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Joan Claybrook, President

October 27, 2004

The Hon. Bill Frist (R-TN)
Senate Majority Leader
461 Dirksen Senate Office Building
Washington, D.C. 20510

The Hon. Dennis Hastert (R-IL)
Speaker of the House
235 Cannon Office Building
Washington, D.C. 20515

RE: Opposition to ethics provisions of H.R. 10

Dear Mr. Leader and Mr. Speaker:

We are writing to express strong objections to provisions in H.R. 10 – the “9/11 Recommendations Implementation Act – that would dramatically reduce personal financial disclosure requirements for governmental appointees and other senior level employees of the intelligence service.

H.R. 10 is a comprehensive bill that primarily seeks to reorganize and improve the operations of the intelligence community. However, tucked within the legislation’s 542 pages lies Section 5043, “Public Financial Disclosure for the Intelligence Community.” Among other changes in the ethics code, this section would:

- Repeal the current requirement that national security officers report personal financial assets over \$5 million, \$25 million and \$50 million.
- Cap the reporting threshold of personal financial assets and income at no more than \$2.5 million.
- End the requirement that the date of each major stock transfer by such officials be reported.

We strongly object to these provisions for the following reasons:

- 1. Claims that requiring senior level intelligence officers to disclose income and assets of \$5 million, \$25 million or \$50 million because they are “too burdensome” are not credible.**

The burden that is imposed on senior level officials to report income and assets of \$5 million or more is clearly off-set by the government's and the public's right to know of potential conflicts of interest. Persons of such extravagant means should have the wherewithal to know where the wealth comes from and how to report it, or else pay someone to do it for them.

2. It is counter-productive to the spirit of the recommendations by the 9/11 Commission to allow national security appointees and officials to conceal the value of their assets exceeding \$2.5 million.

Today more than ever, the intelligence community suffers from a poor image of awarding homeland security contracts on questionable grounds, concealing potential conflicts of interest in decisionmaking, and compromising the accuracy of intelligence information. Government contracts issued to Halliburton, for example, in which the intelligence community plays a significant role, are the subjects of on-going investigations and allegations of favoritism. The veil of secrecy in government contracting makes it all the more important that the President, Congress and the public be aware of any potential conflicts of interest that may exist among senior level officials, including national security officials, influencing these decisions.

More so, because of their expertise in the field, many senior level officials in national security come directly from major military industries and contractors. It is imperative that these officials disclose the amount of personal income and assets that they have at stake in the private sector before entrusting them with guiding national security decisions.

3. No longer requiring that the dates of major stock transfers be subject to disclosure unnecessarily sets the stage for scandal.

One of the most common forms of financial scandal is "insider trading" – the trading of stocks for personal financial gain because of insider knowledge of pending business decisions. Senior level officials in the intelligence community often are privy to such information, particularly when it comes to decisions for major national security procurements.

The safeguard against insider trading is public disclosure of when a senior level official makes major stock transfers. The timing of such transfers can serve as a red flag of potential fraud, and thus is a first-line defense against corruption.

Curtailing all of these financial disclosure requirements will make investigations and enforcement of conflicts of interest much more difficult. Disclosure of the aggregate amounts of financial assets, as well as the timing of stock trading, is key to enforcing integrity among government officials, including those in the intelligence community. Gradations of wealth provide useful information in scrutinizing potential conflicts of interest. To hide this information from the government and the public obscures the money trail that sometimes leads to corruption.

Section 5043 bears no relevance to the primary purpose of the intelligence reform bill. Improving homeland security should not lead to weakening ethics in government. All of the objectives of the "9/11 Recommendations Implementation Act" can be achieved without

sacrificing ethics and public disclosure. In fact, none of the alterations of the ethics code proposed in Section 5043 was part of the original recommendations of the 9/11 Commission.

Even more disturbing are rumors that some conferees want to expand the scope of the weakened ethics reporting requirements proposed in this bill to cover all branches of government, not just the intelligence community. Such an action would be remarkable – and outrageous.

We strongly recommend that the conference committee disassociate homeland security issues from ethics in government and reject this offensive measure.

Sincerely,

Joan Claybrook
President
Public Citizen

Frank Clemente
Director
Public Citizen's
Congress Watch

Craig Holman
Legislative Representative
Public Citizen's
Congress Watch

cc:

Senate Conferees:

The Hon. Susan Collins (R-ME)
The Hon. Pat Roberts (R-KS)
The Hon. Trent Lott (R-MS)
The Hon. George Voinovich (R-OH)
The Hon. Mike DeWine (R-OH)
The Hon. Norm Coleman (R-MI)
The Hon. John Sununu (R-NH)
The Hon. Joseph Lieberman (D-CT)
The Hon. Carl Levin (D-MI)
The Hon. Richard Durbin (D-IL)
The Hon. John Jay Rockefeller (D-WV)
The Hon. Bob Graham (D-FL)
The Hon. Frank Lautenberg (D-NJ)

House Conferees:

The Hon. Peter Hoekstra (R-MI)
The Hon. Duncan Hunter (R-CA)
The Hon. Henry Hyde (R-IL)
The Hon. James Sensenbrenner (R-WI)
The Hon. David Dreier (R-CA)
The Hon. Robert Menendez (D-NJ)
The Hon. Jane Harmon (D-CA)
The Hon. Ike Skelton (D-MO)