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July 26, 2010

The Honorable Earl Devaney
Chairman
Recovery Act Transparency and Accountability Board
1849 C Street, SW
Mail Stop 4428
Washington, DC 20204

Dear Chairman Devaney:

The Recovery Accountability and Transparency Board's (the "RAT Board" or "Board") June 2010 report refers to President Obama's appointment of four members of the Recovery Independent Advisory Panel (the "Independent Panel").¹ The Recovery Act tasks this panel with "mak[ing] recommendations to the Board on actions the Board could take to prevent fraud, waste, and abuse relating to covered funds."² The members of the Independent Panel are well-paid by the taxpayers to provide the RAT Board with unbiased advice.³ Information about the background of some of the presidentially-appointed panelists raises questions about the motivation behind their appointment and the troubling potential for the politicization of stimulus oversight.

For example, panel member Steven Koch is a veteran donor and fundraiser for President Obama's political efforts. Mr. Koch has donated thousands of dollars personally to the President's political campaigns since 2000,⁴ and he served on the Finance Committee for President Obama's 2004 Senate campaign.⁵ According to news reports, Mr. Koch is an accomplished "bundler" for President Obama, raising over

¹ See Quarterly Report to the President and Congress, Recovery Accountability and Transparency Board, July 2010, Appendix.

² The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 Div. A §1542.

³ The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 Div. A §1544 (setting Independent Panel member pay at level IV of the Executive Schedule).

⁴ See data on federal campaign contributions made available by the Center for Responsive Politics, available at

<http://www.opensecrets.org/indivs/search.php?name=koch%2C+steven&state=&zip=&employ=&cand=&ll=Y&sort=N&capcode=mk7bx&submit=Submit>.

⁵ See "Campaign Prospectus," Barack Obama, Democrat for U.S. Senate, available at

<http://www.scribd.com/doc/9731040/2004-Obama-Senate-Campaign-Prospectus> (accessed July 15, 2010).

\$200,000 for the president's 2008 campaign.⁶ In addition, Mr. Koch, a Chicago-based investment banker, has donated over \$43,000 to the Democratic National Committee since 2008.⁷ While Mr. Koch is clearly an accomplished fundraiser for the President and other Democratic politicians, it is unclear what other skills he will bring to oversight of stimulus funds.

Mr. Koch's political fundraising prowess is shared by another member of the Independent Panel appointed by the President. Mr. Edward Tufte, a professor of political science at Yale, also donated thousands of dollars to the President's 2008 campaign.⁸ In addition, he has personally contributed over \$120,000 to the Democratic National Committee, the Democratic Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee since 1998.⁹

Mr. Tufte's contributions to political debates have gone beyond generous financial donations: he has criticized the use of the term "war on terror," opining that "terrorists are more like the Mafia or gangs" and that "terrorism is largely a law-enforcement problem."¹⁰ Professor Tufte's partisan political credentials and his expertise in the presentation of data¹¹ raise the troubling prospect that his appointment may have been motivated more by a desire to increase the potency of White House efforts to sell the "success" of the stimulus to an increasingly skeptical public than to reaffirm the RAT Board's independent nonpartisanship in rooting out waste, fraud, and abuse.

Another presidential appointee to the Independent Panel also has a controversial history in Democratic politics. Ms. Myrta "Chris" Sale is a veteran official in the Clinton Administration, having served as Deputy Commissioner of the Immigration and Naturalization Service ("INS") from 1993 to 1997.¹² Ms. Sale's departure from INS came after the agency was criticized by Congress, the Department of Justice's Inspector General, and independent auditors for allowing 180,000 foreigners to become citizens without the results of complete criminal background checks.¹³ Under Ms. Sale's leadership, the agency welcomed 16,400 new citizens who had been arrested for at least

⁶ See "Chicago banker Koch named to Obama's recovery panel," *Crain's Chicago Business*, March 5, 2010. Available at <http://www.chicagobusiness.com/cgi-bin/news.pl?id=37343>.

⁷ See note 3, *supra*.

⁸ See data on federal campaign contributions made available by the Center for Responsive Politics, available at <http://www.opensecrets.org/indivs/search.php?name=tufte%2C+edward&state=&zip=&employ=&cand=&all=Y&sort=N&capcode=9988n&submit=Submit>.

⁹ *Id.*

¹⁰ See "Powerpoint and Military Intelligence," comments by Edward Tufte, November 1, 2006, available at http://www.edwardtufte.com/bboard/q-and-a-fetch-msg?msg_id=0000fv&topic_id=1&topic=Ask+E.T..

