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May 19, 2010

The Honorable Robert Bauer
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Bauer:

I am concerned that individuals within and closely-aligned with the Administration may be interfering with the non-political process by which the Federal Deposit Insurance Corporation ("FDIC" or the "Corporation") closes member institutions. The effort to save ShoreBank of Chicago (the "Bank") from foreclosure, which is being organized by a firm based in Washington, D.C., has drawn support from several individuals with White House connections. The Administration's apparent support for a ShoreBank bailout has predictably created a situation in which potential investors may be attempting to gain favor with the White House by contributing to the bailout fund.

The FDIC has been aware of ShoreBank's dangerously low level of capitalization for some time. On July 14, 2009, the FDIC and the State of Illinois Department of Financial and Professional Regulation, Division of Banking (the "Division") issued an order to cease and desist against ShoreBank.¹ In the cease and desist order, the FDIC and the Division reference allegations of "unsafe and unsound banking practices" by the Bank.² The order required the Bank to discontinue several specific practices, including "Operating with an inadequate level of capital for the kind and quality of assets held."³

On March 22, 2010, the FDIC and the Division amended the cease and desist order.⁴ The amended order requires the Bank to take affirmative actions to avoid being closed. Chief among the amended order's stipulations is a requirement that the Bank

¹ In the Matter of Shorebank Chicago, Illinois, FDIC Enforcement Order to Cease and Desist, FDIC-09-074b-2009-DB-25, Jul. 14, 2009.

² *Id.* at 2.

³ *Id.*

⁴ In the Matter of Shorebank Chicago, Illinois, FDIC Enforcement Order to Cease and Desist (Amended), FDIC-09-074b-2009-DB-25, Mar. 22, 2010.

raise its capital ratio to a minimum of nine percent.⁵ ShoreBank has until May 21, 2010, 60 days from the effective date of the amended order, to come into compliance with the capital ratio requirement. According to the *Wall Street Journal*, the Bank is seeking to pair \$125 million in private investment with \$75 million from the Troubled Asset Relief program (“TARP”) to stave off foreclosure.⁶

ShoreBank’s plight is unfortunately not unusual; 212 banks have closed since January 2009.⁷ Still, ShoreBank’s race against the 60-day clock has gained the attention of several individuals well-positioned to influence the outcome of talks between the Bank and private investment groups. ShoreBank’s lending programs for small businesses in low-income neighborhoods and its international micro-lending programs have been acclaimed by President Obama and former President Clinton.⁸ Rep. Jan Schakowsky publicly called for the FDIC and potential investors to “leave no stone unturned” to save ShoreBank.⁹ Sen. Richard Durbin has also taken an interest.¹⁰

ShoreBank’s effort to raise private capital is being led by David Vitale, “a Chicago banker well-known to leaders in Chicago city government and Obama administration officials.”¹¹ Mr. Vitale is working with former Comptroller of the Currency Eugene Ludwig to negotiate a bailout with public and private components.¹² Mr. Ludwig, who served as Comptroller of the Currency during the Clinton Administration, currently heads Washington, D.C.-based Promontory Financial.

The *Wall Street Journal* reported that White House officials have not met with ShoreBank regarding support measures.¹³ Still, the unusually high level of interest in the Bank’s survival among individuals well-positioned to contact the FDIC and state regulators merits heightened scrutiny of the process by which ShoreBank is either saved or closed. For this reason, I was alarmed to read that a source claims Mr. Ludwig implied to potential investors that the White House would look favorably on those who contribute to the bailout of ShoreBank during a recent conference call. According to a source quoted by the *American Spectator*:

⁵ *Id.* at 2-3.

⁶ Elizabeth Williamson, *Wall Street Scrambles for ShoreBank’s Survival*, WALL ST. J., May 17, 2010 [hereinafter Williamson].

⁷ FDIC Failed Bank List, available at <http://www.fdic.gov/bank/individual/failed/banklist.html> (last visited May 17, 2010).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Becky Yerak, *Heavy Hitters Helping ShoreBank Raise Capital*, CHI. TRIB., Mar. 12, 2010.

¹³ Williamson.

If you were on the call, the inference was that the White House wanted this bank saved. Obama's name wasn't invoked. [Valerie] Jarrett's or [Rahm] Emanuel's names weren't invoked. But the implication was there. ... The White House would look favorably on this bailout.¹⁴

Interference by the White House with the FDIC's standard procedures for dealing with distressed banks would be costly to those institutions insured by the Corporation. To protect the dollars it controls, the FDIC uses the "Least-Cost Test" to determine the most cost-effective resolution to minimize impact on the Deposit Insurance Fund ("DIF").¹⁵ If the FDIC and the Division respond to political pressure and allow ShoreBank to remain open for longer than the Least-Cost Test indicates it should, the cost to the DIF will escalate. During a time of unprecedented payouts to depositors from the depleted DIF, an escalated cost means an additional burden on those banks that are paying premiums to fund the DIF.

Perhaps more problematic are allegations that Goldman Sachs Chief Executive Lloyd Blankfein has agreed to contribute to the ShoreBank bailout as part of an effort to repair Goldman's damaged relationship with the White House.¹⁶ Considering that Goldman Sachs is currently the subject of a Justice Department criminal investigation, it is important to avoid even the mere appearance that Mr. Blankfein is attempting to curry favor with the Administration by contributing money to save the White House's favorite community bank.

To restore public confidence that the FDIC is closing banks without input or interference from the White House, please provide answers to the following straight-forward questions:

1. Has anyone at the White House had any contact with officials from ShoreBank?
2. Has anyone at the White House encouraged any individual or bank to invest capital in ShoreBank?
3. Has anyone at the White House contacted any potential investors regarding ShoreBank?

¹⁴ American Spectator Online, "Shoring up Chicago's Community Bank," May 17, 2010, available at <http://spectator.org/archives/2010/05/17/shoring-up-chicagos-community> (last visited May 17, 2010) [hereinafter American Spectator].

¹⁵ Letter from Chairman Sheila Bair to Ranking Member Darrell Issa, May 12, 2010.

¹⁶ American Spectator.

4. Has anyone at the White House participated in any way during conference calls wherein individuals representing ShoreBank were attempting to raise capital from private investors?
5. Has anyone at the White House contacted the FDIC or the Illinois Department of Financial and Professional Regulation, Division of Banking regarding ShoreBank?

In cases where the answer is “yes” to any of the above questions, please provide additional information to include the person or entity contacted, the name of the individual at the White House who made contact, the date and time of each contact, and a full and complete description of the content of the relevant conversations.

The President has taken to stating his preference for transparency and open government. In his January 21, 2009 Memorandum, he stated:

My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government.

Government should be transparent. Transparency promotes accountability and provides information for citizens about what their Government is doing. Information maintained by the Federal Government is a national asset. **My Administration will** take appropriate action, consistent with law and policy, to **disclose information rapidly** in forms that the public can readily find and use.¹⁷

In light of the President’s oft-stated goal of promoting unprecedented levels of openness and transparency, I look forward to answers to the above questions by May 28, 2010.

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.

¹⁷ The President, *Memorandum for the Heads of Executive Departments and Agencies*, Jan. 21, 2009 (emphasis supplied).

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Please contact Steve Castor or Jonathan Skladany of the Committee staff at (202) 225-5074 if you have any questions about this request. Thank you for your attention to this important matter.

Sincerely,



Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman