Alliance For Economic Stability, Inc.
747 Third Avenue, 25th Floor
New York, New York 10017

February 5, 2010

The Honorable Harry Reid
Majority Leader
United States Senate
522 Hart Senate Office Building
Washington, D.C. 20515

The Honorable Nancy Pelosi
Speaker of the House
Office of the Speaker
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
361-A Russell Senate Office Building
Washington, D.C. 20515

RE: The Financial Crisis Inquiry Commission, Chairman Phil Angelides' Recent Comments, and the Need to Address Problems with the "Entrepreneurial Regulator."

Dear Majority Leader Reid, Minority Leader McConnell and Speaker of the House Polosi:

I write regarding the Financial Crisis Inquiry Commission (FCIC), and problems I see in its leadership and stated intentions – matters which I believe deserve your prompt attention.

As I am sure you are aware, the FCIC, a body established by the U.S. Congress to investigate the causes of the recent financial crisis, is modeled after the Pecora hearings held in the 1930's to investigate the financial crisis that led to the Great Depression.

However, the leadership of the FCIC is noticeably different from the Pecora hearings. Ferdinand Pecora, prior to holding hearings investigating Wall Street banks, was an assistant district attorney in New York. Pecora was a Sicilian immigrant. As an assistant DA, Pecora had closed down hundreds of "bucket shops," which were effectively unregulated OTC derivative trading shops. Pecora reportedly had an 80% conviction rate, and turned down job offers from Wall Street law firms. When he took the Congressional assignment to investigate Wall Street, he earned just $255 per month.

The Pecora hearings are legendary for uncovering wrongdoing by Wall Street banks in great detail. More importantly, Pecora's work led directly to the enactment of FDR's securities reforms,[1] most of which have held for more than 75 years. Just as now, unemployment and other social problems

[1] These reforms are embodied in the Securities Act of 1933 and Securities Exchange Act of 1934, along with the Glass-Steagall Act, the Investment Company Act of 1940, and FDR's accompanying government reforms created by the Administrative Procedure Act.

were the top concerns of legislators, the President, and the American people. Yet Pecora's investigations caused the Roosevelt administration to take action to protect investors, action that today still forms the bed-rock for administration of the U.S. financial markets.

Though the Chairman of the FCIC, Mr. Phil Angelides, did spend some time in the public sector, serving as the California State Treasurer from 1999 to 2007, he appears not to have investigation- or prosecution-related experience. Angelides spent the bulk of his career in the private sector, forming his own real estate investment business in 1986, according to the FCIC website. Angelides being an owner of a real estate investment business appears to be a conflict-of-interest. It was this business that was at the core of the financial crisis and that benefited from the misconduct of Wall Street banks in selling mortgage backed securities.

The hearings of the FCIC to date have lacked an investigative tone. Indeed, Angelides' opening remarks at the first meeting of the FCIC seemed to rule out using the hearings to find wrongdoing. Angelides stated, "There is a hunger to see those who profited from irresponsibility take responsibility, for wrongdoers to be held accountable. *Yet the most important task in front of us is to shed light, not heat.* For us to take stock of what has happened and give a true accounting so the important work of restoring *faith* in our economic system can begin" [emphasis added].

While I respect Mr. Angelides' forthrightness, and understand that the enterprise of the FCIC is by no means an easy one, Mr. Angelides' remarks prompt certain concerns. With the remark about "*heat*" and "*faith*," Mr. Angelides suggests he's not interested in exposing those who may have committed fraud or other misconduct in the private sector, let alone addressing the new American class of "Entrepreneurial Regulators."[2] This would seem to be good news for today's "banksters," as the wrongdoers of the 20's and 30's came to be known, but not for the American public, and certainly not a fair way "to shed light" or restore "faith." In other words, Mr. Angelides' remarks suggest a certain prejudice towards the FCIC investigation.

Furthermore, at the end of his opening remarks, Mr. Angelides stated, "In the wake of the market crash of 1929, there was a whole generation of Americans who would not put their money at risk in what they considered to be the casino of the stock market. The Dow Jones Industrial Average did not regain its 1929 peak for 25 years. We can ill afford a similar prolonged lack of *faith* and *trust*" [emphasis added]. Mr. Angelides' remark here suggests that misconduct of particular organizations or individuals should not be exposed so that stock prices will continue rising. As the FDR securities reforms made clear, the only way to have fair securities markets is to make markets as transparent as reasonably possible. This includes investigating and revealing misconduct of securities industry participants.

I enclose a letter concerning a recent one hour televised interview of Mr. Lawrence Summers and the Alliance for Economic Stability's own investigative report on what we believe to be a leading cause of the crisis. The report is titled "Securities Regulatory Reform: Addressing FINRA's Inherent Conflict and Moral Hazard." I bring the letter and report to your attention because of our organization's concerns that a new type of regulator, which we call the "Entrepreneurial Regulator," needs to be examined.

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[2] The Alliance for Economic Stability, Inc. has published an investigative report on issues related to what it has termed the "Entrepreneurial Regulators" class. This report is located at AES' website at www.eally.org.

The letter mentions a part of FDR's reforms that seems not to garner much attention: the Administrative Procedures Act (APA). One part of FDR's reforms that needs to be modernized is the APA, specifically with regard to the financial sector and the Entrepreneurial Regulator class. The APA has "held," a term used by Mr. Summers in the interview that gives rise to the attached letter, in most industries but it has now been proven no match for Wall Street's Entrepreneurial Regulator class.

I urge the Congress that created the FCIC to direct Angelides to "shed light" on securities industry misconduct and the Entrepreneurial Regulator class that allowed the economic crisis and its aftermath to occur through the creation of so-called regulatory "gaps."

It is in the interest of the American people for the FCIC to devote itself to open and transparent investigation on these issues.

Sincerely,

Manuel P. Asensio

cc:

Rahmn Emanuel
Chief of Staff
U.S. White House

The Honorable Christopher J. Dodd
Chairman
Banking, Housing and Urban
Affairs Committee

The Honorable Barney Frank
Chairman
Financial Services Committee

Phil Angiledes
Chairman
Financial Crisis Inquiry Commission

The Honorable Spencer Bachus
Ranking Member
Financial Services Committee

The Honorable Richard C. Shelby
Ranking Member
Banking, Housing and Urban
Affairs Committee

Enclosure.

Alliance For Economic Stability, Inc.
747 Third Avenue, 25^{th} Floor
New York, New York 10017

February 5, 2010

Charlie Rose
Host and Executive Producer
The Charlie Rose Show
731 Lexington Avenue
New York, New York 10022

Dear Mr. Rose:

During your one hour interview last Friday with Lawrence "Larry" Summers, Director of President Obama's National Economic Council, Mr. Summers commented that President Franklin D. Roosevelt's ("FDR") principles-based banking and securities-industry reforms had "held" for 75 years, but we now need new legislation to address problems in financial regulation. In his comments Mr. Summers did not mention his leadership role in advocating the passage of the Commodity Futures Modernization Act of 2000 and other regulation changes while he was Secretary of the Treasury in President Clinton's administration and how those actions adversely affected the reforms that FDR put in place.

The Great Recession was caused by the failure to enforce existing law by a new class of "Entrepreneurial Regulators"[1] and the passage of laws that viscerated the highest principles of FDR's regulatory scheme: fair and complete disclosures and customer protection. The two most crucial changes to the FDR rules were the elimination of the separation of commercial and investment banking and the elimination of laws that made unregulated over-the-counter derivatives trading illegal.

Mr. Summers played an important role in making both of these changes, which had direct and catastrophic consequences on our nation's economy. It is hard to understand what Mr. Summers meant by commenting on how FDR's historically successful reforms held for so long but failed now when in fact the economic crisis was caused not by the failures of FDR's reforms but by the passage of laws that eliminated FDR's safeguards.

The latest government reports show that the nation is sustaining unprecedented annual deficits that exceed 9% of GDP and that total government expenditures now exceed 35% of GDP. These values do not reflect the actual situation. Government reporting rules are vague to begin with in

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[1] The Alliance for Economic Stability, Inc., a non-profit, that published an investigative report on issues related to what it has termed the "Entrepreneurial Regulators" class. This report is located at AES' website at www.eally.org.

comparison to the normal accounting all of us use in our private lives and allow the Fed and Treasury a great deal of discretion in the treatment of expenditures involved in the "Quantitative Easing" and bailout programs, which themselves have serious disclosure and control issues. Thus Americans are unarmed to question officials' proclamations. Most importantly, there are no empirical data that the nation's households and businesses can rely on in planning under these circumstances.

Also it is important to note that Mr. Summers qualified his support of the Volcker rule and that his qualifications expressed the same view of regulation that he held before the crisis. These are matters that you may wish to explore in preparation for further interviews of officials and industry participants in this area.

I enclose a letter to Congress that may be of interest to you in this matter.

Sincerely,

Manuel P. Asensio

Enclosure