

EDOLPHUS TOWNS, NEW YORK,  
CHAIRMAN

PAUL E. KANJORSKI, PENNSYLVANIA  
CAROLYN B. MALONEY, NEW YORK  
ELIJAH E. CUMMINGS, MARYLAND  
DENNIS J. KUCINICH, OHIO  
JOHN F. TIERNEY, MASSACHUSETTS  
WM. LACY CLAY, MISSOURI  
DIANE E. WATSON, CALIFORNIA  
STEPHEN F. LYNCH, MASSACHUSETTS  
JIM COOPER, TENNESSEE  
GERALD E. CONNOLLY, VIRGINIA  
MIKE QUIGLEY, ILLINOIS  
MARCY KAPTUR, OHIO  
ELEANOR HOLMES NORTON,  
DISTRICT OF COLUMBIA  
PATRICK J. KENNEDY, RHODE ISLAND  
DANNY K. DAVIS, ILLINOIS  
CHRIS VAN HOLLEN, MARYLAND  
HENRY CUELLAR, TEXAS  
PAUL W. HODES, NEW HAMPSHIRE  
CHRISTOPHER S. MURPHY, CONNECTICUT  
PETER WELCH, VERMONT  
BILL FOSTER, ILLINOIS  
JACKIE SPEIER, CALIFORNIA  
STEVE DRIEHAUS, OHIO  
JUDY CHU, CALIFORNIA

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
FACSIMILE (202) 225-4784  
MINORITY (202) 225-5074

[www.oversight.house.gov](http://www.oversight.house.gov)

DARRELL E. ISSA, CALIFORNIA,  
RANKING MINORITY MEMBER

DAN BURTON, INDIANA  
JOHN L. MICA, FLORIDA  
MARK E. SOUDER, INDIANA  
JOHN J. DUNCAN, JR., TENNESSEE  
MICHAEL R. TURNER, OHIO  
LYNN A. WESTMORELAND, GEORGIA  
PATRICK T. McHENRY, NORTH CAROLINA  
BRIAN P. BILBRAY, CALIFORNIA  
JIM JORDAN, OHIO  
JEFF FLAKE, ARIZONA  
JEFF FORTENBERRY, NEBRASKA  
JASON CHAFFETZ, UTAH  
AARON SCHOCK, ILLINOIS  
BLAINE LUETKEMEYER, MISSOURI  
ANH "JOSEPH" CAO, LOUISIANA

April 23, 2010

The Honorable H. David Kotz  
Inspector General  
U.S. Securities and Exchange Commission  
100 F Street Northeast  
Washington, D.C. 20549-2736

Dear Inspector General Kotz:

On April 16, 2010, the Securities and Exchange Commission (the "Commission") filed a civil securities fraud action against Goldman Sachs & Co. ("Goldman") in the Southern District of New York.<sup>1</sup> The circumstances of the filing and subsequent events fueled suspicion that the Commission, or one or more of its officials or employees, may have engaged in unauthorized disclosure or discussion of Commission proceedings in order to affect the debate over financial regulatory legislation currently pending before the United States Senate. Disclosure rules and procedures at the SEC are important to efforts to prevent insider trading and any violation would be deeply troubling.

On April 20, eight Members of this Committee wrote to Chairman Mary Schapiro to ask whether any prearrangement, coordination, or advance notice had existed between Commission officials or employees and supporters of the legislation, and to request documents and information to assist the Committee's investigation of this matter.<sup>2</sup> In a public statement, Chairman Schapiro responded, "We do not coordinate our enforcement actions with the White House, Congress or political committees."<sup>3</sup> Likewise, President Barack Obama and Treasury Secretary Timothy Geithner denied that the Commission had discussed the Goldman suit with the White House or the Department of the Treasury.<sup>4</sup>

<sup>1</sup> Complaint, *Securities and Exchange Commission v. Goldman Sachs & Co. and Fabrice Tourre*, (S.D.N.Y. April 16, 2010), available at <http://www.sec.gov/litigation/complaints/2010/comp-pr2010-59.pdf>.

<sup>2</sup> Letter from Darrell Issa, Dan Burton, Patrick McHenry, Aaron Schock, Jim Jordan, Jason Caffetz, Blaine Luetkemeyer, and Anh "Joseph" Cao to Mary Schapiro, April 20, 2010 (attached).

<sup>3</sup> Public Statement by SEC Chairman: Statement on the Independence of the Securities and Exchange Commission, April 21, 2010, available at <http://www.sec.gov/news/speech/2010/spch042110mls.htm>.

