murren, John W. Thompson and Peter Wallison. Keith Hennessey arrived after agenda item 3 was voted on; John W. Thompson dropped off the call before agenda item 6 was voted on. Mr. Thomas departed at the beginning of agenda item 9.

Also participating in the meeting: Tom Greene, Executive Director; Gretchen Newsom, assistant to Chairman Angelides; Courtney Mayo and Scott Ganz, assistants to Vice Chairman Thomas. Beneva Schulte, Assistant Director, and Wendy Edelberg, Research Director, were introduced to staff, and Ms. Schulte came back to the meeting for discussion of agenda item 7. Gary Cohen, Special Business Counsel, participated in the briefing and discussion from agenda item 8 until the conclusion of the meeting.

**Agenda Item 3: Approval of Minutes of Meeting, November 17, 2009**

Chairman Angelides introduced the minutes from the FCIC meeting of November 17, 2009. There was discussion among Commissioners about the format of the meeting minutes.

MOTION: Holtz-Eakin moved and Born seconded the motion to adopt the meeting minutes (attached).

APPROVED: 9-0 (Hennessey absent)

**Agenda Item 4: Executive Director’s Report; Personnel Update**

Mr. Greene provided an update on personnel, introducing Beneva Schulte and Wendy Edelberg to the Commissioners. Mr. Greene informed the Commission that Matt Cooper has been hired as Senior Advisor. Mr. Greene also provided Commissioners with an update on office technology and document requests.

The Chairman gave a brief report in which he spoke of assigning Commissioners to working groups based on their individual areas of interest and/or expertise. There was also broad discussion about hearing #1, and a general goal was stated to deliver briefing materials for Hearing 1 to the Commission by January 6<sup>th</sup>. It was also requested that Mr. Greene develop protocol to inform Commissioners of all communications likely to be of interest in the public domain, such as press releases and hearing invitation letters.

**Agenda Item 5: Update on FCIC Budget**

Vice Chairman Thomas provided Commissioners with an update on the FCIC budget. The Chairman and Vice Chairman will report back to the Commission with any budget updates.

**Agenda Item 6: Extension of Delegation of Authority**

Chairman Angelides asked for an extension of the delegation of authority.

MOTION: Wallison moved and Thomas seconded the motion to adopt the extension of the delegation of authority (attached).

APPROVED: 9-0 (Thompson absent)

**Agenda Item 7: Protocol for Media Contact**

Mr. Greene and Ms. Schulte briefed the Commissioners on the proposed FCIC media protocol, which led to discussion among the Commissioners. It was requested that staff draft a one-page media briefing sheet with current message points.

MOTION: Holtz-Eakin moved and Wallison seconded the motion to accept the media protocol proposal as amended (attached).

APPROVED: 9-0 (Thompson absent)

**Agenda Item 8: Donation of Goods and Services**

Mr. Cohen briefed the Commissioners on the solicitation and donation of goods and services, which led to discussion among Commissioners, giving Mr. Cohen input for the document. The Commissioners will vote on the document for adoption at the next business meeting.

**Agenda Item 9: Draft Ethical Guidelines for Commission Members**

Mr. Cohen briefed the Commissioners on the draft ethical guidelines for Commission members. The Commissioners discussed the draft document and Mr. Cohen will make the appropriate changes, such as references to travel as payment, spouses and children of Commissioners, and associations. The Commissioners will vote on the document for adoption at the next business meeting.

**Agenda Item 10: Recommendation to assume delegation of responsibility for House Committee on Standards of Official Conduct**

Chairman Angelides requested a motion for approval of the delegation of responsibility letter for the House Committee on Standards of Official Conduct (attached).

MOTION: Georgiou moved and seconded by Holtz-Eakin for approval of the delegation of responsibility.

APPROVED: 8-0 (Thomas and Thompson absent)

**Agenda Item 11: Update re: Archive Requirements and Mandates**

Mr. Cohen briefly updated the Commissioners on the archiving requirements that the Commission must follow, including the preservation of all FCIC related emails on both FCIC and personal email accounts, which was followed by a brief discussion among the Commissioners.

