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### Agenda Item 4 Materials for Chair-Vice Chair Report

Darrell E. Issa

Gary Cohen

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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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November 22, 2010

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

Dear Chairman Angelides:

Throughout our nation's history, oversight has been recognized as an essential duty and right of Congress, essential to preventing the misuse of taxpayer funds appropriated for public purposes. The FCIC has received, in two congressional appropriations, \$9.8 million in taxpayer funds.<sup>1</sup>

As I understand it, employees of the Financial Crisis Inquiry Commission ("FCIC") are required to sign a Confidentiality and Nondisclosure Agreement (the "CNDA") as a condition of their employment. The CNDA putatively grants the FCIC the right to pursue legal action against current and former employees for commenting on the FCIC's work or their role as a participant in the FCIC's work outside of the FCIC.<sup>2</sup> I recognize that the CNDA plays a role in preventing the inappropriate disclosure of confidential and sensitive business information obtained by the FCIC to unauthorized third parties and that the absence of such precautions could hamper the FCIC's ability to perform its duties.

It has come to my attention, however, that some employees of the FCIC may have been misled to believe that the CNDA also prohibits them from cooperating with congressional oversight of the FCIC's activities. You should be aware that the CNDA does not apply to communications between current or former FCIC employees and Members of Congress or their staff.

As I am sure you recognize, in addition to access to people with relevant knowledge, access to relevant documents is also an important part of congressional oversight. Therefore, I am also writing to ask that you refrain from destroying any

<sup>1</sup> See Public Law 111-32 and Public Law 111-212.

<sup>2</sup> FCIC, CNDA, accessed at <http://fcic.gov/about/pdfs/about-staff-confidentiality-agreement.pdf>.

Mr. Phil Angelides  
November 22, 2010  
Page 2

documents or deleting any emails which preserve a historical record of the FCIC's activities and which may therefore be necessary for Congress to perform its oversight responsibilities in a thorough manner.

Please let me know no later than close of business on Monday, November 29, 2010, if you have a different view about the non-applicability of the FCIC's CNDA to congressional oversight and whether you will comply with my request to not destroy documents and emails.

Please contact Christopher Hixon or Brien Beattie of the Committee staff at (202) 225-5074 if you have any questions regarding these issues.

Sincerely,



Darrell Issa  
Ranking Member

cc: The Honorable Edolphus Towns, Chairman



November 30, 2010

**Via Fax**

Mr. Christopher Hixon  
Senior Counsel  
U.S. House of Representatives  
Committee on Oversight and Government Reform  
B350A Rayburn House Office Building  
Washington, DC 20515

Dear Mr. Hixon:

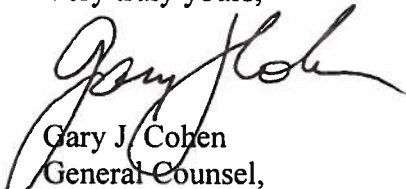
Chairman Angelides has asked me to respond to Congressman Issa's letter of November 22, 2010 regarding the Financial Crisis Inquiry Commission (the "Commission").

As the Commission has been dedicating its full efforts to producing its report to the President, Congress and the American people about the causes of the financial crisis that has devastated our economy and the lives of so many Americans, and given the Thanksgiving holiday, we are unable to respond more fully to your letter today. But we will be providing a more detailed response soon.

Please be advised that the Commission understands and supports the importance of appropriate congressional oversight and document preservation. We also take most seriously the integrity of our investigation, including our obligations with respect to confidentiality.

If you need any further information or have any questions, please feel free to contact me at 202 292 1339.

Very truly yours,



Gary J. Cohen  
General Counsel,  
Financial Crisis Inquiry Commission

cc: The Honorable Edolphus Towns  
Phil Angelides, Chairman  
Bill Thomas, Vice Chairman  
Commissioners of the Financial Crisis Inquiry Commission

Phil Angelides  
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