<sup>4</sup> See MSNBC.com, "Obama: SEC gave 'no heads-up' on Goldman," April 21, 2010, at [http://today.msnbc.msn.com/id/36693944/ns/business-us\\_business/](http://today.msnbc.msn.com/id/36693944/ns/business-us_business/); Rebecca Christie, "Geithner Says SEC Didn't Give Advance Notice of Goldman Suit," BLOOMBERG / BUSINESSWEEK, April 22, 2010, at

The Honorable H. David Kotz  
April 23, 2010  
Page 2

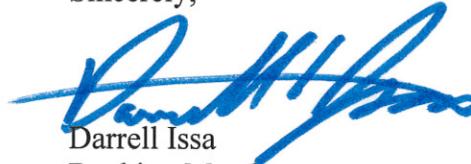
Nevertheless, the circumstances and events outlined in our letter of April 20 call the timing and release of the Commission's actions into question. For example, the online publication by *The New York Times* of an article describing the Goldman suit prior to the release of the Commission's official announcement is evidence that news of the suit leaked from the Commission via unofficial channels. These serious questions about unauthorized and improper dissemination of commission information have yet to be answered.

### **Request for Investigation**

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. On behalf of all signatories to our letter of April 20, I request that your office conduct a thorough and independent investigation into this matter including issues raised in the April 20, 2010, letter to Chairman Schapiro and any other violations or misconduct by SEC officials involved in the decision to move forward with action against Goldman Sachs.

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

Sincerely,



Darrell Issa  
Ranking Member

cc: The Honorable Edolphus Towns, Chairman

Attachment

EDOLPHUS TOWNE, NEW YORK,  
CHAIRMAN

PAUL E. WALTERS, PENNSYLVANIA  
CAROLYN E. MALONEY, NEW YORK  
ELLIAM E. CLAWSON, MARYLAND  
DENNIS J. KLUGER, OHIO  
JOHN F. TIERNEY, MASSACHUSETTS  
WILL LACY OLAY, MISSOURI  
DIANE E. WATSON, CALIFORNIA  
STEPHEN F. LYNCH, MASSACHUSETTS  
JIM COOPER, TENNESSEE  
SERGIO E. CONNOLLY, VIRGINIA  
MIKE CUKLEY, ILLINOIS  
MARGY RAPPEL, OHIO  
ELEANOR HOLMES NORTON,  
DISTRICT OF COLUMBIA  
PATRICK J. KENNEDY, RHODE ISLAND  
DANNY E. DAVIS, ILLINOIS  
CHRIS VAN HOLLEN, MARYLAND  
HENRY CUELLAR, TEXAS  
PAUL W. HODES, NEW HAMPSHIRE  
CHRISTOPHER S. MURPHY, CONNECTICUT  
PETER WELCH, VERMONT  
BILL FOSTER, ILLINOIS  
JACKIE SPOHR, CALIFORNIA  
STEVE DREHAUS, OHIO  
JUDY GILL, CALIFORNIA

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Mailbox (202) 225-6991  
Facsimile (202) 225-6794  
Ministry (202) 225-6094

[www.oversight.house.gov](http://www.oversight.house.gov)

DARRYL E. ISSA, CALIFORNIA,  
RANKING MINORITY MEMBER

DAVE BORTON, INDIANA  
JOHN L. MICA, FLORIDA  
MARK E. SOUDER, INDIANA  
JOHN J. DUNCAN, JR., TENNESSEE  
MICHAEL R. TURNER, OHIO  
LYNN A. WESTMORELAND, GEORGIA  
PATRICK T. McHENRY, NORTH CAROLINA  
BRIAN P. BILBRAY, CALIFORNIA  
JIM JOHNSON, OHIO  
JEFF FLAKE, ARIZONA  
JEFF PORTENBERRY, NEBRASKA  
JASON CHAFFETZ, UTAH  
AARON SCHOCK, ILLINOIS  
BLAKE SUTHEMAYER, MISSOURI  
ARTHUR J. CAGLI, LOUISIANA

April 20, 2010

The Honorable Mary Schapiro  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street Northeast  
Washington, D.C. 20549

Dear Chairman Schapiro:

The timing of the Securities and Exchange Commission's (the "Commission") filing of a civil securities fraud action against Goldman Sachs & Co. ("Goldman")<sup>1</sup> has created serious questions about the Commission's independence and impartiality. The Goldman litigation – filed by the Commission on Friday, April 16, 2010 – has been widely cited by Democrats in support of the financial regulatory legislation currently before the United States Senate. We are writing to request that you provide documents and information to this Committee regarding any sort of prearrangement, coordination, direction from, or advance notice provided by the Commission to the Administration or Congressional Democrats regarding last Friday's filing against Goldman. The American people have a right to know whether the Commission, or any of its officers or employees, may have violated federal law by using the resources of an independent regulatory agency to promote a partisan political agenda.