**Agenda Item 12: Legislative Update**

Chairman Angelides introduced the legislative update; Commissioners will review on their own.

**Agenda Item 14: Adjournment**

Chairman Angelides requested a motion to adjourn the meeting.

MOTION: Georgiou moved and Holtz-Eakin seconded a motion to adjourn the meeting.

APPROVED: 8-0 (Thomas and Thompson absent)



**Financial Crisis Inquiry Commission  
Agenda Item 3 for Telephonic Business Meeting of January 20, 2010  
Minutes of Telephonic Business Meeting of  
December 20, 2009**

**ATTACHMENT  
Approved Minutes of Closed Session Meeting of  
Tuesday, November 17, 2009**

**Agenda Item 1: Call to Order**

Chairman Angelides called the closed session meeting to order.

**Agenda Item 2: Roll Call**

Chairman Angelides asked Gretchen Newsom to call the roll of the Commissioners: Present were Phil Angelides, Bill Thomas, Brooksley Born, Byron Georgiou, Keith Hennessey, Doug Holtz-Eakin, Heather Murren, John W. Thompson and Peter Wallison. Bob Graham arrived after the approval of the minutes of meeting, October 20, 2009.

Also participating in the meeting: Tom Greene, Executive Director; Gretchen Newsom, assistant to Chairman Angelides; and Scott Ganz, assistant to Vice Chairman Thomas.

**Agenda Item 4: Approval of Minutes of Meeting, October 20, 2009**

Chairman Angelides introduced the minutes from the FCIC meeting of October 20, 2009.

MOTION: Born moved and Holtz-Eakin seconded the motion to adopt the meeting minutes.

APPROVED: 9-0.

**Agenda Item 3: Presentation by/Discussion with Timothy Geithner, Secretary of the Treasury**



Chairman Angelides introduced Secretary Geithner and the Secretary gave his presentation to the Commissioners. Secretary Geithner's presentation was followed by questions and discussion with the Commission.

**Agenda Item 5: Executive Director's Report; Personnel Update; Introductions of Staff**

Mr. Greene provided an update on personnel and general office items. He also introduced recently hired staff to the Commissioners including Marty Biegelman, Assistant Director; Sam Davidson, Information Technology Specialist; Sylvia Boone, Administrative Specialist; Dixie Noonan, Investigative Counsel; Mina Simhai, Investigative Counsel; Gary Cohen, Investigator/Senior Business Counsel; Sarah Zuckerman, Receptionist; Brad Bondi, Assistant Director and Deputy General Counsel; Tom Krebs, Assistant Director and Deputy General Counsel; and Bart Dzivi, Special Counsel.

**Agenda Item 6: Review of Draft FCIC Budget**

Mr. Greene presented the draft budget. There was broad discussion that included all Commissioners and Mr. Greene. There was general consensus that the Commission's appropriation of \$8 million dollars would not suffice to accomplish the work of the Commission in the manner desired and that an additional allocation should be sought. Vice-Chairman Thomas will take the lead with Congress on this matter.

**Agenda Item 7: Updated on Work Plan**

There was broad discussion with all Commissioners and Mr. Greene on the updated work plan and timeline. Mr. Greene received comments from the Commission and will incorporate into a revised draft of the work plan.

**Agenda Item 8: Legislative Update**

Chairman Angelides introduced the legislative update; Commissioners will review on their own.

**Agenda Item 9: Other Items of Business**

Chairman Angelides, Vice Chairman Thomas and other Commissioners discussed closed versus public meetings and hearings. Also discussed were transcripts and minutes of meetings and hearings.

**Agenda Item 10: Break for Lunch**

Chairman Angelides recessed the Commission for a brief lunch break.