¹¹ See, e.g., "Obama taps infographics guru for stimulus board," *Washington Post*, March 9, 2010, available at http://voices.washingtonpost.com/federal-eye/2010/03/obama_taps_designer_for_stimul.html.

¹² See "INS deputy chief resigns; some see her as 'sacrificial lamb,'" *Washington Times*, June 20, 1997. Ms. Sale's career at INS is conveniently absent from her biography posted on Recovery.gov; see "Advisory Panel," available at <http://www.recovery.gov/About/board/Pages/AdvisoryPanel.aspx> (accessed July 15, 2010).

¹³ See "Washington Watch," *San Francisco Chronicle*, June 19, 1997. Available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/e/a/1997/06/19/NEWS2574.dtl>.

one felony.¹⁴ News reports of Ms. Sale's departure from the agency indicated that Ms. Sale was "being held accountable for persistent management failures within INS."¹⁵ While Ms. Sale will presumably not be offering advice to the RAT Board on immigration policy, it remains unclear what expertise she offers in assisting the RAT Board in providing oversight of stimulus spending.

You and your colleagues on the RAT Board have been tasked by Congress with uncovering waste, fraud, and abuse in stimulus spending and ensuring that this unprecedented government spending spree is transparent.¹⁶ Given the Administration's ongoing and extensive effort to deceive the American people about the results of the stimulus,¹⁷ the independence of your work is essential in carrying out your responsibilities. In order to maintain your independence, however, the RAT Board must be especially cautious and guarded when receiving partisan advice by a group of political allies of the President who are compensated with taxpayer money¹⁸ and potentially put in place to advance the President's efforts to mislead the American people.

Given the President's promises that stimulus funds would be disbursed and overseen with unprecedented transparency, it is disappointing that so little information has been revealed about the Independent Panel. In order to assist the Committee in understanding the role of the Independent Panel, its activities to date, and any internal controls you have put in place to avoid jeopardizing the RAT Board's independence, I respectfully request that you provide the following information to the Committee no later than Monday, August 9, 2010:

1. A full and complete explanation of the activities of the Independent Panel and your expectations of the role that the Independent Panel will fulfill in the future;
2. All records and communications referring or relating to advice the Independent Panel has offered to the Board or its employees, including but not limited to advice related to Recovery.gov, the activities of the Board, or the goals of the Board;
3. A full and complete explanation of all expenses the Independent Panel has incurred, and all budgets and draft budgets projecting the Independent Panel's future expenses;
4. A full and complete explanation of any internal controls you have put in place to prevent the Independent Panel from jeopardizing the RAT Board's independence;

¹⁴ See note 12, *supra*.

¹⁵ See note 13, *supra*.

¹⁶ The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 Div. A §1523.

¹⁷ For a discussion of the Administration's recent statements about jobs "created or saved" by the stimulus, and the facts which overwhelming demonstrate the falsehood of these claims, see "Three Million Imaginary Jobs," *The Wall Street Journal*, July 15, 2010, available at http://online.wsj.com/article/SB10001424052748703394204575367421573463984.html?mod=googlenews_wsj.

¹⁸ See note 3, *supra*.

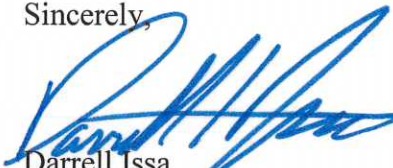
5. A full and complete explanation of all staff the Independent Panel has appointed, including their names and annual salaries, and all plans to appoint additional staff;
6. A full and complete explanation of each Independent Panel member's annual salary and the total compensation each member has received as of July 20, 2010;
7. A full and complete explanation of your knowledge of whether and when the President will appoint (or has appointed) a fifth member of the Independent Panel, as required by the Recovery Act;¹⁹
8. A full and complete explanation of all gifts or donations of services or property offered to or received by members of the Independent Panel in their official capacity;²⁰
9. A full and complete explanation of whether a Chairperson and Vice Chairperson have been selected by the Independent Panel and, if so, the identity of the individual selected for each position.²¹

Please note that, 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.

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. Thank you for your cooperation in this matter.

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

Sincerely,



Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman

Attachment

¹⁹ The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 Div. A §1541(b) ("The Panel shall be composed of 5 members who shall be appointed by the President.").

²⁰ The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 Div. A §1543(d) ("The Panel may accept, use, and dispose of gifts or donations of services or property.").

²¹ The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 Div. A §1541(g) ("The Panel shall select a Chairperson and Vice Chairperson from among its members.").

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.