The Commission's canons of ethics require its members to "reject any effort by representatives of the executive or legislative branches of the government to affect their independent determination of any matter being considered by the Commission."<sup>2</sup> Moreover, the Commission is prohibited from using its resources to influence the passage of legislation.<sup>3</sup>

Nevertheless, the events of the past five days have fueled legitimate suspicion on the part of the American people that the Commission has attempted to assist the White House, the Democratic Party, and Congressional Democrats by timing the suit to coincide

<sup>1</sup> Complaint, *Securities and Exchange Commission v. Goldman Sachs & Co. and Fabrice Tourre*, (S.D.N.Y. April 16, 2010), available at <http://www.sec.gov/litigation/complaints/2010/comp-pr2010-59.pdf>.

<sup>2</sup> 17 C.F.R. 200.58.

<sup>3</sup> See 18 U.S.C. 1913.

The Honorable Mary Schapiro

April 20, 2010

Page 2

with the Senate's consideration of financial regulatory legislation, or by providing Democrats with advance notice. In fact, the aggressive campaign by Democrats in support of the legislation neatly coincided with the Commission's announcement of the suit. For example:

- The Commission approved the Goldman suit in a vote that spit along party lines – a rare occurrence for approvals of enforcement litigation.<sup>4</sup>
- Before the Commission had released its announcement, the *New York Times* published on its website a story describing the suit.<sup>5</sup>
- Less than half an hour after the *Times* story's publication, Organizing for America, the successor organization to Obama for America and now a project of the Democratic National Committee ("DNC"), sent millions of supporters an e-mail message from President Obama urging support for "Wall Street Reform."<sup>6</sup>
- Within hours, the Democratic National Committee had purchased AdWords advertising from Google, Inc. The DNC's Google campaign fundraising advertisement, headed "Fight Wall Street Greed," appeared whenever a user ran a Google search for the phrase "Goldman Sachs SEC." It read, "Help Pres. Obama Reform Wall Street and Create Jobs. Families First!" and included a link to [www.BarackObama.com](http://www.BarackObama.com), the website of Organizing for America.<sup>7</sup>
- Democrats in Congress and the Administration have heralded the Commission's suit against Goldman as a welcome boost to their case for the legislation.<sup>8</sup>

---

<sup>4</sup> See Kara Scannell, "SEC Split on Party Lines Over Goldman Case," *The Wall Street Journal*, April 20, 2010, page A1, also available at [http://online.wsj.com/article/SB10001424052748704671904575194501021250386.html?mod=WSJ\\_hpp\\_MIDDLETopStories](http://online.wsj.com/article/SB10001424052748704671904575194501021250386.html?mod=WSJ_hpp_MIDDLETopStories).

<sup>5</sup> Louise Story and Gretchen Morgenson, "S.E.C. Accuses Goldman of Fraud in Housing Deal," *The New York Times*, April 17, 2010, available at <http://www.nytimes.com/2010/04/17/business/17goldman.html>. A version of the story was published at 10:39 am on Friday, April 16.

<sup>6</sup> E-mail from President Barack Obama to undisclosed recipients, April 16, 2010, 11:07 am, reproduced in FamousDC.com, "The Timing of Political Points," April 18, 2010, <http://famousdc.com/2010/04/18/dnc-vs-goldman-sachs/>.

<sup>7</sup> See Mike Allen, "Goldman Sachs is Democrats' new target," Politico.com, April 17, 2010, at <http://www.politico.com/news/stories/0410/35947.html>.

<sup>8</sup> See, e.g., Michael O'Brien, "Rep. Frank: Goldman charges improve chances for reg reform," TheHill.com, April 19, 2010, at <http://thehill.com/blogs/blog-briefing-room/news/92963-barney-frank-says-goldman-charges-improve-chances-for-reg-reform> (quoting House Financial Services Committee Chairman Barney Frank: "[the Commission's suit against Goldman] reinforces the need for much of what we were doing"); Mike Dorning, "Summers Says Financial Overhaul Likely to Be Passed by June," Bloomberg.com, April 17, 2010, at <http://www.bloomberg.com/apps/news?pid=20601087&sid=akntqUof0G24&pos=3> ("Someone suggested the news [of the suit] would make it more difficult for banks to lobby against financial-regulatory legislation. [White House economic advisor Lawrence] Summers simply smiled"). Democrats' quickness to herald the Goldman suit as evidence in favor of their financial reform legislation is at best disingenuous, given that the resolution authority conferred by the legislation would permanently protect large financial

- Members of the media have already begun to question the timing of the Commission's suit and the actions of the Democratic National Committee.<sup>9</sup>

As supported by the Commission's canons of ethics, and as frequently reiterated by you and other Commissioners, the unqualified independence of financial regulators is crucial to the health of the financial system and the U.S. economy.<sup>10</sup> For this reason, doubts about whether the Commission has scrupulously guarded its independence from the Administration's partisan political agenda and concerted efforts to manipulate Congressional action are very serious, and should be addressed with full transparency.