**Agenda Item 11: Presentation by/Discussion with Ben Bernanke, Chairman of the Board of Governors of the Federal Reserve**

Chairman Angelides introduced Chairman Bernanke and the Chairman gave his presentation to the Commissioners. Chairman Bernanke's presentation was followed by questions and discussion with the Commissioners.

**Agenda Item 12: Adjournment**

Chairman Angelides requested a motion to adjourn the meeting.

MOTION: Holtz-Eakin moved and Thompson seconded a motion to adjourn the meeting.

APPROVED: 10-0.

**Financial Crisis Inquiry Commission**  
**Agenda Item 3 for Telephonic Business Meeting of January 20, 2010**  
**Minutes of Telephonic Business Meeting of**  
**December 20, 2009**

**ATTACHMENT**

**Approved Delegation to execute agreements and contracts  
on behalf of the Financial Crisis Inquiry Commission**

Pursuant to the authority set forth in Public Law 110-21(d)(3) that allows the Financial Crisis Inquiry Commission to enter into contracts to enable the Commission to conduct its business; and,

Now after a quorum of the Financial Crisis Inquiry Commission has been established; and,

After a vote of the Commissioners present and voting; it is

Hereby delegated to the Chairman of the Commission the authority to enter into agreements on behalf of the Financial Crisis Inquiry Commission in order to facilitate the work of the Commission. This delegation is effective until March 31, 2010, unless revoked earlier.

The Chairman may delegate this authority to the Vice-Chairman in order to expedite the business of the Commission. If the Chairman does delegate to the Vice-Chairman, the delegation shall remain in effect until March 31<sup>st</sup>, unless revoked earlier.

In addition, any actions taken by the Chairman and the Vice-Chairman in order to establish the Commission, and agreements signed by the Chairman or the Vice-Chairman, are hereby ratified by the Commission.

*Approved by the Commission 9-0 on December 20, 2009.*

**Financial Crisis Inquiry Commission**  
**Agenda Item 3 for Telephonic Business Meeting of January 20, 2010**  
**Minutes of Telephonic Business Meeting of**  
**December 20, 2009**

**ATTACHMENT**  
**Protocol for Media Contact**  
**Approved during Telephonic Business Meeting of December 14, 2009**

**MEMORANDUM**

**Date:** Thursday, December 10, 2009

**To:** Tom Greene – Executive Director

**From:** Beneva Schulte – Assistant Director

**Subject:** Commission Media and Speaking Protocol

Pursuant to your request, please find below a memo on a media and speaking protocol for the Commission. I should note that a critically important part of the public communications policy for the Commission must be a strict, top-to-bottom “no leaks” policy for everyone associated with the Commission and its work. It is my understanding that a discussion of a “disclosure of non-public information” policy will be covered in the proposed ethics guidelines for the Commissioners and in employment policies for the staff.

**Commissioner Protocol**

As the Commission begins its public hearing schedule in earnest, Commissioners can expect media interviews, appearances and speaking requests to increase. It is recommended that all calls and contacts that are **specifically about the Commission’s work and/or progress** be directed to the Communications Department for initial vetting by the communications staff. Specifically, you can have them contact me at 202-292-1343 or at [bschulte@fcic.gov](mailto:bschulte@fcic.gov) until a Communications Director is appointed.

This will allow the communications team to stay on top of all potential stories; prepare any materials/background information that a Commissioner might need to effectively respond to the request; and to ensure Commissioners are not caught off guard. All media requests to Commissioners will be given top priority and handled quickly and efficiently.

We would also like to assist Commissioners in any speaking engagement requests that they may get that are, again, specifically about the Commission’s work and/or progress. Communication staff can prepare talking points and/or background materials for these events as well.

**Staff Protocol:**

Staff for the Financial Crisis Inquiry Commission will also receive press calls. The protocol must be that all press inquiries, calls and requests are to be directed to the Communications Department. Specifically, you can have them contact me at 202-292-1343 or at [bschulte@fcic.gov](mailto:bschulte@fcic.gov) until a Communications Director is appointed. Requests for media appearances and speaking engagements by Commission staff must also be routed through the Communications Department.

**Financial Crisis Inquiry Commission**  
**Agenda Item 3 for Telephonic Business Meeting of January 20, 2010**  
**Minutes of Telephonic Business Meeting of**  
**December 20, 2009**

**ATTACHMENT**

**Approved - Recommendation to assume delegation of responsibility from House  
Committee on Standards of Official Conduct**

December \_\_, 2009

The Honorable Zoe Lofgren,  
Chair, Committee on Standards of Official Conduct  
HT-2, The Capitol  
Washington, DC 20515

Re: Delegation of Authority

Dear Chairperson Lofgren;

Pursuant to the authority set forth in 5 USC Section 7353(d)(1)(E), this letter requests a delegation of authority for the Financial Crisis Inquiry Commission ("FCIC") to become its own Supervising Ethics Office in accordance with that Section. This will enable the FCIC to more efficiently conduct its business, a particular concern to the FCIC given the short time period allowed for it to meet its statutory obligations and the nature of the matters within its purview. We do, however, request that Commissioners' Financial Disclosure Statements (which they have agreed voluntarily to file) continue to be filed with the Office of the Clerk of the House of Representatives, and reviewed and certified by the House Committee on Standards of Official Conduct.

Thank you for your consideration.

Very truly yours,

Phil Angelides  
Chairman  
Financial Crisis Inquiry Commission

William M. Thomas  
Vice Chairman  
Financial Crisis Inquiry Commission

cc: Blake Chisam, Esq.  
Chief Counsel/Staff Director

ZOE LOFGREN, CALIFORNIA  
CHAIR  
BEN CHANDLER, KENTUCKY  
G. K. BUTTERFIELD, NORTH CAROLINA  
KATHY CASTOR, FLORIDA  
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DANIEL J. TAYLOR,  
COUNSEL TO THE CHAIR  
R. BLAKE CHISAM,  
CHIEF COUNSEL AND STAFF DIRECTOR

JO BONNER, ALABAMA  
RANKING REPUBLICAN MEMBER

K. MICHAEL CONAWAY, TEXAS  
CHARLES W. DENT, PENNSYLVANIA  
GREGG HARPER, MISSISSIPPI  
MICHAEL T. McCAUL, TEXAS

TODD UNGERECHT  
COUNSEL TO THE RANKING  
REPUBLICAN MEMBER

SUITE HT-2, THE CAPITOL  
(202) 225-7103

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



## MEMORANDUM

To: Commissioners

From: Tom Greene  
Executive Director  
Financial Crisis Inquiry Commission

Date: January 11, 2010

Re: Agenda Item 7 – Amendment to Rules of Procedure, Public Notice of Hearings

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Please find attached a proposed amendment to our Rules of Procedure prepared by Special Business Counsel Cohen and Gretchen Newsom. This amendment conforms our Rules to the intent of a previously ratified amendment in regard to public notice of meetings. I recommend approval of this item.

**Financial Crisis Inquiry Commission**  
**Agenda Item 7 for Telephonic Business Meeting of January 20, 2010**

**Amendment to FCIC Rules of Procedure: Public Notice for Hearings**

Pursuant to Rule XIII of the FCIC Rules of Procedure (FCIC Rules), the Commission amends Rule IV(B) of the FCIC Rules so as to replace the phrase “Congressional Record and” with the phrase “Federal Register or” thus causing the as-amended Rule IV (B) to read as follows:

**IV. Hearings**

**B. Notice of Hearing**

**If all or part of a regularly-scheduled hearing is to be open to the public, notice shall be provided at least seven (7) days in advance in the Federal Register or other publications selected by the Commission, and shall include a listing of the agenda items open to the public. Hearings held pursuant to exigent circumstances must be noticed at least forty-eight (48) hours in advance.**



## MEMORANDUM

To: Commissioners

From: Tom Greene  
Executive Director  
Financial Crisis Inquiry Commission

Date: January 11, 2010

Re: Agenda Item 8 – Commission Policy for the Solicitation and Acceptance of Gifts of Services or Property

---

Please find attached a proposed policy on the donation of goods and services to the Commission. Please note that the commission has received a delegation of authority from the House of Representatives to be its own ethics authority. I recommend adoption of the proposed solicitation and acceptance guidelines. The attached has been redlined to show changes from the prior drafts pursuant to the Commissioners' discussions at the last meeting, and to reflect the delegation of authority.

