

Subcommittee on Oversight and Investigations
House Financial Services Committee
July 13, 2009

“Preventing Unfair Trading by Government Officials”

Opening Statement from Chairman Dennis Moore [KS-03]

In May, we learned from the Wall Street Journal that federal prosecutors are investigating whether two SEC enforcement lawyers had violated insider trading laws. The newspaper obtained a redacted copy of a report from the Inspector General of the SEC, Mr. David Kotz, who will testify on this report and his role as an independent watchdog of the Commission.

His report concluded that the lawyers violated the agency’s internal rules, although the employees have denied any wrongdoing. In addition to eleven recommendations the I.G. made to the SEC, the I.G. also recommended that the SEC take disciplinary action against the two employees.

In a written statement provided by the SEC for this hearing, they have “deferred consideration of an appropriate response to this recommendation based on what we understand to be a pending criminal inquiry by the U.S. Attorney’s Office.” As a former District Attorney, I fully respect that everyone is presumed innocent until proven guilty. While we let federal law enforcement officials do their jobs, I did not want to wait to discuss the larger public policy questions that this case invokes.

Should government officials trade on information that they have access to that the general public does not? If not, what additional rules, regulations or laws are required to address this concern?

Our nation’s federal government was founded on the principle of separation of powers as well as checks and balances. How do we maintain those important principles while ensuring there’s a level playing field in the marketplace with respect to investments by any government official, including Members of Congress?

And while this is not true for most government officials, we should acknowledge that a few individuals – like the Federal Reserve Chairman or President of the United States – will move the market simply by the words they use in a speech. No one is proposing this, but should their speechwriters be banned from investing in all individual stocks out of fear that they may unfairly profit from their jobs or is that going too far? What about the reporters that compete to break news of a pending announcement by the government? Or a lobbyist that is pushing for legislation that will provide tax relief for a certain industry? How would we guard against unfair trading practices of those individuals as well?

This debate raises a lot of tough questions. But I hope we can examine all sides of this issue to better understand what the problem is and how responsible solutions may prevent unfair trading by government officials. There will always be a few bad apples, unfortunately, and no

government official should believe that they are above the law. But most, if not nearly all, government employees are public servants with the best intentions, working hard every day to serve the American people.

I do want to commend our first two witnesses and colleagues – Congresswoman Slaughter and Congressman Baird – for proposing a response to these questions by drafting H.R. 682, the Stop Trading on Congressional Knowledge Act. I look forward to hearing from them why they drafted the bill, and how they see it addressing these important concerns.

In addition to the SEC's Inspector General who will focus on his investigation in the second panel, I am interested to know what our three professors testifying have learned through their research and experiences, and what recommendations, if any, they may have to this committee and to Congress on these issues.