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. In light of the circumstances described above, and the need for the Commission to avoid even the appearance of bias,<sup>11</sup> please provide the following records and information as soon as possible, but in no case later than 5 pm EST on Tuesday, April 27, 2010:

1. State whether any Commissioner or Commission employee communicated regarding the Commission's suit against Goldman, prior to the public announcement of the suit on April 16, 2010, with any of the following:
  - a. Any employee of the Executive Office of the President;
  - b. Any employee of the Democratic National Committee or Organizing for America;

---

institutions from the full consequences of failure, thus encouraging risky dealmaking of the same sort that triggered the 2008 financial crisis and gave rise to the Commission's suit. It is not hard to understand why Goldman itself – which, as a systemically-important institution under the legislation, would be protected from competition – has voiced support for the proposals contained in the Democrats' bill. See Timothy Carney, "Goldman rallies for Obama in Wall Street 'reform,'" *Washington Examiner*, April 16, 2010, available at <http://www.washingtonexaminer.com/opinion/columns/Goldman-rallies-for-Obama-in-Wall-Street-reform-90957879.html>.

<sup>9</sup> See, e.g., Briefing by White House Press Secretary Robert Gibbs, April 19, 2010 (transcript), available at <http://www.whitehouse.gov/the-press-office/briefing-white-house-press-secretary-robert-gibbs-41910> (repeated questions from journalists regarding whether the Commission had provided advance notice to the White House of the Goldman suit).

<sup>10</sup> See, e.g., Speech by Commissioner Luis A. Aguilar, "Regulatory Reform That Optimizes the Regulation of Systemic Risk," April 16, 2010, available at <http://www.sec.gov/news/speech/2010/spch041610laa.htm> ("[t]he independence of most financial regulators has benefited the financial system and the American public, and it should be maintained"); Speech by Chairman Mary Schapiro, "Statement Concerning Agency Self-Funding," April 15, 2010, available at <http://www.sec.gov/news/speech/2010/spch041510mls.htm> (stating that the Commission needs the "independence, planning ability and resources that self funding provides") (emphasis added).

<sup>11</sup> See 17 C.F.R. 200.58 ("[Commissioners] should exhibit a spirit of firm independence and reject any effort by representatives of the executive or legislative branches of the government to affect their independent determination of any matter being considered by this Commission") (emphasis added).

- c. Any employee of the Democratic Senate Campaign Committee;
  - d. Any employee of the Democratic Congressional Campaign Committee; or
  - e. Any Member of the Senate or the House of Representatives, or any employee of the Senate or the House of Representatives.
2. Identify every person who sent or received any communication described in request no. 1.
  3. Identify all known communications by any Commission employee or employees with *The New York Times* or other news outlets prior to the Commission's public announcement of the suit. If you are unaware of any such communications, please certify as such and explain what steps the Commission has taken to identify any individual(s) who may have engaged in unauthorized disclosure of information.
  4. State whether Commission Chief of Staff Didem Nisanci or Senior Adviser Kayla Gillan engaged in any communication with any individual in the subcategories listed in request no. 1 between March 1, 2010, and the present, and identify any other member of the Chairman's staff who engaged in any such communication.
  5. Provide all records and communications referring or relating to the communications described in requests nos. 1, 3, and 4.

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.

In requesting records and information relating to the Commission's suit against Goldman, We make no judgment regarding the suit's legal merit. However, we are concerned that politics have unduly influenced the decision and timing of the Commission's controversial enforcement action against Goldman.

The American people have a right to know whether the Commission, or any of its officers or employees, have attempted to use their positions to help President Obama and Congressional Democrats pursue their legislative agenda and seek victory in the 2010 Congressional elections. If, however, the appearance of coordination between the Commission's Goldman suit and Democrats' partisan activities is merely the result of coincidence and extraordinarily fast political reflexes, disclosure should offer the Commission the best opportunity to address outstanding concerns. In either case, we look forward to your timely production of records and information in response to this letter. If you have any questions regarding this request, please contact Christopher Hixon with the Committee staff at (202) 225-5074.

Sincerely,

Ken Burton

David H. ...

Patrick J. McHenry

Acem ...

J. Jordan

Steve ...

Blaine ...

Anthony ...

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.