*Privileged and Confidential*  
*For use by the Commission at the meeting of January 20, 2010*

**MEMORANDUM**

To: Tom Greene  
Executive Director  
Financial Crisis Inquiry Commission

From: Gary J. Cohen  
Special Business Counsel  
Financial Crisis Inquiry Commission

Date: January 20, 2010

Re: Commission Policy for the Solicitation and Acceptance of Gifts of  
Services or Property

**Overview**

This memorandum has been prepared at the request of the Chairman and the Vice Chairman to provide guidelines for the Commissioners in the solicitation and receipt of gifts of services or property to the Commission.

The Commission has the statutory ability to accept gifts of services or property: “The Commission may accept, use and dispose of gifts or donations of services or property.” (§5(d)(6) of the Fraud Enforcement and Recovery Act of 2009.)

There are also statutory provisions limiting the solicitation and acceptance of gifts in 5 USC §7353, Gifts to Federal employees:

- (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 interests may be substantially affected by the performance or nonperformance of the individual’s official duties.

- (b) (1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing for such reasonable exceptions as may be appropriate (emphasis added).
- (2) (A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules or regulations established by such individual's supervising ethics office pursuant to paragraph (1).
- (B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of any official act.

To allow the Commission to solicit gifts of services or property, the Commission has requested and received a delegation as a supervising ethics office. (According to the Chief Counsel and Staff Director of the House Committee on Standards of Official Conduct, other agencies and federal departments and commissions have sought and received delegation as supervising ethics offices to allow them to adopt policies and rules tailored to their functions.) Status as a supervising ethics office will enable the Commission to administer and interpret 5 USC §7353 in a manner consistent with the Commission's stated purpose. The delegation provides that the Commissioners' Financial Disclosure Statements, which they have agreed voluntarily to file, should continue to be filed with the Office of the Clerk of the House of Representatives, and reviewed and certified by the House Committee on Standards of Official Conduct.

Based upon my discussions with staff in the House Committee on Standards of Official Conduct, and on internet research, other agencies and federal departments and commissions have adopted policies to allow solicitation of gifts when relevant to their function. The Commission's interpretation of 5 USC §7353 should therefore allow for solicitation of gifts of services or property related to the operation and purpose of the Commission in a manner consistent with the Commission's congressional authority to accept gifts of services or property. (Commissioners should be mindful that the ability to accept gifts of services or property falls to the Commission, and not the individual Commissioners.)

As the delegation has been granted, I propose that the Commission adopt the Policy for the Solicitation and Acceptance of Gifts of Services or Property on the following pages

## **Commission Policy for the Solicitation and Acceptance of Gifts of Services or Property**

### **A. Commission Policy Regarding Solicitation of Gifts of Services or Property:**

1. No employee of the Commission may solicit gifts of services or property or encourage the solicitation of gifts of services or property to the Commission unless the solicitation has been approved in advance by the Chairman, in consultation with the Vice Chairman, or upon delegation, by the Executive Director.
2. In determining whether to allow solicitation of a gift on behalf of the Commission, the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, shall consider the following criteria:
  - a. Whether the gift to be solicited is appropriate for use by the Commission;
  - b. Whether solicitation of the gift is appropriate and advisable from the perspective of conflict of interest and government ethics guidelines; and
  - c. Under no circumstances will a gift be solicited from entities (or individuals employed by entities) which are known to be the focus of the Commission's work, or which are seeking official action from, or doing business with, the Commission ("Subject Entities").
3. The authority of the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, to approve the solicitation of gifts of services or property is exclusive.

### **B. Commission Policy Regarding Acceptance of Gifts of Services or Property:**

1. The Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, has the authority on behalf of the Commission to accept gifts of services or property in accordance with the criteria set forth below.
2. In determining whether to accept a gift, the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, shall consider the following criteria:
  - a. Whether the gift is appropriate for use by the Commission;
  - b. Whether any condition the donor places on the Commission's acceptance or use of the gift is acceptable to the Commission;

- c. Whether any Commission employee solicited the gift or encouraged its solicitation and, if so, whether the solicitation had the prior approval of the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, if applicable;
  - d. Whether acceptance of the gift is appropriate and advisable from the perspective of conflict of interest and government ethics guidelines; and
  - e. Under no circumstances will a gift be accepted from a Subject Entity.
3. The authority of the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, to accept gifts of services or property is exclusive.





## MEMORANDUM

To: Commissioners

From: Tom Greene  
Executive Director  
Financial Crisis Inquiry Commission

Date: January 15, 2010

Re: Agenda Item 9 – Ethics Guidelines for Commissioners

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Please find attached a revised Ethics Guidelines for Commissioners. Please note that the Commission has received a delegation of authority from the House of Representatives to be its own ethics authority. I recommend adoption of the Ethics Guidelines. The attached PDF has been redlined to show changes from the prior drafts pursuant to the Commissioners' discussions at the last Commission meeting, and to reflect the delegation of authority.

*See PDF attached to email message.*



## MEMORANDUM

To: Commissioners

From: Tom Greene  
Executive Director  
Financial Crisis Inquiry Commission

Date: January 15, 2010

Re: Agenda Item 10 – Ethics Guidelines for Commission Staff

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Please find attached a proposed Ethics Guidelines for Commission Staff and memorandum. Please note that the Commission has received a delegation of authority from the House of Representatives to be its own ethics authority. I recommend adoption of these Ethics Guidelines.

## MEMORANDUM

To: All Staff  
Financial Crisis Inquiry Commission

From: Tom Greene  
Executive Director  
Financial Crisis Inquiry Commission

Date: January 20, 2009

Re: Ethics Guidelines for Staff of the Financial Crisis Inquiry Commission

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### Overview

At the request of the Commissioners, these Ethical Guidelines have been prepared to assist full and part time members of the staff, detailees and interns of the Financial Crisis Inquiry Commission and its outside consultants (collectively herein “staff” unless the context clearly otherwise indicates) in the performance of their duties.

The mandate of the Commission is quite broad:

“to examine the causes, domestic and global, of the current financial and economic crisis in the United States” (§5(a) of the Fraud Enforcement and Recovery Act of 2009, or “FERA”)

Our Ethics Guidelines have been prepared in light of this mandate. We are not employees of the House or Senate, nor are we subject to Congressional ethics guidelines (other than those which by statute apply to all government employees, including Commission staff). But to provide a clear set of interpretations, these Ethical Guidelines for Staff will be interpreted in accordance with the [House Ethics Manual](#), as applicable.

The Commission will designate a senior staff member as the Commission’s Ethics Officer to assist staff members in implementing and administering the Commission's Ethics Guidelines.

The Ethical Guidelines follow:

## **Financial Crisis Inquiry Commission Ethics Guidelines for Commission Staff**

### **A. The Code of Ethics for Government Service.**

Each staff member shall adhere to the Code of Ethics for Government Service (House Concurrent Resolution No. 175, July 11, 1958, 72 Stat. B12). The Code provides:

#### **Any person in Government service should:**

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.
8. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

**B. Bribery.**

It is wrongful for a staff member in the performance of his or her services to the Commission directly or indirectly, corruptly to demand, seek, receive, accept, or agree to receive or accept anything of value personally or for any other person or entity, in return for being influenced in the performance of any official act, being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, or being induced to do or omit to do any act in violation of the official duty of such staff member. (18 USC §201(b)(2).)

**C. Gifts to Staff members (5 USC §7353).**

Gifts for the use of the Commission may not be solicited except in compliance with the Commission Policy for the Solicitation and Acceptance of Gifts of Services or Property attached hereto.

Staff members may not solicit, accept or receive personal gifts from entities (or individuals employed by entities) which are or are reasonably likely to be the focus of the Commission's work, or which are seeking official action from, or doing business with, the Commission ("Potentially Subject Entities"). Such entities may include, but are not limited to, financial services firms, ratings organizations, financial regulatory bodies and providers of professional services to such entities. Nor may staff members solicit, accept or receive personal gifts based upon their position with the Commission.

The prohibitions are not intended to apply to gifts from close relatives who may be otherwise restricted, consistent with past practices, or to de minimis gifts, i.e., under \$50. Nor do they restrict the solicitation or receipt of "informational material" -- items which serve primarily to convey information and which are provided for the purpose of assisting the recipient in the performance of his or her official duties, including, but not limited to, books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars and on-site demonstrations, tours, or inspections designed specifically for the purpose of assisting the recipient public officials in the performance of either their official duties.

The United States Constitution prohibits government employees from accepting personal gifts from foreign governments unless consented to by Congress.

**D. Financial Disclosure.**

Staff members are not required, and are not being asked, to file Financial Disclosure Statements. (The Executive Director has agreed voluntarily to file the Financial Disclosure Statement.) This does not in any way reduce the obligations on staff members to avoid conflicts of interest.

## **E. Conflicts of Interest.**

A conflict of interest may arise if a staff member (which throughout these Guidelines includes a spouse or minor children who live at home) has a material financial interest (which may include material stock or other equity ownership or creditor/debtor relationships, profit participations, employment or consulting relationships, or material transactions outside of the ordinary course of business) in or with a Potentially Subject Entity. (For these purposes, ownership of debt or equity in a Potentially Subject Entity in excess of \$15,000 is considered material.)

1. Once it becomes known to a staff member that a person in which he or she may have a material financial interest is a Potentially Subject Entity, the staff member shall disclose to the Ethics Officer the existence of the potential conflict and the facts of the relationship between the staff member and the Potentially Subject Entity.
2. The Ethics Officer, in consultation with the staff member, shall determine whether the staff member's actions could result in a conflict of interest having material financial consequences to the staff member.
3. If it is so determined, then either the staff member (a) shall divest him or herself of the interest or relationship with the Potentially Subject Entity, or (b)(i) the Ethics Officer will disclose the conflict to the Commissioners and the other staff members, (ii) the staff member will recuse him or herself from the area of dealing, and (iii) the staff member and other staff members will create an ethical wall to restrict the affected staff member from participating in discussions and viewing Commission work product concerning the Potentially Subject Entity.

Pending determination of the potential conflict the staff member shall avoid any involvement with the Commission's consideration of matters concerning the Potentially Subject Entity

A "material financial interest" does not include arm's length dealings between the staff member and the Potentially Subject Entity which are generally available to members of the public similarly situated to the staff member (other than his or her status as a staff member) on similar terms, such as home or other loans from banks and other financial institutions on terms that are available based on factors other than staff membership or opportunities and benefits, including favorable rates and commercial discounts, that are available based on factors other than staff membership.

**F. Purchase and Sale of Securities.**

In keeping with the prohibitions against conflicts of interest, staff members may not purchase or sell short any amount of securities in any Potentially Subject Entities, or sell a material (as defined above) amount of securities in any Potentially Subject Entity. Each staff member must be aware of Rule 10b-5 of the General Rules and Regulations promulgated under the Securities Exchange Act of 1934 which prohibit the purchase and sale of securities while in the possession of material non-public information. This applies to all securities, not just to Potentially Subject Entities.

**G. Public Speaking and Public Statements.**

Staff members may accept unpaid speaking engagements with the approval of the Executive Director with due consideration for the choice of audience and nature of the presentation. Matters concerning the Commission are not permissible subjects for any speaking engagements, articles or books. Other articles and books may be written and published with the approval of the Executive Director, subject to the limitations on outside employment and compensation (all written material produced by staff members in connection with their work on the Commission are the property of the Commission).

**H. Non-disclosure of Information.**

All information concerning the internal non-public workings of the Commission, confidential information obtained by the Commission during the course of its investigations, and confidential non-public work product of the Commission, shall be maintained as “Commission Confidential Information,” and shall be held in confidence and not disclosed outside of the Commission. The restrictions concerning the use of Commission Confidential Information are contained in a separate Confidentiality and Non-Disclosure Agreement previously executed.

**I. Outside employment and activities.**

Staff members:

- (i) Are generally prohibited from engaging in or accepting outside employment of any type without the express prior written consent of the Executive Director or the Commission, and then only within certain limits as prescribed in the House Ethics Manual (part time staff members and consultants are not subject to this rule, but the conflicts provisions, including Paragraph E, still apply);
- (ii) May not accept honoraria for speeches, articles or appearances (part time staff members and consultants are not subject to this rule, but the conflicts provisions, including Paragraph E, still apply);
- (iii) Are prohibited from receiving or sharing in compensation for representational activities, or acting as an “agent or attorney,” with or without compensation, on

behalf of private parties before the Federal Government, or on a matter before the Commission; and

- (iv) May not “lobby” or try to influence the Commission for one year after leaving Government employment, but are not prevented from lobbying the Congress as a whole after leaving the Commission’s employment. Persons who are covered by this one-year “cooling off” period are also barred for one year from representing any foreign interests before the United States.

The Commission has also determined that it is improper for a staff member to accept employment from persons known to the staff member to be Potentially Subject Entities due to the conflicts which may arise. Outside employment should be construed broadly.

No staff member may receive compensation from a foreign government.



## **Commission Policy for the Solicitation and Acceptance of Gifts of Services or Property**

### **C. Commission Policy Regarding Solicitation of Gifts of Services or Property:**

4. No employee of the Commission may solicit gifts of services or property or encourage the solicitation of gifts of services or property to the Commission unless the solicitation has been approved in advance by the Chairman, in consultation with the Vice Chairman, or upon delegation, by the Executive Director.
5. In determining whether to allow solicitation of a gift on behalf of the Commission, the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, shall consider the following criteria:
  - d. Whether the gift to be solicited is appropriate for use by the Commission;
  - e. Whether solicitation of the gift is appropriate and advisable from the perspective of conflict of interest and government ethics guidelines; and
  - f. Under no circumstances will a gift be solicited from entities (or individuals employed by entities) which are known to be the focus of the Commission's work, or which are seeking official action from, or doing business with, the Commission ("Subject Entities").
6. The authority of the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, to approve the solicitation of gifts of services or property is exclusive.

### **D. Commission Policy Regarding Acceptance of Gifts of Services or Property:**

4. The Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, has the authority on behalf of the Commission to accept gifts of services or property in accordance with the criteria set forth below.
5. In determining whether to accept a gift, the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, shall consider the following criteria:
  - f. Whether the gift is appropriate for use by the Commission;
  - g. Whether any condition the donor places on the Commission's acceptance or use of the gift is acceptable to the Commission;
  - h. Whether any Commission employee solicited the gift or encouraged its solicitation and, if so, whether the solicitation had

the prior approval of the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, if applicable;

- i. Whether acceptance of the gift is appropriate and advisable from the perspective of conflict of interest and government ethics guidelines; and
  - j. Under no circumstances will a gift be accepted from a Subject Entity.
6. The authority of the Chairman, in consultation with the Vice Chairman, or upon delegation, the Executive Director, to accept gifts of services or property is exclusive.